

COMMERCE & HUMAN RESOURCES COMMITTEE

ADMINISTRATIVE RULES REVIEW

Table of Contents

2014 Legislative Session

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.06 - Rules Governing the Use of National Electrical Code	
Docket No. 07-0106-1301	4
LSO Rules Analysis Memo	
07.01.10 - Rules Governing Certification and Approval of Electrical Products and Materials	
Docket No. 07-0110-1301	10
LSO Rules Analysis Memo	
07.03.01 - Rules of Building Safety	
Docket No. 07-0301-1301	14
LSO Rules Analysis Memo	
Docket No. 07-0301-1302	25
LSO Rules Analysis Memo	
Docket No. 07-0301-1303	32
LSO Rules Analysis Memo	
Docket No. 07-0301-1304	39
LSO Rules Analysis Memo	
07.03.11 - Rules Governing Manufactured/Mobile Home Industry Licensing	
Docket No. 07-0311-1301	46
LSO Rules Analysis Memo	
07.05.01 - Rules of the Public Works Contractors License Board	
Docket No. 07-0501-1301	62
LSO Rules Analysis Memo	
07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems	
Docket No. 07-0701-1301	68
LSO Rules Analysis Memo	

IDAPA 09 - DEPARTMENT OF LABOR

09.01.30 - Unemployment Insurance Benefit Administration Rules	
Docket No. 09-0130-1301	75
LSO Rules Analysis Memo	
09.01.35 - Unemployment Insurance Tax Administration Rules	
Docket No. 09-0135-1301	82
LSO Rules Analysis Memo	

IDAPA 10 - IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

<i>10.01.01 - Rules of Procedure</i>	
Docket No. 10-0101-1301	92
LSO Rules Analysis Memo	
<i>10.01.02 - Rules of Professional Responsibility</i>	
Docket No. 10-0102-1301	103
LSO Rules Analysis Memo	
<i>10.01.04 - Rules of Continuing Professional Development</i>	
Docket No. 10-0104-1301	107
LSO Rules Analysis Memo	
IDAPA 14 - BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS	
<i>14.01.01 - Rules of Procedure of the Board of Registration for Professional Geologists</i>	
Docket No. 14-0101-1301	111
LSO Rules Analysis Memo	
IDAPA 15 - OFFICE OF THE GOVERNOR	
DIVISION OF HUMAN RESOURCES	
<i>15.04.01 - Rules of the Division of Human Resources and Personnel Commission</i>	
Docket No. 15-0401-1302	117
LSO Rules Analysis Memo	
IDAPA 17 - INDUSTRIAL COMMISSION	
<i>17.02.09 - Medical Fees</i>	
Docket No. 17-0209-1301	137
LSO Rules Analysis Memo	
<i>17.02.10 - Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Insurance Carriers</i>	
Docket No. 17-0210-1301	143
LSO Rules Analysis Memo	
<i>17.02.11 - Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Self-Insured Employers</i>	
Docket No. 17-0211-1301	153
LSO Rules Analysis Memo	
IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE	
<i>18.01.04 - Rules Pertaining to Bail Agents</i>	
Docket No. 18-0104-1301	163
LSO Rules Analysis Memo	
<i>18.01.23 - Rules Pertaining to the Idaho Insurance Holding Company System Regulatory Act</i>	
Docket No. 18-0123-1301	166
LSO Rules Analysis Memo	
<i>18.01.50 - Adoption of the International Fire Code</i>	
Docket No. 18-0150-1301	197

LSO Rules Analysis Memo

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES***24.02.01 - Rules of the Board of Barber Examiners***

Docket No. 24-0201-1301	205
LSO Rules Analysis Memo	

24.08.01 - Rules of the State Board of Morticians

Docket No. 24-0801-1301	208
LSO Rules Analysis Memo	

24.18.01 - Rules of the Real Estate Appraiser Board

Docket No. 24-1801-1301	214
LSO Rules Analysis Memo	

24.25.01 - Rules of the Idaho Driving Businesses Licensure Board

Docket No. 24-2501-1301	234
LSO Rules Analysis Memo	

IDAPA 28 - DEPARTMENT OF COMMERCE***28.02.07 - Rules Governing the Administration of the IGEM Grant Program***

Docket No. 28-0207-1301 (New Chapter)	243
LSO Rules Analysis Memo	

28.03.01 - Rules of the Idaho Opportunity Fund

Docket No. 28-0301-1301 (New Chapter)	248
LSO Rules Analysis Memo	

28.03.04 - Rules of the Business and Jobs Development Grant Fund

Docket No. 28-0304-1301 (Chapter Repeal)	255
LSO Rules Analysis Memo	

IDAPA 33 - REAL ESTATE COMMISSION***33.01.01 - Rules of the Idaho Real Estate Commission***

Docket No. 33-0101-1301	258
LSO Rules Analysis Memo	

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO***59.01.06 - Retirement Rules of the Public Employee Retirement System of Idaho (PERSI)***

Docket No. 59-0106-1301	263
LSO Rules Analysis Memo	

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE

DOCKET NO. 07-0106-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1001 and 54-1006(5), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 45 through 48](#).

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

The adoption of the 2014 National Electrical Code is expected to cost DBS approximately \$5,000. This cost includes the cost of new code books and training associated with the implementation of the new code. Local jurisdictions will encounter similar costs.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 24th day of October, 2013.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83720-0048
Phone: (208) 332-8986
Fax: 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1001 and 54-1006(5), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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

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

Currently, the 2008 edition of the National Electrical Code (NEC) is the standard by which all electrical installations in Idaho must be performed. The 2014 edition of the NEC will be adopted with this rulemaking. Adoption and amendment of the 2014 NEC was the result of negotiated rulemaking and the deliberations of a collaborative group consisting of members of the electrical industry, local building officials, code development officials, board members, and other interested stakeholders. The board skipped the adoption of the 2011 NEC in favor of resolving code issues within the industry through a collaborative and negotiated rulemaking process. Specifically, the 2014 NEC provides for arc fault circuit interrupter (AFCI) breakers to be installed for all circuits supplying outlets in dwelling unit family rooms, dining rooms, living rooms, parlors, dens, bedrooms, recreation rooms, closets, hallways, or similar rooms or areas. However, since 2008 the Board has only required AFCI breakers to be utilized for circuits supplying dwelling unit bedrooms as reflected in existing administrative rule amendment. At numerous board and collaborative meetings conducted over the past several years, the Board considered the input of contractors, manufacturers, consumers, and other affected industry participants before determining to retain the existing rule amendment regarding AFCI breakers. This rulemaking would result in adoption of 2014 NEC and retain the existing amendment that requires the use of such AFCI circuit breakers to be utilized only in dwelling unit bedrooms. The proposed rule would adopt the 2014 edition of the National Electric Code (NEC) along with several amendments to that code related to circuits and receptacles located near sinks, in laundry rooms and kitchens, and on decks and porches. The proposed rule would also eliminate earlier amendments to the bonding requirements which have been adequately addressed in the 2014 NEC.

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

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

The adoption of the 2014 National Electrical Code is expected to cost DBS approximately \$5,000. This cost includes the cost of new code books and training associated with the implementation of the new code. Local jurisdictions will encounter similar costs.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2013 Idaho Administrative Bulletin, [Vol. 13-5, pages 57 and 58](#).

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

Section 54-1001, Idaho Code, requires all electrical installations in the state of Idaho to be made substantially in accord with the National Electrical Code as newer editions shall be adopted from time to time by the Idaho Electrical Board. Currently, the 2008 edition of the National Electrical Code (NEC) is the standard by which all electrical installations in Idaho must be performed. The 2014 edition of the NEC will be adopted with this rulemaking. The proposed rule will also adopt the 2014 edition of the National Electric Code (NEC) along with several amendments to that code related to circuits and receptacles located near sinks, in laundry rooms and kitchens, and on decks and porches.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 27th day of August, 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0106-1301

011. ADOPTION AND INCORPORATION BY REFERENCE OF THE NATIONAL ELECTRICAL CODE, 2008~~14~~ EDITION.

01. Documents. Under the provisions of Section 54-1001, Idaho Code, the National Electrical Code, 2008~~14~~ Edition, (herein NEC) is hereby adopted and incorporated by reference for the state of Idaho and shall be in full force and effect on and after July 1, 2008~~14~~, with the ~~exception of the~~ following **amendments**: (4-2-08)()

a. Article 210.8(A)(7) Sinks. Delete article 210.8(A)(7) and replace with the following: Sinks - located in areas other than kitchens where receptacles are installed within one and eight tenths (1.8) meters (six (6) feet) of the outside edge of the sink. ()

b. Article 210.8(A)(10). Delete article 210.8(A)(10). ()

c. Article 210.8(D). Delete article 210.8(D). ()

d. Article 210.52(E)(3). Delete article 210.52(E)(3) and replace with the following: Balconies, Decks, and Porches. Balconies, decks, and porches having an overall area of twenty (20) square feet or more that are accessible from inside the dwelling unit shall have at least one (1) receptacle outlet installed within the perimeter of the balcony, deck, or porch. The receptacle shall not be located more than two (2.0) meters (six and one half (6½) feet) above the balcony, deck, or porch surface. ()

ae. Where the height of a crawl space does not exceed one ~~point~~ and four tenths (1.4) meters or four ~~point five~~ and one half (4.5) feet it shall be permissible to secure NM cables, that run at angles with joist, to the bottom edge of joist. NM cables that run within two ~~point~~ and one tenth (2.1) meters or seven (7) feet of crawl space access shall comply with Article 320.23. (3-29-10)()

bf. Article 675.8(B). Compliance with Article 675.8(B) will include the additional requirement that a disconnecting means always be provided at the point of service from the utility no matter where the disconnecting means for the machine is located. (5-3-03)()

eg. Article 550.32(B). Compliance with Article 550.32(B) shall limit installation of a service on a manufactured home to those homes manufactured after January 1, 1992. (5-3-03)

dh. Poles used as lighting standards that are forty (40) feet or less in nominal height and that support no more than four (4) luminaires operating at a nominal voltage of three hundred (300) volts or less, shall not be considered to constitute a structure as that term is defined by the National Electrical Code (NEC). The disconnecting means shall not be mounted to the pole. The disconnecting means may be permitted elsewhere in accordance with NEC, Article 225.32, exception 3. SEC special purpose fuseable connectors (model SEC 1791-DF or model SEC 1791-SF) or equivalent shall be installed in a listed handhole (underground) enclosure. The enclosure shall be appropriately grounded and bonded per the requirements of the NEC applicable to Article 230-Services. Overcurrent protection shall be provided by a (fast-acting – minimum - 100K RMS Amps 600 VAC) rated fuse. Wiring within the pole for the luminaires shall be protected by supplementary overcurrent device (time-delay – minimum - 10K RMS Amps 600 VAC) in break-a-way fuse holder accessible from the hand hole. Any poles supporting or incorporating utilization equipment or exceeding the prescribed number of luminaires, or in excess of forty (40) feet, shall be considered structures, and an appropriate service disconnecting means shall be required per the NEC. All luminaire-supporting poles shall be appropriately grounded and bonded

per the NEC. (4-6-05)

ei. Compliance with Article 210.12 Arc-Fault Circuit-Interrupter Protection. (4-2-08)

i. Definition. Arc-Fault Circuit-Interrupter is a device intended to provide protection from the effects of arc faults by recognizing characteristics unique to arcing and by functioning to de-energize the circuit when an arc fault is detected. (4-2-08)

ii. Dwelling Unit Bedrooms. All one hundred twenty (120)-volt, single phase, fifteen (15)-ampere and twenty (20)-ampere branch circuits supplying outlets installed in dwelling unit bedrooms shall be protected by a listed arc-fault circuit interrupter, combination type installed to provide protection of the branch circuit. (4-2-08)

~~**f.** Compliance with Article 680.26 Bonding. (4-2-08)~~

~~i. Performance. The bonding required by this section shall be installed to eliminate voltage gradients in the pool area as prescribed. FPN: This section does not require that the eight (8) AWG or larger solid copper bonding conductor be extended or attached to any remote panelboard, service equipment, or any electrode. (4-2-08)~~

~~ii. Bonded Parts. The parts specified in 680.26(B)(1) through (B)(5) shall be bonded together. (4-2-08)~~

~~(1) Metallic Structural Components. All metallic parts of the pool structure, including the reinforcing metal of the pool shell, coping stones, and deck, shall be bonded. The usual steel tie wires shall be considered suitable for bonding the reinforcing steel together, and welding or special clamping shall not be required. These tie wires shall be made tight. If reinforcing steel is effectively insulated by an encapsulating nonconductive compound at the time of manufacture and installation, it shall not be required to be bonded. Where reinforcing steel is encapsulated with a nonconductive compound, provisions shall be made for an alternate means to eliminate voltage gradients that would otherwise be provided by unencapsulated, bonded reinforcing steel. (4-2-08)~~

~~(2) Underwater Lighting. All forming shells and mounting brackets of no-niche luminaries (fixtures) shall be bonded unless a listed low-voltage lighting system with nonmetallic forming shells not requiring bonding is used. (4-2-08)~~

~~(3) Metal Fittings. All metal fittings within or attached to the pool structure shall be bonded. Isolated parts that are not over one hundred (100) mm (four (4) inches) in any dimension and do not penetrate into the pool structure more than twenty-five (25) mm (one (1) inch) shall not require bonding. (4-2-08)~~

~~(4) Electrical Equipment. Metal parts of electrical equipment associated with the pool water circulating system, including pump motors and metal parts of equipment associated with pool covers, including electric motors, shall be bonded. Metal parts of listed equipment incorporating an approved system of double insulation and providing a means for grounding internal nonaccessible, non-current-carrying metal parts shall not be bonded. Where a double-insulated water-pump motor is installed under the provisions of this rule, a solid eight (8) AWG copper conductor that is of sufficient length to make a bonding connection to a replacement motor~~

~~shall be extended from the bonding grid to an accessible point in the motor vicinity. Where there is no connection between the swimming pool bonding grid and the equipment grounding system for the premises, this bonding conductor shall be connected to the equipment grounding conductor of the motor circuit.~~ (4-2-08)

~~(5) Metal Wiring Methods and Equipment. Metal sheathed cables and raceways, metal piping, and all fixed metal parts except those separated from the pool by a permanent barrier shall be bonded that are within the following distances of the pool:~~ (4-2-08)

~~(a) Within one and five tenths (1.5) meters (five (5) feet) horizontally of the inside walls of the pool.~~ (4-2-08)

~~(b) Within three and seven tenths (3.7) meters (twelve (12) feet) measured vertically above the maximum water level of the pool, or any observation stands, towers, or platforms, or any diving structures.~~ (4-2-08)

~~iii. Common Bonding Grid. The parts specified in 680.26B shall be connected to a common bonding grid with a solid copper conductor, insulated, covered, or bare, not smaller than eight (8) AWG. Connection shall be made by exothermic welding or by pressure connectors or clamps that are labeled as being suitable for the purpose and are of stainless steel, brass, copper, or copper alloy. The common bonding grid shall be permitted to be any of the following:~~ (4-2-08)

~~(1) The structural reinforcing steel of a concrete pool where the reinforcing rods are bonded together by the usual steel tie wires or the equivalent.~~ (4-2-08)

~~(2) The wall of a bolted or welded metal pool.~~ (4-2-08)

~~(3) A solid copper conductor, insulated, covered, or bare, not smaller than eight (8) AWG.~~ (4-2-08)

~~(4) Rigid metal conduit or intermediate metal conduit of brass or other identified corrosion-resistant metal conduit.~~ (4-2-08)

~~iv. Connections. Where structural reinforcing steel or the walls of bolted or welded metal pool structures are used as a common bonding grid for nonelectrical parts, the connections shall be made in accordance with 250.8.~~ (4-2-08)

~~v. Pool Water Heaters. For pool water heaters rated at more than fifty (50) amperes that have specific instructions regarding bonding and grounding, only those parts designated to be bonded shall be bonded, and only those parts designated to be grounded shall be grounded.~~ (4-2-08)

02. Availability. ~~This document~~ **A copy of the National Electrical Code** is available at the offices of the Division of Building Safety at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642, 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and 2055 Garrett Way, Suite 7, Pocatello, Idaho 83201. (4-2-08)()

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.10 - RULES GOVERNING CERTIFICATION AND APPROVAL OF ELECTRICAL PRODUCTS AND MATERIALS

DOCKET NO. 07-0110-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1001 and 54-1006(5), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 49 through 51](#).

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

No impact to the general or dedicated funds. Positive impact through cost savings is expected for those who may install non-listed industrial machinery through the use of a field evaluation process that includes the ability to utilize a professional engineer.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 24th day of October, 2013.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83720-0048
Phone: (208) 332-8986

Fax: 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1001 and 54-1006(5), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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

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

The existing rule uses incorrect terminology to identify an appropriate testing laboratory which certifies and lists products. Additionally, the existing rule does not adequately describe who may perform a field evaluation, nor the standards of what constitutes an adequate field evaluation. Finally, amendment is necessary to provide additional flexibility for the installation of industrial machinery by allowing an evaluation of such by a licensed professional engineer. The proposed rule would provide that approval of all electrical products and materials for installation in Idaho may be achieved either through certification and listing by a nationally recognized testing laboratory, or through a field evaluation process. The rule would require that field evaluations be performed by approved evaluation bodies that meet minimum requirements, and that such evaluations be performed in accordance with recognized practices and procedures. Further, in the case of industrial machinery only, the rule would allow as an alternate method that such evaluation may be performed by a qualified electrical engineer not involved in the design or installation of the equipment.

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

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

No impact to the general or dedicated funds. Positive impact through cost savings is expected for those who may install non-listed industrial machinery through the use of a field evaluation process that includes the ability to utilize a professional engineer.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. Although formal negotiated rulemaking did not occur prior to the promulgation of this rulemaking, the matter was formally designated as an agenda topic before the Electrical Board at six (6) different board meetings over the course of two years. The Board was satisfied that all stakeholders and interested parties were recognized and had an opportunity to participate in the adoption process. The final proposed rule is the product of the input of multiple stakeholders; although not all favored its adoption.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 27th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0110-1301

011. CERTIFICATION AND APPROVAL OF ELECTRICAL PRODUCTS AND MATERIALS.

In the state of Idaho, all materials, devices, fittings, equipment, apparatus, *fixtures luminaires*, and appliances installed or to be used in installations that are supplied with electric energy shall be approved as provided in one (1) of the following *methods*: ~~(2-26-93)(_____)~~

01. Testing Laboratory. Be tested, examined, and certified (Listed) by an ~~an accredited electrical product~~ *Nationally Recognized* ~~Testing~~ *Laboratory (NRTL)*. ~~The Division of Building Safety, Electrical Bureau, shall maintain an up-to-date list of products and equipment approved by such testing laboratories as well as an updated list of accredited products which shall be used and installed in accordance with the certification (Listing).~~ ~~(12-17-92)(_____)~~

02. Approval of Electrical Inspector. ~~Be approved by the electrical inspector provided such an assembly, product, or equipment is installed under an electrical permit issued by the Division of Building Safety, Electrical Bureau, and conforms to the National Electrical Code and recognized industry standards. Where in the judgment of the Electrical Bureau a field evaluation~~

~~is necessary to determine the acceptability of the assembly, product, or equipment to recognized industry standards, this field evaluation shall be completed by an accredited electrical product testing laboratory. The Division of Building Safety, Electrical Bureau, shall maintain a list of accredited electrical testing laboratories approved to complete such field evaluations. Such approval shall not be required for types of products that are regularly certified (Listed) or for certified (Listed) products as determined by the list maintained by the Division of Building Safety, Electrical Bureau. Such approval shall be obtained prior to installation. If approval is denied, the particular reasons for denial shall be stated through issuance of a notice of defects pursuant to Section 54-1004, Idaho Code.~~ **Field Evaluation.** Non-listed electrical equipment may be approved for use through a field evaluation process performed in accordance with recognized practices and procedures such as those contained in the 2012 edition of NFPA 791 - Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation published by the National Fire Protection Association (NFPA). Such evaluations shall be conducted by:

~~(12-17-92)~~()

a. The authority having jurisdiction (AHJ); ()

b. A field evaluation body (FEB) approved by the authority having jurisdiction. The field evaluation body shall meet minimum recognized standards for competency, such as NFPA 790 - Standard for Competency of Third-Party Field Evaluation Bodies, 2012 edition, published by the National Fire Protection Association (NFPA); or ()

c. In the case of industrial machinery only, as defined by NFPA 79 - Electrical Standard for Industrial Machinery, 2012 edition, a field evaluation may be performed by a professional engineer currently licensed to practice electrical engineering by the state of Idaho and who is not involved in the design of the equipment being evaluated or the facility in which the equipment is to be installed. ()

03. **Availability of NFPA Standards.** The most recent edition of NFPA 790 - Standard for Competency of Third-Party Field Evaluation Bodies, and NFPA 791 - Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation published by the National Fire Protection Association (NFPA) are available at the Division of Building Safety offices located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642, 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. ()

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-4107 and 39-4109, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 45 through 52](#).

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

No impact to the General Fund; some increased short-term costs to jurisdictions enforcing the codes for obtaining code materials and training of inspectors. Amendments to the new code result in decreases in costs to builders that offset minor cost increases associated with new provisions contained in the code. However, no significant additional costs of conformance with the new versions of the codes were brought forward in discussions before the Board.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 26th day of September, 2013.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83720-0048

Phone: (208) 332-8986
Fax: 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-4107 and 39-4109, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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

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

Adoption and amendment of the 2012 editions of the International Residential Code and International Energy Conservation Code was the result of negotiated rulemaking and the deliberations of a collaborative group consisting of members of the building industry, local building officials, code development officials, Board members, and other interested stakeholders. Code amendment proposals submitted to the Board by the collaborative group resulted in the Board's recognition that amending several provisions could save contractors and property owners significant expense without an adverse effect on health or safety. Specifically, amendments to the building code bring it into conformity with existing state laws which allow day care facilities within a residence. Amendments to the residential and energy codes restore many critical provisions back to the levels contained in the 2009 codes, and/or provide more economical alternate methods to ensure compliance with code requirements. All of which was advocated by the collaborative group and is more widely accepted within the industry. This rulemaking would result in the adoption of the 2012 International Residential Code (IRC) and 2012 International Energy Conservation Code (IECC) as building standards within Idaho among all jurisdictions. It would also make further amendments to the 2012 IRC and 2012 IECC related to energy code requirements and alternate methods of compliance, as well as amend the International Building Code (IBC) related to daycare facilities within residences.

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

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

No impact to the General Fund; some increased short-term costs to jurisdictions enforcing the codes for obtaining code materials and training of inspectors. Amendments to the new code result in decreases in costs to builders that offset minor cost increases associated with new provisions contained in the code. However, no significant additional costs of conformance with the new versions of the codes were brought forward in discussions before the Board.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2013 Idaho Administrative Bulletin, [Vol. 13-5, pages 60 and 61](#).

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

Adoption and amendment of the 2012 editions of the International Residential Code and International Energy Conservation Code was the result of negotiated rulemaking and the deliberations of a collaborative group consisting of members of the building industry, local building officials, code development officials, Board members, and other interested stakeholders. Code amendment proposals submitted to the Board by the collaborative group resulted in the Board's recognition that amending several provisions could save contractors and property owners significant expense without an adverse effect on health or safety. Section 39-4109, Idaho Code, requires the adoption of the above-referenced codes for the state of Idaho, and allows the Board to adopt subsequent editions and amendments thereto as it determines necessary.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 13th day of August 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0301-1301

004. ADOPTION AND INCORPORATION BY REFERENCE.

Under the provisions of Section 39-4109, Idaho Code, the codes enumerated in this Section are hereby adopted and incorporated by reference into IDAPA 07.03.01, "Rules of Building Safety,"

Division of Building Safety. Pursuant to Section 39-4109, Idaho Code, ~~the~~ effective date of ~~a~~ 2009 any edition of ~~any of~~ the codes adopted in this Section, ~~with or~~ any amendments identified thereto, shall be January 1, ~~2011~~ of the succeeding year following legislative approval of the rulemaking establishing the edition or amendment. ~~Until such time, the 2006 edition of any such code enumerated in this Section without amendment will remain effective pursuant to Section 39-4109, Idaho Code.~~ Copies of these documents may be reviewed at the office of the Division of Building Safety. The referenced codes may be obtained from International Code Council, 5360 Workman Mill Road, Whittier, California 90601-2298 or the International Code Council at <http://www.iccsafe.org>. ~~(3-29-10)()~~

01. International Building Code. 2012 Edition with the following amendments: (4-4-13)

a. Delete section 305.2.3 and replace with the following: Twelve (12) or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having twelve (12) or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code. ()

b. Delete section 308.6.4 and replace with the following: Persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having twelve (12) or fewer children receiving day care or having five (5) or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code. ()

c. Delete section 310.5 and replace with the following: Residential Group R-3. Residential occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4, E or I, including: ()

i. Buildings that do not contain more than two (2) dwelling units; ()

ii. Boarding houses (nontransient) with sixteen (16) or fewer occupants; ()

iii. Boarding houses (transient) with ten (10) or fewer occupants; ()

iv. Care facilities that provide accommodations for five (5) or fewer persons receiving care; ()

v. Congregate living facilities (nontransient) with sixteen (16) or fewer occupants; ()

vi. Congregate living facilities (transient) with ten (10) or fewer occupants; or ()

vii. Dwelling units providing day care for twelve (12) or fewer children. ()

d. Delete section 310.5.1 and replace with the following: Care facilities within a dwelling. Care facilities for twelve (12) or fewer children receiving day care or for five (5) or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the International Residential Code. ()

~~ae.~~ Delete footnote (f) contained under Table 2902.1 Minimum Number of Required Plumbing Fixtures, and replace with the following: Drinking fountains are not required for an occupant load of thirty (30) or fewer. (4-4-13)

~~bf.~~ Add the following Delete footnote ~~to~~ (g) contained under Table 2902.1 Minimum Number of Required Plumbing Fixtures and replace with the following: ~~(g)~~ For business occupancies, excluding restaurants, and mercantile occupancies with an occupant load of thirty (30) or fewer, service sinks shall not be required. ~~(4-4-13)~~()

02. International Residential Code. 20~~09~~12 Edition with the following amendments: ~~(4-4-13)~~()

a. Delete ~~the~~ exception No. 1 contained under IRC section R101.2 - Scope. ~~(4-7-11)~~()

b. Delete item No. 2 contained under the “Building” subsection of IRC section R105.2 - Work exempt from permit, and replace with the following: Fences not over six (6) feet (one thousand, eight hundred twenty-nine (1,829) mm) high may be exempted from the requirement for a building permit in the absence of any other applicable land use regulations governing the installation, height, type or other aspect. (4-7-11)

c. Delete item No. 7 contained under the “Building” subsection of IRC section R105.2 - Work exempt from permit, and replace with the following: Prefabricated swimming pools that are not greater than four (4) feet (one thousand, two hundred nineteen (1219) mm) deep. (4-7-11)

d. Add the following item No. 11 at the end of the “Building” subsection of IRC section R105.2 - Work exempt from permit: Flag poles. ()

~~de.~~ Delete IRC section R109.1.3 and replace with the following: Floodplain inspections. For construction in areas prone to flooding as established by Table R301.2(1), upon placement of the lowest floor, including basement, the building official is authorized to require submission of documentation of the elevation of the lowest floor, including basement, required in section R322. (3-29-10)

~~ef.~~ IRC Table R302.1 Exterior Walls -- delete the figures contained in the last column of the table under the heading Minimum Fire Separation Distance for the “Walls” and “Projections” elements, and replace with the following:

Minimum Fire Separation Distance	
Walls (fire-resistance rated):	< Three (3) Feet
Walls (not fire-resistance rated):	≥ Three (3) Feet
Projections (fire-resistance rated):	< Three (3) Feet
Projections (not fire-resistance rated):	≥ Three (3) Feet

~~(3-29-10)~~()

fg. Delete the exception contained under IRC section R302.2 -- Townhouses, and replace with the following: Exception: A common one-hour or two-hour fire resistance rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against the exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with section R302.4. (3-29-10)

h. Delete IRC section R303.4. ()

gi. Delete the exception contained under IRC section R313.1 -- Townhouse automatic fire sprinkler systems, and replace with the following: Exception: Automatic residential fire sprinkler systems shall not be required in townhouses where a two-hour fire-resistance rated wall is installed between dwelling units or when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed. (3-29-10)

hj. Delete IRC section R313.2. (3-29-10)

ik. Add the following to IRC section R315.23 - Where required in existing dwellings: Exceptions: 1. Work involving the exterior surfaces of dwellings, such as, but not limited to, replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck or electrical permits, are exempt from the requirements of this section; and 2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems are exempt from the requirements of this section. ~~(4-4-13)~~()

jl. Delete IRC section R322.1.10. (3-29-10)

km. Delete IRC section R322.2.2 subparagraph 2.2, and replace with the following: The total net area of all openings shall be at least one (1) square inch (645 mm²) for each square foot (0.093 m²) of enclosed area, or the opening shall be designed and the construction documents shall include a statement that the design and installation of the openings will provide for equalization of hydrostatic flood forces on exterior walls by allowing the automatic entry and exit of floodwaters. ~~(3-29-10)~~()

ln. Delete section N1102.4.3 and replace with the following: Fireplaces. New wood-burning fireplaces shall have tight-fitting flue dampers and outdoor combustion air. (4-4-13)

o. Chapter 11 [RE] Energy Efficiency - The following sections and tables of chapter 11 shall be amended in accordance with the requirements contained below in Subsection 004.04 of these rules which correspond to the appropriate section: ()

i. Table N1102.1.1 (Table R402.1.1) - Insulation and Fenestration Requirements by Component; ()

ii. Table N1102.1.3 (Table R402.1.3 - Equivalent U-Factors; ()

- iii. Table N1102.2.6 (Table R402.2.6) - Steel-Frame Ceiling, Wall and Floor Insulation (R-Value); ()
 - iv. Section N1102.4.1 (R402.4.1) Building Thermal Envelope; ()
 - v. Section N1102.4.1.1 (R402.4.1.1) - Insulation; ()
 - vi. Table N1102.4.1.1 (Table R402.4.1.1) - Air Barrier and Insulation Installation; ()
 - vii. Section N1102.4.1.2 (R402.4.1.2) Testing Option; ()
 - viii. Add Section N1102.4.1.3 (R402.4.1.3) - Visual Inspection Option; ()
 - ix. Add Section N1102.6 (R402.6) - Residential Log Home Thermal Envelope;()
 - x. Add Table N1102.6 (Table R402.6) - Log Home Prescriptive Thermal Envelope Requirements by Component; and ()
 - xi. Section N1104.1 (R404.1) - Lighting Equipment. ()
- 03. International Existing Building Code. 2012 Edition.** (4-4-13)
- 04. International Energy Conservation Code. 2009~~12~~ Edition with the following amendments.** (~~4-7-11~~)()
- a.** Delete the values contained in Table R402.1.1 (Table N1102.1.1) for climate zone “5 and Marine 4” and climate zone “6” and replace with the following: ()

Table R402.1.1
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT

<u>Climate Zone</u>	<u>Fenestration U- Factor</u>	<u>Skylight U-factor</u>	<u>Glazed Fenestrati on SHGC</u>	<u>Ceiling R- Value</u>	<u>Wood Frame Wall R-Value</u>	<u>Mass Wall R-Value</u>	<u>Floor R-Value</u>	<u>Basement Wall R-Value</u>	<u>Slab R-Value</u>	<u>Crawlspace Wall R-Value</u>
<u>5 and Marine 4</u>	<u>0.35</u>	<u>0.60</u>	<u>NR</u>	<u>38</u>	<u>20 or 13+5^h</u>	<u>13/17</u>	<u>30^g</u>	<u>10/13</u>	<u>10. 2 ft</u>	<u>10/13</u>
<u>6</u>	<u>0.35</u>	<u>0.60</u>	<u>NR</u>	<u>49</u>	<u>20 or 13+5^h</u>	<u>15/19</u>	<u>30^g</u>	<u>15/19</u>	<u>10. 4 ft</u>	<u>10/13</u>

()

ab. Add the following footnote to the title of Table 402.1.1 - Insulation and Fenestration Requirements by Component: ^k For residential log home building thermal envelope construction requirements see section 402.6.

(4-7-11)

c. Delete the values contained in Table R402.1.3 (Table N1102.1.3) for climate zone “5 and Marine 4” and climate zone “6” and replace with the following:

Table R402.1.3
EQUIVALENT U-FACTORS

<u>Climate Zone</u>	<u>Fenestration U-factor</u>	<u>Skylight U-factor</u>	<u>Ceiling R-Value</u>	<u>Wood Frame Wall R-Value</u>	<u>Mass Wall R-Value</u>	<u>Floor R-Value</u>	<u>Basement Wall R-Value</u>	<u>Crawlspace Wall R-Value</u>
<u>5 and Marine 4</u>	<u>0.35</u>	<u>0.60</u>	<u>0.030</u>	<u>0.057</u>	<u>0.082</u>	<u>0.033</u>	<u>0.059</u>	<u>0.065</u>
<u>6</u>	<u>0.35</u>	<u>0.60</u>	<u>0.026</u>	<u>0.057</u>	<u>0.060</u>	<u>0.033</u>	<u>0.050</u>	<u>0.065</u>

()

d. Delete Table R402.2.6 (Table N1102.2.6) and replace with the following:

TABLE R402.2.6
STEEL-FRAME CEILING, WALL AND FLOOR INSULATION
(R-VALUE)

<u>WOOD FRAME R-VALUE REQUIREMENT</u>	<u>COLD-FORMED STEEL EQUIVALENT R-VALUE^a</u>
<u>Steel Truss Ceilings</u>	
<u>R-30</u>	<u>R-38 or R-30 + 3 or R-26 + 5</u>
<u>R-38</u>	<u>R-49 or R-38 +3</u>
<u>R-49</u>	<u>R-38 + 5</u>
<u>Steel Joist Ceilings</u>	
<u>R-30</u>	<u>R-38 in 2 x 4 or 2 x 6 or 2 x 8 R-49 in any framing</u>
<u>R-38</u>	<u>R-49 in 2 x 4 or 2 x 6 or 2 x 8 or 2 x 10</u>
<u>Steel-Framed Wall</u>	
<u>R-13</u>	<u>R-13 + 5 or R-15 + 4 or R-21 + 3 or R-0 + 10</u>
<u>R-19</u>	<u>R-13 + 9 or R-19 + 8 or R-25 + 7</u>
<u>R-21</u>	<u>R-13 + 10 or R-19 + 9 or R-25 + 8</u>
<u>Steel Joist Floor</u>	
<u>R-13</u>	<u>R-19 in 2 x 6</u> <u>R-19 + 6 in 2 x 8 or 2 x 10</u>
<u>a. Cavity insulation R-value is listed first, followed by continuous insulation R-value.</u> <u>b. Insulation exceeding the height of the framing shall cover the framing.</u>	

<u>WOOD FRAME R-VALUE REQUIREMENT</u>	<u>COLD-FORMED STEEL EQUIVALENT R-VALUE^a</u>
<u>R-19</u>	<u>R-19 + 6 in 2 x 6</u> <u>R-19 + 12 in 2 x 8 or 2 x 10</u>
<u>a. Cavity insulation R-value is listed first, followed by continuous insulation R-value.</u>	
<u>b. Insulation exceeding the height of the framing shall cover the framing.</u>	

()

e. Delete section 402.4.1 (N1102.4.1) and replace with the following: Building thermal envelope. The building thermal envelope shall comply with sections R402.1.1 and either section R402.4.1.2 or R402.4.1.3. The sealing methods between dissimilar materials shall allow for differential expansion and contraction. ()

f. Delete section 402.4.1.1 (N1102.4.1.1) and replace with the following: Installation. The components of the building thermal envelope as listed in Table R402.4.1.1 shall be installed in accordance with the manufacturer’s instructions and the criteria listed in Table R402.4.1.1, as applicable to the method of construction. ()

g. Delete the criteria requirement for the “Fireplace” component of Table R402.4.1.1 (Table N1102.4.1.1) - Air Barrier and Insulation Installation, and replace with the following: An air barrier shall be installed on fireplace walls. ()

h. Delete section 402.4.1.2 (N1102.4.1.2) and replace with the following: Testing option, Building envelope tightness and insulation installation shall be considered acceptable when tested air leakage is less than seven (7) air changes per hour (ACH) when tested with a blower door at a pressure of 33.5 psf (50 Pa). Testing shall occur after rough in and after installation of penetrations of the building envelope, including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances. During testing: ()

i. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed; ()

ii. Dampers shall be closed, but not sealed, including exhaust, intake, makeup air, backdraft and flue dampers; ()

iii. Interior doors shall be open; ()

iv. Exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed; ()

v. Heating and cooling system(s) shall be turned off; ()

vi. HVAC ducts shall not be sealed; and ()

vii. Supply and return registers shall not be sealed. ()

i. Add the following as section 402.4.1.3 (N1102.4.1.3): Visual inspection option, Building envelope tightness and insulation installation shall be considered acceptable when the items listed in Table 402.4.1.1, applicable to the method of construction, are field verified. Where required by code official an approved party independent from the installer of the insulation shall inspect the air barrier and insulation. ()

bj. Delete section 402.4.3 and replace with the following: Fireplaces. New wood-burning fireplaces shall have tight-fitting flue dampers and outdoor combustion air. (4-4-13)

ek. Add the following section: R402.6 (N1102.6) Residential Log Home Thermal Envelope. Residential log home construction shall comply with sections 401 (General), 402.4 (Air Leakage), 402.5 (Maximum Fenestration U-Factor and SHGC), 403.1 (Controls), 403.2.2 (Sealing), 403.2.3 (Building Cavities), sections 403.3 through 403.9 (referred to as the mandatory provisions), Section 404 (Electrical Power and Lighting Systems), and either Subparagraph 004.04.b.i., ii., or iii. as follows: (~~4-7-11~~)()

- i. Sections 402.2 through 402.3, 403.2.1, 404.1 and Table 402.6; (4-7-11)
- ii. Section 405 Simulated Performance Alternative (Performance); or (4-7-11)
- iii. REScheck (U.S. Department of Energy Building Codes Program). (4-7-11)

el. Add Table R402.6 (Table N1102.6) Log Home Prescriptive Thermal Envelope Requirements By Component to be used only in accordance with Subparagraph 004.04.b.i. above to appear as follows:

TABLE R402.6
LOG HOME PRESCRIPTIVE THERMAL ENVELOPE REQUIREMENTS BY COMPONENT

For SI: 1 foot = 304.8 mm.

CLIMATE ZONE	FENESTRATION U-FACTOR ^a	SKYLIGHT U-FACTOR	GLAZED FENESTRATION SHGC	CEILING R-VALUE	Min. Average LOG Size in inches	FLOOR R-VALUE	BASEMENT WALL R-VALUE ^d	SLAB R-VALUE & DEPTH ^b	CRAWL SPACE WALL R-VALUE ^d
5, 6 - High efficiency equipment path ^c	0.32	0.60	NR	49	5	30	15/19	10, 4 ft.	10/13
5	0.32	0.60	NR	49	8	30	10/13	10, 2 ft.	10/13
6	0.30	0.60	NR	49	8	30	15/19	10, 4 ft.	10/13

- a. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
- b. R-5 shall be added to the required slab edge R-values for heated slabs.
- c. 90% AFUE natural gas or propane, 84% AFUE oil, or 15 SEER heat pump heating equipment (zonal electric resistance heating equipment such as electric base board electric resistance heating equipment as the sole source for heating is considered compliant with the high efficiency equipment path).
- d. "15/19" means R-15 continuous insulated sheathing on the interior or exterior of the home or R-19 cavity insulation at the interior of the basement wall. "15/19" shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulated sheathing on the interior or exterior of the home. "10/13" means R-10 continuous insulated sheathing on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall.

~~(4-7-11)~~()

m. Delete section R404.1 (N1104.1) and replace with the following: Lighting equipment (Mandatory). A minimum of fifty percent (50%) of the lamps in permanently installed lighting fixtures shall be high-efficacy lamps or a minimum of fifty percent (50%) of the permanently installed lighting fixtures shall contain only high efficacy lamps. ()

05. References to Other Codes. Where any provisions of the codes that are adopted in this Section make reference to other construction and safety-related model codes or standards which have not been adopted by the involved authority having jurisdiction, to the extent possible, such reference should be construed as pertaining to the equivalent code or standard that has been duly adopted by such jurisdiction. (3-29-10)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-1302

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-4107 and 39-4109, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 53 through 57](#).

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

No fiscal impact to the General Fund or to the Agency, but may in certain situations, result in savings to the owner or builder.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 26th day of September, 2013.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83720-0048
Phone: (208) 332-8986
Fax: 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-4107 and 39-4109, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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

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

Amendment of the 2012 edition of the International Residential Code was the result of negotiated rulemaking and the deliberations of a collaborative group consisting of members of the building industry, local building officials, code development officials, Board members, and other interested stakeholders. This amendment will create more flexibility in building residential structures by adding an alternate method contractors may use when bracing a one and two-family dwelling residential wall by allowing such to be braced in accordance with the APA–Engineered Wood Association publication SR-102. This rulemaking would amend the International Residential Code by adding an alternate method of bracing walls in one and two-family dwellings by including the most recent edition of the APA System Report SR-102 as an additional standard.

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

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

No fiscal impact to the General Fund or to the Agency, but may in certain situations result in savings to the owner or builder.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under Docket No. 07-0301-1301. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2013 Idaho Administrative Bulletin, [Vol. 13-5, pages 60 and 61](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the

following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

Amendment of the 2012 edition of the International Residential Code was the result of negotiated rulemaking and the deliberations of a collaborative group consisting of members of the building industry, local building officials, code development officials, Board members, and other interested stakeholders. This amendment will create more flexibility in building residential structures by adding an alternate method contractors may use when bracing a one and two-family dwelling residential wall by allowing such to be braced in accordance with the APA–Engineered Wood Association publication SR-102. This rulemaking would amend the International Residential Code by adding an alternate method of bracing walls in one and two-family dwellings by including the most recent edition of the APA System Report SR-102 as an additional standard. Section 39-4109, Idaho Code, requires the adoption of the above-referenced codes for the state of Idaho, and allows the Board to adopt subsequent editions and amendments thereto as it determines necessary.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 13th day of August 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0301-1302

004. ADOPTION AND INCORPORATION BY REFERENCE.

Under the provisions of Section 39-4109, Idaho Code, the codes enumerated in this Section are hereby adopted and incorporated by reference into IDAPA 07.03.01, “Rules of Building Safety,” Division of Building Safety. The effective date of a 2009 edition of any of the codes adopted in this Section with any amendments identified thereto shall be January 1, 2011. Until such time, the 2006 edition of any such code enumerated in this Section without amendment will remain effective pursuant to Section 39-4109, Idaho Code. Copies of these documents may be reviewed at the office of the Division of Building Safety. The referenced codes may be obtained from International Code Council, 5360 Workman Mill Road, Whittier, California 90601-2298 or the International Code Council at <http://www.iccsafe.org>. (3-29-10)

01. International Building Code. 2012 Edition with the following amendments:

(4-4-13)

a. Delete footnote (f) contained under Table 2902.1 Minimum Number of Required Plumbing Fixtures, and replace with the following: Drinking fountains are not required for an occupant load of thirty (30) or fewer. (4-4-13)

b. Add the following footnote to Table 2902.1 Minimum Number of Required Plumbing Fixtures: (g) For business occupancies, excluding restaurants, and mercantile occupancies with an occupant load of thirty (30) or fewer, service sinks shall not be required. (4-4-13)

02. International Residential Code. 2009~~12~~¹² Edition with the following amendments: ~~(4-4-13)~~()

a. Delete the exception contained under IRC section R101.2 - Scope. (4-7-11)

b. Delete item No. 2 contained under the “Building” subsection of IRC section R105.2 - Work exempt from permit, and replace with the following: Fences not over six (6) feet (one thousand, eight hundred twenty-nine (1,829) mm) high may be exempted from the requirement for a building permit in the absence of any other applicable land use regulations governing the installation, height, type or other aspect. (4-7-11)

c. Delete item No. 7 contained under the “Building” subsection of IRC section R105.2 - Work exempt from permit, and replace with the following: Prefabricated swimming pools that are not greater than four (4) feet (one thousand, two hundred nineteen (1219) mm) deep. (4-7-11)

d. Delete IRC section R109.1.3 and replace with the following: Floodplain inspections. For construction in areas prone to flooding as established by Table R301.2(1), upon placement of the lowest floor, including basement, the building official is authorized to require submission of documentation of the elevation of the lowest floor, including basement, required in section R322. (3-29-10)

e. IRC Table R302.1 Exterior Walls -- delete the figures contained in the last column of the table under the heading Minimum Fire Separation Distance, and replace with the following:

Minimum Fire Separation Distance	
Walls (fire-resistance rated):	< Three (3) Feet
Walls (not fire-resistance rated):	≥ Three (3) Feet
Projections (fire-resistance rated):	< Three (3) Feet
Projections (not fire-resistance rated):	≥ Three (3) Feet

(3-29-10)

f. Delete the exception contained under IRC section R302.2 -- Townhouses, and replace with the following: Exception: A common one-hour or two-hour fire resistance rated wall

assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against the exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with section R302.4. (3-29-10)

g. Delete the exception contained under IRC section R313.1 -- Townhouse automatic fire sprinkler systems, and replace with the following: Exception: Automatic residential fire sprinkler systems shall not be required in townhouses where a two-hour fire-resistance rated wall is installed between dwelling units or when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed. (3-29-10)

h. Delete IRC section R313.2. (3-29-10)

i. Add the following to IRC section R315.2 - Where required in existing dwellings: Exceptions: 1. Work involving the exterior surfaces of dwellings, such as, but not limited to, replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck or electrical permits, are exempt from the requirements of this section; and 2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems are exempt from the requirements of this section. (4-4-13)

j. Delete IRC section R322.1.10. (3-29-10)

k. Delete IRC section R322.2.2 paragraph 2.2, and replace with the following: The total net area of all openings shall be at least one (1) square inch (645 mm²) for each square foot (0.093 m²) of enclosed area, or the opening shall be designed and the construction documents shall include a statement that the design and installation of the openings will provide for equalization of hydrostatic flood forces on exterior walls by allowing the automatic entry and exit of floodwaters. (3-29-10)

l. Delete IRC section R602.10 and replace with the following: Wall bracing. Buildings shall be braced in accordance with this section or, when applicable section R602.12, or the most current edition of APA System Report SR-102 as an alternate method. Where a building, or portion thereof, does not comply with one (1) or more of the bracing requirements in this section, those portions shall be designated and constructed in accordance with section R301.1. ()

m. Delete section N1102.4.3 and replace with the following: Fireplaces. New wood-burning fireplaces shall have tight-fitting flue dampers and outdoor combustion air. (4-4-13)

03. **International Existing Building Code.** 2012 Edition. (4-4-13)

04. **International Energy Conservation Code.** 2009 Edition with the following amendments. (4-7-11)

a. Add the following footnote to the title of Table 402.1.1 - Insulation and Fenestration Requirements by Component: ^k For residential log home building thermal envelope construction requirements see section 402.6. (4-7-11)

b. Delete section 402.4.3 and replace with the following: Fireplaces. New wood-burning fireplaces shall have tight-fitting flue dampers and outdoor combustion air. (4-4-13)

c. Add the following section: 402.6 Residential Log Home Thermal Envelope. Residential log home construction shall comply with sections 401 (General), 402.4 (Air Leakage), 402.5 (Maximum Fenestration U-Factor and SHGC), 403.1 (Controls), 403.2.2 (Sealing), 403.2.3 (Building Cavities), sections 403.3 through 403.9 (referred to as the mandatory provisions), Section 404 (Electrical Power and Lighting Systems), and either Subparagraph 004.04.b.i., ii., or iii. as follows: (4-7-11)

i. Sections 402.2 through 402.3, 403.2.1, 404.1 and Table 402.6; (4-7-11)

ii. Section 405 Simulated Performance Alternative (Performance); or (4-7-11)

iii. REScheck (U.S. Department of Energy Building Codes Program). (4-7-11)

d. Add Table 402.6 Log Home Prescriptive Thermal Envelope Requirements By Component to be used only in accordance with Subparagraph 004.04.b.i. above to appear as follows:

TABLE 402.6
LOG HOME PRESCRIPTIVE THERMAL ENVELOPE REQUIREMENTS BY COMPONENT

For SI: 1 foot = 304.8 mm.

CLIMATE ZONE	FENESTRATION U-FACTOR ^a	SKYLIGHT U-FACTOR	GLAZED FENESTRATION SHGC	CEILING R-VALUE	Min. Average LOG Size in inches	FLOOR R-VALUE	BASEMENT WALL R-VALUE ^d	SLAB R-VALUE & DEPTH ^b	CRAWL SPACE WALL R-VALUE ^d
5, 6 - High efficiency equipment path ^c	0.32	0.60	NR	49	5	30	15/19	10, 4 ft.	10/13
5	0.32	0.60	NR	49	8	30	10/13	10, 2 ft.	10/13
6	0.30	0.60	NR	49	8	30	15/19	10, 4 ft.	10/13

- a. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
- b. R-5 shall be added to the required slab edge R-values for heated slabs.
- c. 90% AFUE natural gas or propane, 84% AFUE oil, or 15 SEER heat pump heating equipment (zonal electric resistance heating equipment such as electric base board electric resistance heating equipment as the sole source for heating is considered compliant with the high efficiency equipment path).
- d. "15/19" means R-15 continuous insulated sheathing on the interior or exterior of the home or R-19 cavity insulation at the interior of the basement wall. "15/19" shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulated sheathing on the interior or exterior of the home. "10/13" means R-10 continuous insulated sheathing on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall.

(4-7-11)

05. References to Other Codes. Where any provisions of the codes that are adopted in this Section make reference to other construction and safety-related model codes or standards which have not been adopted by the involved authority having jurisdiction, to the extent possible, such reference should be construed as pertaining to the equivalent code or standard that has been duly adopted by such jurisdiction. (3-29-10)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-1303

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-4107 and 39-4109, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 58 through 62](#).

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

No impact to the General Fund. Amendment to the International Residential Code would result in decreases in costs to operators of owner-occupied lodging houses (bed and breakfast property) as a result of the elimination of fire sprinkler requirements in those with three or fewer guestrooms. No significant additional costs of conformance with the newer edition of the code were brought forward in discussions before the Board.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 26th day of September, 2013.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83720-0048
Phone: (208) 332-8986
Fax: 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-4107 and 39-4109, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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

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

Amendment of the 2012 edition of the International Residential Code was the result of negotiated rulemaking and the deliberations of a collaborative group consisting of members of the building industry, local building officials, code development officials, Board members, and other interested stakeholders. This amendment will allow owner-occupied lodging house occupancies (bed and breakfasts) with three or fewer guestrooms to be constructed or remodeled in accordance with the Residential Code instead of the commercial Building Code, and allow such to be operated without the installation of fire sprinklers. It will, however, require that smoke and carbon monoxide alarms be installed. This is expected to be a cost saving to owners of such occupancies who reside in them, relieving them from having to install fire sprinklers and comply with other requirements of the commercial Building Code if they are remodeled. This rulemaking would amend the International Residential Code to allow owner-occupied lodging house occupancies (bed and breakfasts) with three or fewer guestrooms to be constructed or remodeled in accordance with the Residential Code instead of the commercial Building Code. It also would allow such bed and breakfasts to be operated without the installation of fire sprinklers, but require that smoke and carbon monoxide alarms are installed.

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

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

No impact to the General Fund. Amendment to the code would result in decreases in cost to operators of owner-occupied lodging houses (bed and breakfast property) as a result of the elimination of fire sprinkler requirements in those with three or fewer guestrooms. No significant

additional costs of conformance with the newer edition of the code were brought forward in discussions before the board.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under Docket No. 07-0301-1301. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2013 Idaho Administrative Bulletin, [Vol. 13-5, pages 60 and 61](#).

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

Amendment of the 2012 edition of the International Residential Code was the result of negotiated rulemaking and the deliberations of a collaborative group consisting of members of the building industry, local building officials, code development officials, Board members, and other interested stakeholders. This amendment will allow owner-occupied lodging house occupancies (bed and breakfasts) with three or fewer guestrooms to be constructed or remodeled in accordance with the Residential Code instead of the commercial Building Code, and allow such to be operated without the installation of fire sprinklers. It will; however, require that smoke and carbon monoxide alarms be installed. This is expected to be a cost saving to owners of such occupancies who reside in them, relieving them from having to install fire sprinklers and comply with other requirements of the commercial Building Code if they are remodeled. Section 39-4109, Idaho Code, requires the adoption of the above-referenced codes for the state of Idaho, and allows the Board to adopt subsequent editions and amendments thereto as it determines necessary.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 13th day of August 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0301-1303

004. ADOPTION AND INCORPORATION BY REFERENCE.

Under the provisions of Section 39-4109, Idaho Code, the codes enumerated in this Section are hereby adopted and incorporated by reference into IDAPA 07.03.01, "Rules of Building Safety,"

Division of Building Safety. The effective date of a 2009 edition of any of the codes adopted in this Section with any amendments identified thereto shall be January 1, 2011. Until such time, the 2006 edition of any such code enumerated in this Section without amendment will remain effective pursuant to Section 39-4109, Idaho Code. Copies of these documents may be reviewed at the office of the Division of Building Safety. The referenced codes may be obtained from International Code Council, 5360 Workman Mill Road, Whittier, California 90601-2298 or the International Code Council at <http://www.iccsafe.org>. (3-29-10)

01. International Building Code. 2012 Edition with the following amendments: (4-4-13)

a. Delete footnote (f) contained under Table 2902.1 Minimum Number of Required Plumbing Fixtures, and replace with the following: Drinking fountains are not required for an occupant load of thirty (30) or fewer. (4-4-13)

b. Add the following footnote to Table 2902.1 Minimum Number of Required Plumbing Fixtures: (g) For business occupancies, excluding restaurants, and mercantile occupancies with an occupant load of thirty (30) or fewer, service sinks shall not be required. (4-4-13)

02. International Residential Code. 2009~~12~~ Edition with the following amendments: (~~4-4-13~~)()

a. Delete ~~the~~ exception **No. 1** contained under IRC section R101.2 - Scope. (~~4-7-11~~)()

b. Delete exception **No. 2** contained under IRC section R101.2 - Scope, and replace with the following: **Owner-occupied lodging houses with three (3) or fewer guestrooms shall be permitted to be constructed in accordance with the International Residential Code for One- and Two-family Dwellings. Such occupancies shall be required to install smoke alarms and carbon monoxide alarms in accordance with sections R314 and R315 respectively of the International Residential Code for One- and Two-family Dwellings.** ()

bc. Delete item No. 2 contained under the "Building" subsection of IRC section R105.2 - Work exempt from permit, and replace with the following: Fences not over six (6) feet (one thousand, eight hundred twenty-nine (1,829) mm) high may be exempted from the requirement for a building permit in the absence of any other applicable land use regulations governing the installation, height, type or other aspect. (4-7-11)

ed. Delete item No. 7 contained under the "Building" subsection of IRC section R105.2 - Work exempt from permit, and replace with the following: Prefabricated swimming pools that are not greater than four (4) feet (one thousand, two hundred nineteen (1219) mm) deep. (4-7-11)

de. Delete IRC section R109.1.3 and replace with the following: Floodplain inspections. For construction in areas prone to flooding as established by Table R301.2(1), upon placement of the lowest floor, including basement, the building official is authorized to require submission of documentation of the elevation of the lowest floor, including basement, required in

section R322. (3-29-10)

ef. IRC Table R302.1 Exterior Walls -- delete the figures contained in the last column of the table under the heading Minimum Fire Separation Distance, and replace with the following:

Minimum Fire Separation Distance	
Walls (fire-resistance rated):	< Three (3) Feet
Walls (not fire-resistance rated):	≥ Three (3) Feet
Projections (fire-resistance rated):	< Three (3) Feet
Projections (not fire-resistance rated):	≥ Three (3) Feet

(3-29-10)

fg. Delete the exception contained under IRC section R302.2 -- Townhouses, and replace with the following: Exception: A common one-hour or two-hour fire resistance rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against the exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with section R302.4. (3-29-10)

gh. Delete the exception contained under IRC section R313.1 -- Townhouse automatic fire sprinkler systems, and replace with the following: Exception: Automatic residential fire sprinkler systems shall not be required in townhouses where a two-hour fire-resistance rated wall is installed between dwelling units or when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed. (3-29-10)

hi. Delete IRC section R313.2. (3-29-10)

ij. Add the following to IRC section R315.2 - Where required in existing dwellings: Exceptions: 1. Work involving the exterior surfaces of dwellings, such as, but not limited to, replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck or electrical permits, are exempt from the requirements of this section; and 2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems are exempt from the requirements of this section. (4-4-13)

jk. Delete IRC section R322.1.10. (3-29-10)

kl. Delete IRC section R322.2.2 paragraph 2.2, and replace with the following: The total net area of all openings shall be at least one (1) square inch (645 mm²) for each square foot (0.093 m²) of enclosed area, or the opening shall be designed and the construction documents shall include a statement that the design and installation of the openings will provide for equalization of hydrostatic flood forces on exterior walls by allowing the automatic entry and exit of floodwaters. (3-29-10)

lm. Delete section N1102.4.3 and replace with the following: Fireplaces. New wood-

burning fireplaces shall have tight-fitting flue dampers and outdoor combustion air. (4-4-13)

03. International Existing Building Code. 2012 Edition. (4-4-13)

04. International Energy Conservation Code. 2009 Edition with the following amendments. (4-7-11)

a. Add the following footnote to the title of Table 402.1.1 - Insulation and Fenestration Requirements by Component: ^k For residential log home building thermal envelope construction requirements see section 402.6. (4-7-11)

b. Delete section 402.4.3 and replace with the following: Fireplaces. New wood-burning fireplaces shall have tight-fitting flue dampers and outdoor combustion air. (4-4-13)

c. Add the following section: 402.6 Residential Log Home Thermal Envelope. Residential log home construction shall comply with sections 401 (General), 402.4 (Air Leakage), 402.5 (Maximum Fenestration U-Factor and SHGC), 403.1 (Controls), 403.2.2 (Sealing), 403.2.3 (Building Cavities), sections 403.3 through 403.9 (referred to as the mandatory provisions), Section 404 (Electrical Power and Lighting Systems), and either Subparagraph 004.04.b.i., ii., or iii. as follows: (4-7-11)

i. Sections 402.2 through 402.3, 403.2.1, 404.1 and Table 402.6; (4-7-11)

ii. Section 405 Simulated Performance Alternative (Performance); or (4-7-11)

iii. REScheck (U.S. Department of Energy Building Codes Program). (4-7-11)

d. Add Table 402.6 Log Home Prescriptive Thermal Envelope Requirements By Component to be used only in accordance with Subparagraph 004.04.b.i. above to appear as follows:

TABLE 402.6
LOG HOME PRESCRIPTIVE THERMAL ENVELOPE REQUIREMENTS BY COMPONENT

For SI: 1 foot = 304.8 mm.

CLIMATE ZONE	FENESTRATION U-FACTOR ^a	SKYLIGHT U-FACTOR	GLAZED FENESTRATION SHGC	CEILING R-VALUE	Min. Average LOG Size in inches	FLOOR R-VALUE	BASEMENT WALL R-VALUE ^d	SLAB R-VALUE & DEPTH ^b	CRAWL SPACE WALL R-VALUE ^d
5, 6 - High efficiency equipment path ^c	0.32	0.60	NR	49	5	30	15/19	10, 4 ft.	10/13

5	0.32	0.60	NR	49	8	30	10/13	10, 2 ft.	10/13
6	0.30	0.60	NR	49	8	30	15/19	10, 4 ft.	10/13

- a. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
- b. R-5 shall be added to the required slab edge R-values for heated slabs.
- c. 90% AFUE natural gas or propane, 84% AFUE oil, or 15 SEER heat pump heating equipment (zonal electric resistance heating equipment such as electric base board electric resistance heating equipment as the sole source for heating is considered compliant with the high efficiency equipment path).
- d. "15/19" means R-15 continuous insulated sheathing on the interior or exterior of the home or R-19 cavity insulation at the interior of the basement wall. "15/19" shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulated sheathing on the interior or exterior of the home. "10/13" means R-10 continuous insulated sheathing on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall.

(4-7-11)

05. References to Other Codes. Where any provisions of the codes that are adopted in this Section make reference to other construction and safety-related model codes or standards which have not been adopted by the involved authority having jurisdiction, to the extent possible, such reference should be construed as pertaining to the equivalent code or standard that has been duly adopted by such jurisdiction. (3-29-10)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-1304

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-4107 and 39-4109, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 63 through 67](#).

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

No impact to the General Fund or the jurisdictions enforcing building codes, including the Division. Construction savings to builders and property owners was identified by proponents of the amendment.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 26th day of September, 2013.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83720-0048
Phone: (208) 332-8986
Fax: 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-4107 and 39-4109, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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

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

Amendment of the 2012 edition of the International Residential Code was the result of negotiated rulemaking and the deliberations of a collaborative group consisting of members of the building industry, local building officials, code development officials, Board members, and other interested stakeholders. This amendment will eliminate a new provision of the IRC which requires floors in residences not already fire resistance rated to be enhanced with an additional structural fire protection on the underside of the floor assembly. This will be a cost saving to builders and property owners by eliminating the additional expense of installing fire protection membranes on the floor assemblies. The existence of the original provision in the Residential Code prior to amendment is primarily due to the short amount of time that may potentially exist for a fire to cause failure in manufactured I-joists which are commonly installed in residences. It provided additional protection to firefighters and officials who may be present to provide fire and life-safety services during a fire. However, several exceptions to the additional flooring protection requirement are already contained under the existing code provision. This rulemaking would amend the International Residential Code by deleting a section, including the exceptions thereto, that requires floor assemblies in one- and two-family dwellings which are not already fire-resistance rated to be enhanced by installing additional wallboard, wood or equivalent fire protection to the underside of the floor.

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

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

No fiscal impact to the General Fund or the jurisdictions enforcing building codes, including

the Division. Construction savings to builders and property owners was identified by proponents of the amendment.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under Docket No. 07-0301-1301. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2013 Idaho Administrative Bulletin, [Vol. 13-5, pages 60 and 61](#).

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

Amendment of the 2012 edition of the International Residential Code was the result of negotiated rulemaking and the deliberations of a collaborative group consisting of members of the building industry, local building officials, code development officials, Board members, and other interested stakeholders. This amendment will eliminate a new provision of the IRC which requires floors in residences not already fire resistance rated to be enhanced with an additional structural fire protection on the underside of the floor assembly. This will be a cost saving to builders and property owners by eliminating the additional expense of installing fire protection membranes on the floor assemblies. The existence of the original provision in the Residential Code prior to amendment is primarily due to the short amount of time that may potentially exist for a fire to cause failure in manufactured I-joists which are commonly installed in residences. It provided additional protection to firefighters and officials who may be present to provide fire and life-safety services during a fire. However, several exceptions to the additional flooring protection requirement are already contained under the existing code provision. Section 39-4109, Idaho Code, requires the adoption of the above-referenced codes for the state of Idaho, and allows the Board to adopt subsequent editions and amendments thereto as it determines necessary.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 13th day of August 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0301-1304

004. ADOPTION AND INCORPORATION BY REFERENCE.

Under the provisions of Section 39-4109, Idaho Code, the codes enumerated in this Section are hereby adopted and incorporated by reference into IDAPA 07.03.01, "Rules of Building Safety," Division of Building Safety. The effective date of a 2009 edition of any of the codes adopted in this Section with any amendments identified thereto shall be January 1, 2011. Until such time, the 2006 edition of any such code enumerated in this Section without amendment will remain effective pursuant to Section 39-4109, Idaho Code. Copies of these documents may be reviewed at the office of the Division of Building Safety. The referenced codes may be obtained from International Code Council, 5360 Workman Mill Road, Whittier, California 90601-2298 or the International Code Council at <http://www.iccsafe.org>. (3-29-10)

01. International Building Code. 2012 Edition with the following amendments: (4-4-13)

a. Delete footnote (f) contained under Table 2902.1 Minimum Number of Required Plumbing Fixtures, and replace with the following: Drinking fountains are not required for an occupant load of thirty (30) or fewer. (4-4-13)

b. Add the following footnote to Table 2902.1 Minimum Number of Required Plumbing Fixtures: (g) For business occupancies, excluding restaurants, and mercantile occupancies with an occupant load of thirty (30) or fewer, service sinks shall not be required. (4-4-13)

02. International Residential Code. 2009~~12~~¹² Edition with the following amendments: (~~4-4-13~~)()

a. Delete the exception contained under IRC section R101.2 - Scope. (4-7-11)

b. Delete item No. 2 contained under the "Building" subsection of IRC section R105.2 - Work exempt from permit, and replace with the following: Fences not over six (6) feet (one thousand, eight hundred twenty-nine (1,829) mm) high may be exempted from the requirement for a building permit in the absence of any other applicable land use regulations governing the installation, height, type or other aspect. (4-7-11)

c. Delete item No. 7 contained under the "Building" subsection of IRC section R105.2 - Work exempt from permit, and replace with the following: Prefabricated swimming pools that are not greater than four (4) feet (one thousand, two hundred nineteen (1219) mm) deep. (4-7-11)

d. Delete IRC section R109.1.3 and replace with the following: Floodplain inspections. For construction in areas prone to flooding as established by Table R301.2(1), upon placement of the lowest floor, including basement, the building official is authorized to require submission of documentation of the elevation of the lowest floor, including basement, required in section R322. (3-29-10)

e. IRC Table R302.1 Exterior Walls -- delete the figures contained in the last column of the table under the heading Minimum Fire Separation Distance, and replace with the following:

Minimum Fire Separation Distance	
Walls (fire-resistance rated):	< Three (3) Feet
Walls (not fire-resistance rated):	≥ Three (3) Feet
Projections (fire-resistance rated):	< Three (3) Feet
Projections (not fire-resistance rated):	≥ Three (3) Feet

(3-29-10)

f. Delete the exception contained under IRC section R302.2 -- Townhouses, and replace with the following: Exception: A common one-hour or two-hour fire resistance rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against the exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with section R302.4. (3-29-10)

g. Delete the exception contained under IRC section R313.1 -- Townhouse automatic fire sprinkler systems, and replace with the following: Exception: Automatic residential fire sprinkler systems shall not be required in townhouses where a two-hour fire-resistance rated wall is installed between dwelling units or when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed. (3-29-10)

h. Delete IRC section R313.2. (3-29-10)

i. Add the following to IRC section R315.2 - Where required in existing dwellings: Exceptions: 1. Work involving the exterior surfaces of dwellings, such as, but not limited to, replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck or electrical permits, are exempt from the requirements of this section; and 2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems are exempt from the requirements of this section. (4-4-13)

j. Delete IRC section R322.1.10. (3-29-10)

k. Delete IRC section R322.2.2 paragraph 2.2, and replace with the following: The total net area of all openings shall be at least one (1) square inch (645 mm²) for each square foot (0.093 m²) of enclosed area, or the opening shall be designed and the construction documents shall include a statement that the design and installation of the openings will provide for equalization of hydrostatic flood forces on exterior walls by allowing the automatic entry and exit of floodwaters. (3-29-10)

l. Delete IRC section R501.3 and its exceptions. ()

m. Delete section N1102.4.3 and replace with the following: Fireplaces. New wood-burning fireplaces shall have tight-fitting flue dampers and outdoor combustion air. (4-4-13)

- 03. International Existing Building Code.** 2012 Edition. (4-4-13)
- 04. International Energy Conservation Code.** 2009 Edition with the following amendments. (4-7-11)
- a.** Add the following footnote to the title of Table 402.1.1 - Insulation and Fenestration Requirements by Component: ^k For residential log home building thermal envelope construction requirements see section 402.6. (4-7-11)
- b.** Delete section 402.4.3 and replace with the following: Fireplaces. New wood-burning fireplaces shall have tight-fitting flue dampers and outdoor combustion air. (4-4-13)
- c.** Add the following section: 402.6 Residential Log Home Thermal Envelope. Residential log home construction shall comply with sections 401 (General), 402.4 (Air Leakage), 402.5 (Maximum Fenestration U-Factor and SHGC), 403.1 (Controls), 403.2.2 (Sealing), 403.2.3 (Building Cavities), sections 403.3 through 403.9 (referred to as the mandatory provisions), Section 404 (Electrical Power and Lighting Systems), and either Subparagraph 004.04.b.i., ii., or iii. as follows: (4-7-11)
- i. Sections 402.2 through 402.3, 403.2.1, 404.1 and Table 402.6; (4-7-11)
- ii. Section 405 Simulated Performance Alternative (Performance); or (4-7-11)
- iii. REScheck (U.S. Department of Energy Building Codes Program). (4-7-11)
- d.** Add Table 402.6 Log Home Prescriptive Thermal Envelope Requirements By Component to be used only in accordance with Subparagraph 004.04.b.i. above to appear as follows:

TABLE 402.6
LOG HOME PRESCRIPTIVE THERMAL ENVELOPE REQUIREMENTS BY COMPONENT

For SI: 1 foot = 304.8 mm.

CLIMATE ZONE	FENESTRATION U-FACTOR ^a	SKYLIGHT U-FACTOR	GLAZED FENESTRATION SHGC	CEILING R-VALUE	Min. Average LOG Size in inches	FLOOR R-VALUE	BASEMENT WALL R-VALUE ^d	SLAB R-VALUE & DEPTH ^b	CRAWL SPACE WALL R-VALUE ^d
5, 6 - High efficiency equipment path ^c	0.32	0.60	NR	49	5	30	15/19	10, 4 ft.	10/13
5	0.32	0.60	NR	49	8	30	10/13	10, 2 ft.	10/13
6	0.30	0.60	NR	49	8	30	15/19	10, 4 ft.	10/13

- a. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
- b. R-5 shall be added to the required slab edge R-values for heated slabs.
- c. 90% AFUE natural gas or propane, 84% AFUE oil, or 15 SEER heat pump heating equipment (zonal electric resistance heating equipment such as electric base board electric resistance heating equipment as the sole source for heating is considered compliant with the high efficiency equipment path).
- d. "15/19" means R-15 continuous insulated sheathing on the interior or exterior of the home or R-19 cavity insulation at the interior of the basement wall. "15/19" shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulated sheathing on the interior or exterior of the home. "10/13" means R-10 continuous insulated sheathing on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall.

(4-7-11)

05. References to Other Codes. Where any provisions of the codes that are adopted in this Section make reference to other construction and safety-related model codes or standards which have not been adopted by the involved authority having jurisdiction, to the extent possible, such reference should be construed as pertaining to the equivalent code or standard that has been duly adopted by such jurisdiction. (3-29-10)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.11 - RULES GOVERNING MANUFACTURED/MOBILE HOME INDUSTRY LICENSING

DOCKET NO. 07-0311-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 44-2104, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 68 through 78](#).

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

No impact on the General Fund, and a \$2K reduction in revenue to the Manufactured Housing account. Favorable impact on individuals who service manufactured or mobile homes and will not be required to obtain a license.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 26th day of September, 2013.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83720-0048
Phone: (208) 332-8986
Fax: 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 44-2104, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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

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

In the 2013 legislative session, the requirement that individuals and companies who provide service and repair work on manufactured and mobile homes was eliminated from the manufactured home licensing provisions of the Idaho Code. Amendments in this rulemaking will eliminate the corresponding rule requirements for manufactured and mobile home service companies to obtain a license to perform such work. Additionally, several definitions and terms contained in the rule chapter are amended to be more consistent with their statutory definitions.

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

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

No impact on the General Fund, and a \$2K reduction in revenue to the Manufactured Housing account. Favorable impact on individuals who service manufactured or mobile homes and will not be required to obtain a license.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN

COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 16th day of August 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0311-1301

000. LEGAL AUTHORITY.

The administrator of the Idaho Division of Building Safety and the Idaho Manufactured Housing Board are authorized to promulgate rules necessary to implement the provisions of Title 44, Chapters 21 and 22, Idaho Code, including the establishment of a mandatory statewide manufactured home setup code, as well as to define and prohibit deceptive practices, and to establish administrative penalties. (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," Division of Building Safety. (3-24-05)

02. Scope. These rules apply to persons engaged in the business of manufacturing, selling, or installing ~~or servicing~~ manufactured or mobile homes for purposes of human habitation (living and sleeping) in the state of Idaho. (~~3-24-05~~)()

002. WRITTEN INTERPRETATIONS.

The Division may from time to time provide legal opinions regarding these rules. To the extent not privileged, these documents will be made available for inspection at the Division's main office, 1090 E. Watertower ~~Street~~, Suite 150, Meridian, Idaho 83642. (~~3-24-05~~)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

For the purposes of these rules, the following terms will be used, as defined below: (5-25-94)

01. Administrator. The administrator of the Division of Building Safety of the state

of Idaho. (3-24-05)

02. Board. The Manufactured Housing Board. The composition and duties of the Board are set forth at Section 44-2104, Idaho Code. (3-29-10)

03. Bond. The performance bond required by Section 44-2103, Idaho Code. (5-25-94)

04. Branch Office. An enclosed structure accessible and open to the public, at which the business of the manufactured/mobile home retailer is conducted simultaneously with and physically separated from his principal place of business. There shall be displayed on the exterior a sign permanently affixed to the land or building with letters clearly visible to the major avenue of traffic. The sign shall provide the business name of the retailer. (3-29-10)

05. Business. Occupation, profession, or trade. (5-25-94)

06. Deceptive Practice. Intentionally publishing or circulating any advertising concerning mobile or manufactured homes which: (5-25-94)

a. Is misleading or inaccurate in any material respect; (3-29-10)

b. Misrepresents any of the products or services sold or provided by a manufacturer, manufactured/mobile home retailer, salesman, or ~~service or~~ installation company. ~~(3-29-10)~~ ()

07. Division. The Division of Building Safety for the state of Idaho. (5-25-94)

08. Installer. A person who owns a business which installs manufactured/mobile homes at the sites where they are to be occupied by the consumer. The term does not include the purchaser of a manufactured/mobile home or a manufactured/mobile home retailer who does not install manufactured/mobile homes. A retailer who does install manufactured/mobile homes is an installer. The term also does not include concrete contractors or their employees. (3-29-10)

09. Installation. The term includes “setup” and is the complete operation of fixing in place a manufactured/mobile home for occupancy. (5-25-94)

10. Manufactured Home. A structure, constructed after June 15, 1976, in accordance with the HUD manufactured home construction and safety standards, and is transportable in one (1) or more sections, which: ~~(3-24-05)~~

~~a.~~ In the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length; ~~(5-25-94)~~

~~b.~~ When erected on site, is three hundred twenty (320) or more square feet ~~in size;~~ and which ~~(5-25-94)~~

~~c.~~ Is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; ~~(5-25-94)~~ and

~~d.~~ Includes the plumbing, heating, air conditioning, and electrical systems contained

therein;

(5-25-94)

~~e.~~ Except that such term shall include any structure which meets all the requirements of this ~~definition subsection~~ except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of Housing and Urban Development and complies with the standards established under 42 U.S.C. Section 5401, ~~et seq.~~

(5-25-94)()

11. Manufactured Home Retailer. Except as otherwise provided in these rules:

(3-29-10)

a. Any person engaged in the business of selling or exchanging new and used units;
or (5-25-94)

b. Any person or who buys, sells, lists, or exchanges three (3) or more new and used units in any one (1) calendar year. (5-25-94)

12. Manufactured/Mobile Home Salesman. ~~Except as otherwise provided in these rules:~~ Any person employed by a manufactured/mobile home ~~dealer retailer or resale broker~~ for a salary, commission, or compensation of any kind to sell, list, purchase, or exchange or to negotiate for the sale, listing, purchase, or exchange of ~~new, used, brokered, or third-party owned units, except as otherwise provided in Title 44, Chapter 21, Idaho Code.~~

(3-24-05)()

~~**13. Manufactured/Mobile Home Service Company.** Any person who owns or is the responsible managing employee of a business that has grossed more than two thousand five hundred dollars (\$2,500) in any one (1) year from the service of manufactured or mobile homes. The term does not include a manufactured/mobile home retailer or owner. The term also does not include licensed electrical or plumbing contractors, carpet and vinyl installers, painting or concrete contractors, tape and texture installers, cabinet installers, public utilities, or the employees of any of the occupations listed in this sentence. Finally, the term does not include manufactured/mobile home installers.~~

(3-29-10)

143. Manufacturer. Any person engaged in the business of manufacturing facility which has been certified by the U.S. Department of Housing and Urban Development (HUD) to construct prefabricated manufactured homes in accordance with the Manufactured Housing Construction Safety Standards Act of 1974 that are offered for sale, lease, or exchange in the state of Idaho.

(5-25-94)()

154. Mobile Home. A factory-assembled structure similar to a manufactured home, but built to a mobile home code or structures generally constructed prior to June 15, 1976, the date of enactment of the Federal Manufactured Housing and Safety Standards Act (HUD Code), and equipped with the necessary service connections and made so as to be readily movable as a unit or units on their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation.

(5-25-94)()

165. Person. A natural person, corporation, partnership, trust, society, club, association, or other organization. (5-25-94)

176. Principal Place of Business. ~~An enclosed structure accessible and open to the public~~ **The primary physical location** at which **the business of a manufactured home retailer or resale broker is lawfully conducted.** ~~e~~ Each of the following requirements ~~are~~ **shall be met to qualify as the principal place of business:** (5-25-94)()

a. The business of the manufactured/ **or** mobile home retailer **or resale broker** is lawfully conducted here; (3-29-10)()

b. The office or offices of the retailer **or resale broker** is or are located here; (3-29-10)()

c. The public may contact the retailer, **resale broker**, or salesman here; (3-29-10)()

d. **The offices are accessible and open to the public; and** ()

~~d~~**e.** The greatest portion of the retailer's business is conducted here. The books and other records of a retailer must be kept and maintained at the retailer's principal place of business and be open to inspection during normal business hours by any authorized agent of the Division. Moreover, there shall be displayed on the exterior a sign permanently affixed to the land or building with letters clearly visible to the major avenue of traffic. The sign shall provide the business name of the retailer. (3-29-10)

187. Responsible Managing Employee (RME). The person designated by the employer to supervise other employees, either personally or through others. (5-25-94)

~~19. Service. Service includes, but is not limited to, the installation or repair of awnings, roofing, skirting, siding, remodeling, material alterations, attached carports or decks, on or in manufactured/mobile homes.~~ (5-25-94)

~~20~~**18. Unit.** A mobile or manufactured home. (5-25-94)

~~21~~**19. Used Manufactured Home or Mobile Home.** A manufactured home or mobile home, respectively, which has been: (5-25-94)

a. Sold, rented, or leased and occupied prior to or after the sale, rental, or lease; or (5-25-94)

b. Registered with or been the subject of a certificate of title issued by the Idaho Department of Transportation or the appropriate authority of any state, the District of Columbia, or foreign state or country. (5-25-94)

011. (RESERVED)

012. LICENSE REQUIRED.

It shall be unlawful to engage in business as a manufacturer, manufactured/mobile home retailer, resale broker, manufactured/mobile home salesman, responsible managing employee, or ~~manufactured/mobile home service company or~~ installer without being duly licensed by the

Division pursuant to Title 44, Chapter 21, Idaho Code, and these rules. No issued licenses are transferable. ~~(3-29-10)~~()

01. Minimum Age Requirement. No license will be issued to a person under eighteen (18) years of age at the time of license application. (3-25-94)

02. Designated License Holder. Any applicant for a license under these rules who is not a natural person must designate a natural person to be license holder and represent the corporation, partnership, trust, society, club, association, or other organization for all licensing purposes under these rules including, but not limited to, testing and education. (3-24-05)

a. The authorization to act as designated license holder must be in writing, signed by the applicant and the person designated, and filed with the Division along with the application. (5-25-94)

b. Any person designated under Subsection 012.02 of these rules shall represent one (1) applicant only, and shall immediately notify the Division in writing if his working relationship with the applicant has been terminated. The license will be issued in the name of the designated license holder with the name of the organization he represents also noted on the license. The license holder shall be considered by the Division to be the licensee, even if the license holder is the designated representative of an organization. (5-25-94)

c. The applicant and the person designated under Subsection 012.02 of these rules agree by acceptance of the designation that the designated person shall act as agent of the applicant for all purposes under Title 44, Chapters 21 and 22, Idaho Code, and all rules promulgated thereunder. (5-25-94)

03. Proof of License. Proof of the existence of any license issued pursuant to these rules shall be carried upon the person of the responsible managing employee or supervisor of any installation ~~or any person who is personally involved with the service of any manufactured/mobile home~~ at all times during the performance of the ~~service or~~ installation work. Such proof shall be furnished upon demand of any person. Moreover, any license issued to a manufactured/mobile home retailer, resale broker, responsible managing employee, or salesman must be posted in a conspicuous place on the business premises of the employer for whom the holder of the license is licensed. The license of a manufacturing facility or branch office shall also be posted in a conspicuous place at the location licensed. ~~(3-29-10)~~()

04. Real Estate Brokers. Licensed real estate brokers or real estate salesmen representing licensed real estate brokers shall not be required to obtain a license under these rules in order to sell or lease a used unit that is currently carried on the tax rolls as personal property and that otherwise falls within the exemption contained in Section 44-2102(2), Idaho Code. (3-24-05)

05. License for Manufacturers. In order to engage in business in the state of Idaho or to be entitled to any other license or permit required by these rules each manufacturer must be licensed by the Division. (3-24-05)

06. License for Branch Office of Manufactured/Mobile Home Retailer or Resale

Broker. (3-29-10)

a. The Division shall require as a condition of licensing and bonding any information it deems necessary for each location where a manufactured/mobile home retailer or resale broker maintains a branch office. The mere listing of manufactured/mobile homes for sale does not constitute a branch office, but the use of a mobile home park or a state sales office by a licensee for the sale or offering for sale of manufactured/mobile homes does constitute the maintenance of a branch office. A branch office manager may not manage more than one (1) branch office.

(3-29-10)

b. To open a branch office, a retailer or resale broker must: obtain a license from the Division to operate the branch office; and provide for direct supervision of the branch office, either by himself or by employing a branch office manager.

(3-29-10)

c. If the branch office is closed, the retailer or resale broker shall immediately deliver the license to the Division.

(3-29-10)

07. License to Engage in Business as Manufactured/Mobile Home Retailer, Resale Broker, Manufacturer, ~~Service Company~~, or Installer; Application; Bond; Issuance, Expiration, and Renewal. (~~3-29-10~~)()

a. Applications for a manufacturer's, retailers, resale brokers, ~~service company~~ or installer's license must be filed upon forms supplied by the Division, and the applicant shall furnish:

(3-29-10)

i. Any proof the Division may deem necessary that the applicant is a manufacturer, retailer, resale broker, ~~service company~~ or installer;

(~~3-29-10~~)()

ii. Any proof the Division may require that the applicant has a principal place of business;

(5-25-94)

iii. Any proof the Division may require of the applicant's good character and reputation and of his fitness to engage in the activities for which the license is sought;

(5-25-94)

iv. In the case of a retailer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise dealer for the make concerned;

(3-29-10)

v. A reasonable fee and proof of bond fixed by rule; and

(5-25-94)

vi. In the case of a retailer, resale broker, ~~service company~~; or installer, proof of passing the examination required by these rules.

(~~3-29-10~~)()

b. Within thirty (30) days after receipt of a completed application, the Division shall issue or deny the license.

(5-25-94)

c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division.

(5-25-94)

d. If any installer's ~~or service company's~~ working relationship with his employer is terminated, the employer shall immediately deliver the license of the terminated installer ~~or service company~~ to the Division. ~~(5-25-94)~~()

08. License for Manufactured/Mobile Home Salesman. (5-25-94)

a. A person shall not act as a salesman in this state for a person who sells or leases any manufactured/mobile home subject to the provisions of Title 44, Chapters 21 or 22, Idaho Code, without having first received a license from the Division. Before issuing such a license, the Division shall require: (1) an application, signed by the applicant and verified by his employer, stating that he desires to act as a salesman and providing his residential address and the name and address of his employer; (2) a statement as to whether any previous application of the applicant has been denied or license revoked; (3) payment of the license fee established by rule; and (4) any other relevant information the Division deems necessary. (5-25-94)

b. Within thirty (30) days after receipt of a completed application, the Division shall issue or deny the license. (5-25-94)

c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. (5-25-94)

d. A person licensed pursuant to Subsection 012.08 of these rules shall not engage in sales activity other than for the account of, or for and on behalf of, a single employer who is a licensed retailer or resale broker. (3-29-10)

e. If a salesman ceases to be employed by a licensed retailer or resale broker, his license to act as a salesman is automatically suspended and his right to act in that capacity immediately ceases. He shall not engage in such activity until reemployed by a licensed retailer or resale broker. If the salesman's working relationship with his employer is terminated, the employer shall immediately deliver his license to the Division. (3-29-10)

09. License for Responsible Managing Employee. (5-25-94)

a. A person shall not act as a responsible managing employee for an installer ~~or service company~~ without first having been issued a license by the Division. Before issuing such a license the Division shall require: ~~(3-29-10)~~()

i. An application, signed by the applicant and verified by his employer, stating that he desires to act as a responsible managing employee and providing his residential address and the name and address of his employer; (5-25-94)

ii. A statement as to whether any previous application of the applicant has been denied or license revoked; (5-25-94)

iii. Payment of the license fee established by rule; and (5-25-94)

- iv. Any other relevant information the Division deems necessary. (5-25-94)
- b. Within thirty (30) days after receipt of a completed application, the Division shall issue or deny the license. (5-25-94)
- c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. (5-25-94)
- d. A person licensed pursuant to Subsection 012.09 of these rules shall not engage in such activity other than for the account of, or for and on behalf of, a single employer who is a licensed ~~service company or~~ installer. (~~5-25-94~~)()
- e. If a responsible managing employee ceases to be employed by an installer ~~or service company~~, his license to act as a responsible managing employee is automatically suspended and his right to act in that capacity immediately ceases. He shall not engage in such activity until reemployed by a licensed installer ~~or service company~~. (~~3-29-10~~)()
- f. If the responsible managing employee's working relationship with his employer is terminated, the employer shall immediately deliver his license to the Division. (5-25-94)

013. THE DIVISION'S MAILING ADDRESS.

Any correspondence or notices required by these rules or Title 44, Chapters 21 or 22, Idaho Code, shall be addressed to the Division of Building Safety, 1090 E. Watertower ~~Street~~, **Suite 150** Meridian, Idaho 83642. (~~3-24-05~~)()

014. PROOF OF EDUCATION REQUIRED.

01. Satisfactory Proof for Initial Application Submission. An application for a license as a manufactured/mobile home installer must include proof satisfactory to the Division that the applicant has completed the following number of hours of initial education in order to be approved: (4-7-11)

- a. Installers; and ~~dealers~~ **retailers** who are installers: eight (8) hours. (~~4-7-11~~)()
- b. The course of initial education must be approved by the Division and shall include information relating to the provisions of these rules, Title 44, Chapters 21 and 22, Idaho Code, and the Manufactured Housing Construction Safety Standards Act of 1974. (4-7-11)

02. Satisfactory Proof for License Renewal. The Division shall not renew any installer license, or ~~dealer~~ **retailer** license of any dealer who is also an installer, issued pursuant to Title 44, Chapters 21 or 22, Idaho Code, or these rules until the licensee has submitted proof satisfactory to the Division that he has, during one (1) year immediately preceding the renewal of the license, completed at least four (4) hours of continuing education. (~~4-7-11~~)()

03. Continuing Education Course. The course of continuing education must be approved by the Division and shall include information relating to the following: (4-7-11)

- a.** Manufactured housing or mobile home parks which will enable a person to give better service to the members of the general public and tenants of manufactured/mobile home parks; (4-7-11)
- b.** The construction, including components and accessories, rebuilding, servicing, installation, or sale of manufactured/mobile homes; (4-7-11)
- c.** Legislative issues concerning manufactured/mobile home housing and manufactured/mobile home parks, including pending and recently enacted state or federal legislation; and (4-7-11)
- d.** These rules, Title 44, Chapters 21 or 22, Idaho Code, and the Manufactured Housing Safety Standards Act of 1974. (4-7-11)

015. EXAMINATION OF APPLICANT FOR LICENSE.

01. Required Examinations. Effective January 1, 1995, the Division shall require a written examination of each applicant for a license, other than a license being renewed, as a manufactured/mobile home retailer, resale broker, ~~service company~~ or installer. The examination shall include, but may not be limited to, the following subjects: Title 44, Chapters 21 and 22, Idaho Code; these rules and IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations"; and the Manufactured Housing Construction Safety Standards Act of 1974. To avoid the requirement of an examination and be considered a renewal, any licensee must renew his license within six (6) months of its expiration date. (~~3-29-10~~)()

02. Approval of Examination and Grade. Examinations for all classifications under these rules shall be approved by the Division and the Board. No license shall be issued unless the applicant receives a final grade of seventy percent (70%) or higher. (5-25-94)

03. Retesting. If an applicant for a license fails the written examination offered by the Division twice, he must wait at least thirty (30) days before retesting. (5-25-94)

016. DISCIPLINARY ACTION AGAINST LICENSEES.

The Division may deny, suspend, refuse to renew, or revoke any license issued under Title 44, Chapter 21, Idaho Code, or these rules or reissue the license subject to reasonable conditions upon any of the following grounds: (3-24-05)

01. Violation of Rules and Statutes. For any willful or repeated violation of these rules, IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," or Title 44, Chapters 21 or 22, Idaho Code. (3-29-10)

02. Failure to Have Principal Place of Business. With regards only to a manufactured/mobile home retailer or resale broker, failure of the applicant or licensee to have a principal place of business. (3-29-10)

03. Revocation of License. The revocation of the license of the employer of a responsible managing employee or salesman is grounds for the revocation of the license of the

installer, responsible managing employee or salesman. (3-29-10)

04. False Information. Material misstatement in the application or otherwise furnishing false information to the Division. (5-25-94)

05. Proof of Employment. Failure of a salesman or applicant for licensing as a salesman to establish by proof satisfactory to the Division that he is employed by a licensed retailer or resale broker. (3-29-10)

06. Disclosing Contents of Examination. Obtaining or disclosing the contents of an examination given by the Division. (5-25-94)

07. Deceptive Practice. The intentional publication, circulation, or display of any advertising which constitutes a deceptive practice as that term is defined in Subsection 010.06 of these rules. (3-24-05)

08. Failure to Provide Business Name. Failure to include in any advertising the name of the licensed retailer, resale broker, ~~service company~~, or installer, or the name under which he is doing business. (~~3-29-10~~)()

09. Encouraging Falsification. Intentionally inducing an applicant or licensee to falsify his credit application. (5-25-94)

10. Poor Workmanship. Performing workmanship which is grossly incompetent or repeatedly below the standards adopted by Title 44, Chapters 21 and 22, these rules, IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," the Federal Manufactured Housing and Safety Standards Act of 1974, or the latest Idaho adopted editions of the International Building Code, the National Electrical Code, the Uniform Plumbing Code, and the International Mechanical Code, then in effect. (3-29-10)

11. Installation Supervisor Required. Failure to have a licensed responsible managing employee personally supervise any installation ~~or service~~ of a manufactured/mobile home. (~~3-29-10~~)()

12. Failure of Organizations to License its Employees. Failure of an organization to have its employees maintain any license as required by these rules. (3-24-05)

13. Failure to Honor Warranties. Failure to honor any warranty or other guarantee given by a licensee for construction, workmanship, or material as a condition of securing a contract, or of selling, leasing, reconstructing, improving, repairing, or installing any manufactured/mobile home, or accessory structure. (3-29-10)

14. Revocation or Denial of License. Revocation or denial of a license issued pursuant to these rules or an equivalent license by any other state or U.S. territory. (3-29-10)

15. Failure to Maintain Any Required License. Failure of the licensee to maintain any other license required by any city or county of this state. (5-25-94)

16. Failure to Respond to Notice. Failure to respond to a notice served by the Division as provided by law within the time specified in the notice. (5-25-94)

17. Failure to Permit Access to Documentary Materials. Failure or refusing to permit access by the Division to relevant documentary materials after being requested to do so by the Division. (5-25-94)

18. Conviction of Misdemeanor. Conviction of a misdemeanor for violation of any of the provisions of Title 44, Chapters 21 or 22, Idaho Code. (5-25-94)

19. Conviction of Felony. Conviction or withheld judgment for a felony in this state, any U.S. territory, or country. (3-29-10)

20. Dealing with Stolen Manufactured or Mobile Homes. To knowingly purchase, sell, or otherwise acquire or dispose of a stolen manufactured or mobile home. (5-25-94)

21. Violation of Permit or Inspection Requirements. To knowingly violate any permit or inspection requirements of any city or county of this state. (5-25-94)

(BREAK IN CONTINUITY OF SECTIONS)

019. FEES.

01. Fees for Issuance and Renewal of License. The following fees for the issuance and renewal of a license will be charged, and no application for licensing pursuant to these rules will be accepted by the Division unless it is accompanied by the appropriate fee: (5-25-94)

a. Manufactured/mobile home retailer or resale broker's license: four hundred forty dollars (\$440). Retailers who are also installers will not have to pay an installer's license fee in order to hold both licenses. (3-29-10)

b. Manufacturer license: four hundred forty dollars (\$440); (3-24-05)

c. Manufactured/mobile home ~~service company or~~ installer license: two hundred twenty dollars (\$220); ~~(3-29-10)~~()

d. Manufactured/mobile home salesman's license: forty-five dollars (\$45). (3-24-05)

e. Responsible managing employee license: forty-five dollars (\$45). (3-29-10)

02. Performance Bonding Requirements. No application for licensing pursuant to these rules shall be accepted unless it is accompanied by evidence of the following performance bond: (3-24-05)

a. Manufacturer: twenty thousand dollar (\$20,000) bond; (5-25-94)

- b.** Manufactured/mobile home retailer: twenty thousand dollar (\$20,000) bond; (3-29-10)
- c.** Manufactured/mobile home resale broker: thirty thousand dollar (\$30,000) bond; (3-29-10)
- d.** Manufactured/mobile home ~~service company or~~ installer: five thousand dollar (\$5,000) bond. Retailers who are also installers will not be required to post an installer's bond in order to hold both licenses. ~~(3-29-10)~~()
- e.** Responsible managing employee. No bond. (3-29-10)

03. Money or Securities Deposit in Lieu of Performance Bond. A money or securities deposit shall be accepted by the Division in lieu of the performance bonding requirement as set forth at Title 44, Chapter 21, Idaho Code, and Subsection 019.02 of these rules, under the following circumstances: (3-29-10)

- a.** Any such money or securities deposit shall be in a principal sum equal to the face amount of the performance bond required for the applicable licensing category; (3-29-10)
- b.** Any such money deposit shall be deposited in a time certificate of deposit which provides on its face that the principal amount of such certificate of deposit shall be payable to the Division upon presentment and surrender of the instrument; (7-1-96)
- c.** Any such time certificate of deposit shall have a maturity date of one (1) year from the effective date of licensure and shall have an automatic renewal provision for subsequent years; (7-1-96)
- d.** Any such time certificate of deposit shall be provided to the Division at the time of application for licensure and shall be retained by the Division during the effective period of licensure unless otherwise expended by the Division to insure completion of the licensee's performance; (7-1-96)
- e.** Any such time certificate of deposit shall be returned to an unsuccessful applicant for licensure; (7-1-96)
- f.** The principal amount of any such time certificate of deposit, to the extent not otherwise expended to insure completion of the licensee's performance, shall be returned to the depositor by the Division on or before ninety (90) days subsequent to the occurrence of any of the following events: voluntary surrender or return of a license; expiration of a license; lapse of a license; or revocation or suspension of a license; and (7-1-96)
- g.** Any interest income earned by reason of the principal amount of the time certificate of deposit shall be the property of the licensee. (7-1-96)

(BREAK IN CONTINUITY OF SECTIONS)

022. CIVIL PENALTIES.

The following acts shall subject the violator to penalties based on the following schedule:

(3-29-10)

01. Industry Licensing. Except as provided for by Section 44-2106, Idaho Code, any person who engages in the business of a manufacturer, retailer, resale broker, salesman, installer, ~~service company~~, or responsible managing employee (RME) as defined in Section 44-2101A, Idaho Code, without being duly licensed by the Division shall be subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. ~~(3-29-10)~~()

02. Deceptive Practice. In accordance with Section 44-2106(2), Idaho Code, any retailer, resale broker, installer, salesman, ~~service company~~, or RME who intentionally publishes or circulates any advertising that is misleading or inaccurate in any material respect or that misrepresents any of the products or service sold or provided by a manufacturer, retailer, resale broker, installer, ~~service company~~, or RME, shall be subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. ~~(3-29-10)~~()

03. Dealing with Stolen Manufactured or Mobile Homes. In accordance with Section 44-2106(2), Idaho Code, any person who knowingly purchases, sells, or otherwise acquires or disposes of a stolen manufactured or mobile home shall be subject to a civil penalty of not more than one thousand dollars (\$1,000). (3-29-10)

04. Failure to Maintain a Principal Place of Business. In accordance with Section 44-2106(2), Idaho Code, any person who is a retailer or resale broker duly licensed by the Division and who fails to maintain a principal place of business within Idaho, shall be subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-29-10)

05. Violation of Rules and Statutes. Any person who knowingly violates any of the provisions of these rules, IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," or the provisions of Title 44, Chapters 21 or 22, Idaho Code, shall be subject to a civil penalty of five hundred dollars (\$500) for the first offense and one thousand dollars (\$1,000) for each offense thereafter. (3-29-10)

06. Gross Violation. In case of continued, repeated, or gross violations of these rules or IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," a license revocation may be initiated for licensed individuals under Title 44, Chapter 21, Idaho Code. Non-licensed individuals shall be subject to prosecution by the appropriate jurisdiction under Idaho law. (3-29-10)

07. Judicial Review. Any party aggrieved by the final action of the Administrator shall be entitled to a judicial review thereof in accordance with the provisions of Title 67, Chapter 52, Idaho Code. (3-29-10)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.05.01 - RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

DOCKET NO. 07-0501-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1907 and 54-1910, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 52 through 55](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 24th day of October, 2013.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83720-0048
Phone: (208) 332-8986
Fax: 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1907 and 54-1910, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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

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

Current rule requires that an applicant for licensure as a public works contractor submit a written application accompanied by a notarization. This rulemaking will provide flexibility to the administrator to accept applications submitted via electronic means other than facsimile. In accordance with the statutory requirement applicants will still be required to submit a sworn statement or attestation as to the truthfulness and accuracy of the information provided in the application. It also clarifies that an extension of time in which to renew a license shall be granted only until such time as the application is acted upon by the administrator. The rulemaking would clarify that acceptable formats for communications with the Division and applications for public works contractor licensure include electronic submissions by an applicant. It also provides that an extension of time in which to renew a license shall authorize operation as a licensed contractor only until such time as the administrator completes action on the renewal application.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rulemaking is administrative in nature and provides the Division with the ability to accept and process applications for licenses electronically via an on-line method.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 27th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0501-1301

100. BOARD OFFICE -- LOCATION, HOURS, MAILING ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER.

The address of the Board office, and its mailing address, is 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. Office hours are from 8 a.m. until 5 p.m., daily. The office is closed on weekends and holidays. The Board telephone number is (208) 334-4057, and the facsimile number is (208) 855-9666. (3-20-04)()

(BREAK IN CONTINUITY OF SECTIONS)

102. COMMUNICATION.

All written communications, forms and documents concerning any matter covered by the Act or these rules shall be addressed to the administrator and not to members of the Board or staff. All communications are deemed officially received only when delivered to the Board office of the administrator. Documents may be submitted ~~by facsimile but not by other~~ in electronic ~~or computerized means~~ format acceptable to the administrator. (3-20-04)()

(BREAK IN CONTINUITY OF SECTIONS)

105. LICENSE RENEWAL -- FILING DEADLINES; PETITIONS FOR EXTENSION OF TIME TO FILE; LAPSED LICENSES.

01. Filing Deadline. Applications for renewal of a license shall be filed by the last

working day of the month in which the license expires. (3-20-04)

02. Extension of Time. A petition for an extension of time in which to renew shall be filed by the last working day of the month in which the license expires. The petition shall be accompanied by a fee in the amount of the prorated portion of the annual license fee for the class of license applied for, with a minimum fee of at least fifty dollars (\$50). The fee for this service is required in addition to the licensing and renewal fees provided for in Section 201 of these rules and shall be paid to the Division at the time of application for licensure. Petitions not accompanied by the required fees or filed after the license has expired will not be honored.

(3-21-12)

i. The petition shall specify the number of days for which the extension is being requested. (3-20-04)

ii. Under no circumstances shall an extension exceed sixty (60) days. Petitions for more than sixty (60) days will not be honored. (3-20-04)

03. Approval of Petition. Approval of a petition for an extension of time shall authorize operation as a contractor until ~~actual issuance of such~~ the administrator completes action on the renewal ~~license for the ensuing licensing period~~ application, provided the application for renewal is filed with the Board within the extended time specified.

(3-19-99)()

04. Failure to File. If the licensee fails to file a timely application for renewal or petition for extension, the license shall lapse and expire on the last day of the license period. Licenses not renewed in a timely manner shall be considered delinquent for a period of one (1) year from the last day of the license period and may be renewed at any time during that year. Licenses delinquent for more than a period of one (1) year must be reinstated and the applicant for reinstatement must apply as if for a new license. (3-20-04)

05. Expedited Licensure. Upon an applicant's request and payment of a fee of one hundred dollars (\$100), the Division shall expedite its review and determination of a license application. The fee for this service is required in addition to the licensing and renewal fees provided for in Section 201 of these rules and shall be paid to the Division at the time of application for licensure. (3-21-12)

(BREAK IN CONTINUITY OF SECTIONS)

110. APPLICATION FOR LICENSURE -- DOCUMENTATION; APPRAISALS; REFERENCES; BONDING; AND FINANCIAL STATEMENTS.

01. Application Documentation. To obtain a license, the applicant shall submit to the administrator, on such forms and in a format as the administrator shall prescribe, including electronically, accompanied by the required fee for the class of license applied for, a complete written, ~~notarized~~ application for such license. All of the information submitted by the applicant

shall specifically pertain to work that is similar in scope and value to that for which licensure is being requested or which is being requested in a petition to change or add types of construction. The information contained in such application forms shall include: ~~(3-20-04)~~()

a. A complete statement of the general nature of applicant's contracting business, including a concise description of the applicant's experience and qualifications as a contractor and a list of clients for whom work has been performed; (3-20-04)

b. A description of the value and character of contract work completed and for whom performed during the three (3) year period prior to filing the application; (3-20-04)

c. A general description of applicant's machinery and equipment; and (3-30-07)

d. An annual financial statement, as herein defined, that covers a period of time ending no more than twelve (12) months prior to the date of submission of the application, indicating compliance with such financial requirements as the Board may prescribe by rule. The applicant's financial statement may be supplemented with: (4-4-13)

i. Bonding. As authorized by Section 54-1910(e), Idaho Code, a letter from applicant's bonding company, not an insurance agent, stating the amount of the applicant's bonding capability per project and in the aggregate, including supporting documentation; (3-30-07)

ii. Guaranty. Documentation, satisfactory to the administrator, of the existence of a written guaranty agreement between the applicant and a third-party in which the third-party guarantor agrees to assume financial responsibility for payment of any obligations of the applicant for any particular project as may be determined by a court of competent jurisdiction. The guaranty agreement, along with financial statements meeting the requirements of Paragraph 110.01.e. of this rule, shall be submitted with the license application. (3-30-07)

e. For Class A, AA, AAA, and Unlimited license applications, financial statements shall be accompanied by an independent auditor's report or be reviewed. For Class B and CC license applications, financial statements must be accompanied by an independent audit report or be reviewed or compiled by a certified public accountant. For Class C and Class D license applications, financial statements must be accompanied by an independent audit report or be reviewed, compiled, or on the form provided by the administrator, and include such additional information as may be required by the administrator to determine the applicant's fitness for a license. (3-27-13)

f. The name, social security number, and business address of an individual applicant or, if the applicant is a partnership, its tax identification number, business address, and the names and addresses of all general partners; and if the applicant is a corporation, association, limited liability company, limited liability partnership, or other organization, its tax identification number, business address, and the names and addresses of the president, vice president, secretary, treasurer, and chief construction managing officers, or responsible managing employee. (3-20-04)

g. Applicants requesting a licensing class higher than that for which the applicant is

currently licensed shall provide documentation, satisfactory to the administrator, of having performed projects, similar in scope and character to those for which license is requested. The monetary value of those jobs must fall within a range not less than thirty percent (30%) below that for which the applicant is currently licensed. ~~(4-11-06)~~()

02. Application for Change in Licensing Class. Requests for a licensing class higher than that for which the applicant is currently licensed shall be accompanied by the information in Subsection 110.01 of these rules, and the applicable fee. Licenses granted under Subsection 110.02 of these rules shall be valid for a period of twelve (12) months from the date of issuance. (4-11-06)

03. Extension of Time to File Financial Statement. The administrator may grant an extension of time to file the annual financial statement if the licensee provides an interim compiled balance sheet and income statement for the applicant's fiscal year-to-date, duly certified as true by the applicant, and if a partnership, limited liability company, or limited liability partnership by a member thereof, and if a corporation, by its executive or financial officer. Such renewal application shall be filed prior to the first day of such renewal licensing period. In the event an extension is granted, the renewal license shall be valid for a period of twelve (12) months from the date of the issuance of the renewal license. (3-20-04)

04. Appraisals. The administrator may require submission of an independent appraisal of any real or chattel property reported by an applicant or licensee. Such appraisals shall be conducted by a disinterested person or firm established and qualified to perform such services. (3-20-04)

05. References. The administrator may require an applicant for an original or renewal license to furnish such personal, business, character, financial, or other written references as deemed necessary and advisable in determining the applicant's qualifications. (3-20-04)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.07.01 - RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS

DOCKET NO. 07-0701-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-5001, 54-5004(1) and 54-5005(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 56 through 60](#).

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

No impact to the general fund; some increased short-term costs to the Division and jurisdictions enforcing the codes for obtaining new code materials and training of inspectors. No significant additional costs to the industry of conformance with the new editions of the codes were brought forward in discussions before the Board.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 24th day of October, 2013.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83720-0048

Phone: (208) 332-8986
Fax: 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-5001, 54-5004(1) and 54-5005(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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

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

The HVAC codes published by the International Code Council are adopted by the state of Idaho pursuant to Idaho Code and they represent the standards by which all HVAC installations are made throughout the state. Currently, the 2009 editions of the codes are used as the standard; however, newer versions have been published in the form of the 2012 editions and would be adopted with this rulemaking. Adoption and amendment of the 2012 editions of the HVAC codes was the result of negotiated rulemaking and the deliberations of a collaborative group consisting of members of the HVAC and building industry, local building officials, code development officials, board members, and other interested stakeholders. This rulemaking adopts the 2012 editions of the International Mechanical Code, the International Fuel Gas Code, and Parts V and VI of the International Residential Code related to HVAC installations. Amendments to the International Mechanical Code and International Residential Code reflect changes agreed to in the course of developing a consensus among stakeholders. Amendments include an exception relating to the gauge of sheet metal in certain circumstances and related amendments for the support of such exhaust ducts. Additionally, amendments are made providing alternative prescriptive methods addressing the methodology for satisfying make-up air ventilation requirements. Finally, existing amendments providing alternatives to equipment sizing requirements are also eliminated.

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

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

No impact to the general fund; some increased short-term costs to the Division and jurisdictions enforcing the codes for obtaining new code materials and training of inspectors. No significant additional costs to the industry of conformance with the new editions of the codes were brought forward in discussions before the Board.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2013 Idaho Administrative Bulletin, [Vol. 13-5, pages 62 and 63](#).

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

The HVAC codes published by the International Code Council are adopted by the State of Idaho pursuant to Idaho Code, and they represent the standards by which all HVAC installations are made throughout the state. Currently, the 2009 editions of the codes are used as the standard; however, newer versions have been published in the form of the 2012 editions. This rulemaking adopts the 2012 editions of the International Mechanical Code, the International Fuel Gas Code, and Parts V and VI of the International Residential Code related to HVAC installations, with amendments. Section 54-5001, Idaho Code, requires the adoption of the above-referenced codes for the state of Idaho, and allows the Board to adopt subsequent editions and amendments thereto as it determines necessary.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 23rd day of August, 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0701-1301

004. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL MECHANICAL CODE, 2009~~12~~ EDITION.

01. International Mechanical Code. The 2009~~12~~ Edition, including appendix “A,” (herein IMC) is adopted and incorporated by reference with the following amendments:

~~(4-7-11)~~()

a. Where differences occur between the IMC and Title 54, Chapter 50, Idaho Code and IDAPA 07, Title 07, the provisions in Idaho Code and IDAPA rules shall apply. (4-11-06)

b. All references to the International Plumbing Code (IPC) shall be construed as referring to the Uniform Idaho State Plumbing Code (UISPC) as adopted and amended by the Idaho State Plumbing Board. ~~(4-11-06)~~()

c. All references to the International Code Council Electrical Code (ICC EC) shall be construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. (4-11-06)

d. Section 109. Delete. (7-1-10)

~~**e.** Section 312. Sizing requirements shall be as established by the authority having jurisdiction. (4-11-06)~~

fe. Section 401.1 Scope. Add the following: Exception: The principles specified in ASHREA 62-2010 may be used as an alternative to this chapter to demonstrate compliance with required ventilation air for occupants. (4-7-11)

f. Section 504.6.1 Material and size. Add the following exception: Dryer duct may be constructed of 0.013 (30 gage) or equivalent if prefabricated 0.016 (28 gage) ducts and fittings are not available. ()

g. Table 603.4 Duct Construction Minimum Sheet Metal Thickness for Single Dwelling Units. Add the following exception to the Table: Round duct, enclosed rectangular ducts and fittings less than fourteen (14) inches may be constructed of 0.013 (30 gage) or equivalent if prefabricated 0.016 (28 gage) ducts and fittings are not available. ()

02. Availability of the International Mechanical Code. The 20~~09~~12 Edition is available at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150, Meridian, Idaho 83642, 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814, and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. ~~(4-7-11)~~()

005. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL FUEL GAS CODE, 20~~09~~12 EDITION.

01. International Fuel Gas Code. The 20~~09~~12 Edition, including appendixes "A, B, C, and D," (herein IFGC) is adopted and incorporated by reference with the following amendments: ~~(4-7-11)~~()

a. Where differences occur between the IFGC and Title 54, Chapter 50, Idaho Code and IDAPA 07, Title 07, the provisions in Idaho Code and IDAPA rules shall apply. (4-11-06)

b. All references to the International Plumbing Code (IPC) shall be construed as referring to the Uniform Idaho State Plumbing Code (UISPC) as adopted and amended by the

Idaho State Plumbing Board.

~~(4-11-06)~~()

c. All references to the International Code Council Electrical Code (ICC EC) shall be construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. (4-11-06)

d. Section 109. Delete. (7-1-10)

e. Section 406.4. Change the last sentence to: Mechanical gauges used to measure test pressure shall have a range such that the highest end of the scale is not greater than two (2) times the test pressure nor lower than one and one-half (1.5) times the test pressure. (4-11-06)

f. Section 406.4.1. Test Pressure. Not less than twenty (20) psig (140kPa gauge) test pressure shall be required for systems with a maximum working pressure up to ten (10) inches water column. For systems with a maximum working pressure between ten (10) inches water column and ten (10) psig (70kPa gauge); not less than sixty (60) psig (420kPa gauge) test pressure shall be required. For systems over ten (10) psig (70kPa gauge) working pressure, minimum test pressure shall be no less than six (6) times working pressure. (4-11-06)

g. Section 406.4.2. The test duration shall not be less than twenty (20) minutes. (4-11-06)

h. Section 408.4. Sediment Trap. Delete the last sentence and replace it with the following: Illuminating appliances, ranges, clothes dryers, outdoor grills, decorative vented appliances for installation in vented fireplaces, and gas fireplaces need not be so equipped. (4-7-11)

i. Add a new section 503.4.1.2 as follows: Testing. All plastic pipe within a dwelling used for venting flue gases shall be tested at five (5) psi for fifteen (15) minutes. (4-4-13)

j. Section 505.1.1. Addition. An interlock between the cooking appliance and the exhaust hood system shall not be required for appliances that are of the manually operated type and are factory equipped with standing pilot burner ignition systems. (4-11-06)

02. Availability of the International Fuel Gas Code. The 2009~~12~~ Edition is available at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150 Meridian, Idaho 83642, 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814, and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. ~~(4-7-11)~~()

006. ADOPTION AND INCORPORATION BY REFERENCE OF PART V (MECHANICAL) AND PART VI (FUEL GAS) OF THE INTERNATIONAL RESIDENTIAL CODE FOR ONE (1)- AND TWO (2)-FAMILY DWELLINGS, 2009~~12~~ EDITION.

01. Part V (Mechanical) and Part VI (Fuel Gas) of the International Residential Code for One (1)- and Two (2)-Family Dwellings. The 2009~~12~~ Edition, including appendixes "A, B, C, and D," (herein IRC) is adopted and incorporated by reference with the following amendments: ~~(4-7-11)~~()

- a.** Where differences occur between the IRC and Title 54, Chapter 50, Idaho Code, and IDAPA 07, Title 07, Chapter 01, the provisions in Idaho Code and IDAPA rules shall apply. (4-7-11)
- b.** All references to the International Plumbing Code (IPC) shall be construed as referring to the Uniform Idaho State Plumbing Code (~~USPC~~) as adopted and amended by the Idaho State Plumbing Board. (~~4-7-11~~)()
- c.** All references to the International Code Council Electrical Code (ICC EC) shall be construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. (4-7-11)
- d.** Add the following as section M1201.3 and section G2402.4 (201.4): Alternative materials, design and methods of construction equipment. The provisions of this part of the code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the authority having jurisdiction finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code. Compliance with the specific performance-based provisions of this part of the code in lieu of specific requirements of this code shall also be permitted as an alternate. (4-4-13)
- e.** Add the following as section M1201.3.1 and section G2402.4.1 (201.4.1): Tests. Whenever there is insufficient evidence of compliance with the provisions of this part of the code, or evidence that a material or method does not conform to the requirements of this part of the code, or in order to substantiate claims for alternative materials or methods, the authority having jurisdiction shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the authority having jurisdiction shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the authority having jurisdiction for the period required for retention of public records. (4-4-13)
- f.** Add the following as section M1203.1: Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages. (4-4-13)
- g.** Add the following as section M1203.2: Where required in existing dwellings. Where work requiring a permit occurs in existing dwellings that have attached garages or in existing dwellings within which fuel-fired appliances exist, carbon monoxide alarms shall be provided in accordance with Subsection 006.01.f. of these rules. (4-4-13)
- h.** Add the following as section M1203.3: Alarm requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions. (4-4-13)

i. Section ~~M1401.3. Sizing requirements shall be as established by the authority having jurisdiction~~ M1502.4.1 Material and size. Add the following exception: Dryer duct may be constructed of 0.013 (30 gage) or equivalent if prefabricated 0.016 (28 gage) ducts and fittings are not available. (4-7-11)()

j. Delete Section M1502.4.2 Duct Installation and replace with the following: Exhaust ducts shall be supported at four (4) foot (1,219 mm) intervals and secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Ducts shall not be joined with screws or similar fasteners that protrude into the inside of the duct. ()

k. Section M1507.3.1 System Design. Add the following to the end of the section: Outdoor air shall be ducted predominantly horizontal to avoid chimney effect. Outdoor air ducts will contain an accessible back draft damper and be designed to have an open cross section of twenty (20) square inches per one thousand (1,000) square feet of conditioned space. ()

l. Table M1601.1.1 (2) Gages of Metal Ducts and Plenums Used for Heating or Cooling. Add the following exception: Round duct, enclosed rectangular ducts and fittings less than fourteen (14) inches may be constructed of 0.013 (30 gage) or equivalent if prefabricated 0.016 (28 gage) ducts and fittings are not available. ()

jm. Section G2417.4 (406.4). Change the last sentence to: Mechanical gauges used to measure test pressure shall have a range such that the highest end of the scale is not greater than two (2) times the test pressure nor lower than one and one-half (1.5) times the test pressure. (4-7-11)

kn. Section G2417.4.1 (406.4.1). Test Pressure. Not less than twenty (20) psig (one hundred forty (140) kPa gauge) test pressure shall be required for systems with a maximum working pressure up to ten (10) inches water column. For systems with a maximum working pressure between ten (10) inches water column and ten (10) psig (seventy (70) kPa gauge), not less than sixty (60) psig (four hundred twenty (420) kPa gauge) test pressure shall be required. For systems over ten (10) psig (seventy (70) kPa gauge) working pressure, minimum test pressure shall be no less than six (6) times working pressure. (4-7-11)

lo. Section G2417.4.2 (406.4.2). The test duration shall not be less than twenty (20) minutes. (4-7-11)

mp. Add a new section G2427.4.1.2 as follows: Testing. All plastic pipe within a dwelling used for venting flue gases shall be tested at five (5) psi for fifteen (15) minutes. (4-4-13)

02. Availability of the International Residential Code for One (1)- and Two (2)-Family Dwellings. The 2009~~12~~ Edition is available at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150 Meridian, Idaho 83642, 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814, and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. (4-7-11)()

IDAPA 09 - DEPARTMENT OF LABOR

09.01.30 - UNEMPLOYMENT INSURANCE BENEFIT ADMINISTRATION RULES

DOCKET NO. 09-0130-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 72-1333, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

A new rule is being promulgated to repeal the tel-a-claim reporting method for unemployment insurance benefit claimants. The current tel-a-claim system cannot accommodate enhanced work search reporting requirements the Department is requiring to reduce benefit fraud and lower employer taxes. Replacing it with a new call-in system would be costly. Because of reduced federal funding, the Department does not have the money to build a new tel-a-claim system. Instead, enhanced work search reporting requirements will be added to the Department's existing internet-based reporting system. This internet-based system can be accessed from personal computers or computers with public access such as those in public libraries or in the Department's 25 local offices.

A new rule is being promulgated to amend the current "reasonable length of time" job attached classification standard with a maximum 12 week standard. This rule change will require benefit claimants to look for work and hopefully find new employment sooner than waiting for their former employers to rehire them if their temporary layoff period will exceed 12 weeks. Of the surrounding states, Montana is the only one without a limit on the rehire period. The other surrounding states range from 4 weeks in Oregon to 12 weeks in Wyoming.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 79 through 82](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There will be no fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions

concerning this pending rule, contact Joshua McKenna 332-3570 ext. 3919.

DATED this 1st of October, 2013.

Joshua McKenna
Benefits Bureau Chief
Idaho Department of Labor
317 West Main Street
Boise, Idaho 83735
Phone 332-3570 ext. 3919
Fax 334-6125

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 72-1333, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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

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

A new rule is being promulgated to repeal the tel-a-claim reporting method for unemployment insurance benefit claimants. The current tel-a-claim system cannot accommodate enhanced work search reporting requirements the Department is requiring to reduce benefit fraud and lower employer taxes. Replacing it with a new call-in system would be costly. Because of reduced federal funding, the Department does not have the money to build a new tel-a-claim system. Instead, enhanced work search reporting requirements will be added to the Department's existing internet-based reporting system. This internet-based system can be accessed from personal computers or computers with public access such as those in public libraries or in the Department's 25 local offices.

A new rule is being promulgated to amend the current "reasonable length of time" job attached classification standard with a maximum 12-week standard. This rule change will require benefit claimants to look for work and hopefully find new employment sooner than waiting for

their former employers to rehire them if their temporary layoff period will exceed 12 weeks. Of the surrounding states, Montana is the only one without a limit on the rehire period. The other surrounding states range from 4 weeks in Oregon to 12 weeks in Wyoming.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There will be no fiscal impact to the General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin, [Vol. 13-7, pages 36 and 37](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joshua McKenna 332-3570 ext. 3919.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 24th of July, 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-1301

550. REPORTING REQUIREMENTS.

Each claimant shall report weekly or biweekly for benefits as directed. When filing claim reports, a claimant shall use the reporting method assigned by the Department. Failure to file timely reports in a manner required by this rule shall result in ineligibility for benefits for the week(s) claimed. Ref. Section 72-1366(1), Idaho Code. (3-29-12)

01. In-Person Reports. A claimant reporting in person must hand the report to an authorized employee of the local office or place it in a receptacle identified for that purpose. The Department will not accept reports deposited under or through the doors of the office. Reports

filed in person at a local office shall be considered timely when filed within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the next working day. (3-29-12)

02. Mailed Reports. Reports that are mailed shall be considered timely when the envelope containing the report is postmarked within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period shall be extended to include the next working day. (3-29-12)

03. ~~Telephone~~/Internet Reports. Reports filed ~~by telephone to the Idaho Tel A Claim system or~~ via the internet shall be considered timely when made between 12:01 a.m. Mountain Time of the Sunday following the week being claimed and midnight Mountain Time of the Saturday following the week being claimed. (~~3-29-12~~)()

04. Facsimile Reports. Reports filed by facsimile shall be considered timely when transmitted on a form provided by the Department to a telephone number designated by the Department to receive such documents within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the next working day. Reports shall be deemed filed upon receipt by the Department. (3-29-12)

05. Electronic Mail Reports. Reports filed by electronic mail shall be considered timely when electronically mailed in a format provided by the Department to an email address designated by the Department to receive such documents within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the next working day. Reports shall be deemed filed upon receipt by the Department. (3-29-12)

06. When Report Missing. If a claimant establishes, by credible and corroborated evidence, that a missing report was properly filed as required by this rule, a replacement report shall be considered timely. (3-29-12)

551. -- 574. (RESERVED)

575. SEEKING WORK.
Ref. Sec. 72-1366(4), (6), Idaho Code. (3-19-99)

01. Attitude and Behavior. A claimant's attitude and behavior must be conducive to a positive reaction by employers to his job search. (3-19-99)

02. Effort to Secure Employment. A claimant will be expected to do what is normally done by unemployed persons that are seeking work. (3-19-99)

03. Employer's Hiring Practices. An employer's reluctance to hire a claimant because of his appearance or physical condition is not a determining factor in ruling on the claimant's eligibility. (3-19-99)

04. Job Attachment Classifications. For the purpose of administering the work

search requirements of Section 72-1366(4) and (6), Idaho Code, claimants will be classified according to their attachment to an employer or industry, as follows: (3-19-99)

a. Code R-Recall, U-Union or X-Both. Claimants who have a firm attachment to an employer, industry or union, or who are temporarily or seasonally unemployed, and expect to return to their former jobs or employers in a reasonable length of time **not to exceed a maximum of twelve (12) weeks.** (~~3-19-99~~)()

b. Code B. Claimants who possess marketable skills in an occupation, but have no immediate prospects for reemployment, and whose employment expectations (i.e., wages, hours, etc.) are realistic in relation to the normal labor market supply and demand in their areas of availability. (3-19-99)

c. Code C. Claimants who have no marketable skills or whose skills have become obsolete and who are unable to return to their former occupations, or who have a special need for employment-related services. (3-19-99)

d. Code D. Claimants who are assigned to a training course under the provisions of Section 72-1366(8), Idaho Code. (3-19-99)

05. Jobs Availability. A claimant will not be required to make useless employer contacts if there are no jobs available in the area due to seasonal factors. (3-19-99)

06. No Employment Prospects. A claimant shall apply for and accept a lower or beginning pay rate for employment if he has no prospects for a better paying job in the locality. (3-19-99)

07. Registering and Reporting on Work-Seeking Activity. A claimant must register for work and report as required to be eligible for benefits. Ref. Sec. 72-1366(1), (2), Idaho Code. (4-11-06)

08. Seasonal Availability. A claimant who is regularly employed on a seasonal basis shall be available for other types of work in the off-season to be eligible for benefits. (3-19-99)

09. Work-Seeking Requirement Categories. Claimants shall seek work in accordance with the following categories of work-seeking activity, as instructed by a Department representative or as notified by the Department via electronic claims messaging. A claimant must meet the requirements of the code to which the claimant is assigned. A claimant's category of work-seeking activity will be determined and modified based on the claimant's prevailing local labor market conditions and/or the average county unemployment rates. Claimants that have not registered for work when filing their claims and that are required to secure employment must register with the local office within two (2) weeks of filing an initial claim for benefits. Failure to comply with work-seeking requirements may result in a denial of benefits. (4-11-06)

a. Code O claimants must: (3-15-02)

i. Maintain regular contact with their employer(s) or union. Code O claimants may also be required to engage in one (1) or more of the following activities to increase their prospects

- of returning to work or securing employment: (3-15-02)
- ii. Make local inquiries; (3-19-99)
 - iii. Maintain contact with the local office; (4-11-06)
 - iv. Check “help-wanted” ads in newspapers or trade publications; (3-15-02)
 - v. Attend a Job Search Workshop; or (3-15-02)
 - vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)
- b.** Code 1 claimants will be required to engage in one (1) or more of the following activities to increase their prospects of securing employment: (3-15-02)
- i. Make at least one (1) employer contact each week in the manner prescribed by the local office; (4-11-06)
 - ii. Attend a Job Search Workshop; (3-15-02)
 - iii. Expand work search efforts to surrounding areas or states; (3-15-02)
 - iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)
 - v. Enroll in and attend a specific training program to meet the requirements of the claimant’s employment plan; or (3-15-02)
 - vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)
- c.** Code 2 claimants will be required to engage in one (1) or more of the following activities to increase their prospects of securing employment: (3-15-02)
- i. Make at least two (2) employer contacts per week in the manner prescribed by the local office; (4-11-06)
 - ii. Attend a Job Search Workshop; (3-15-02)
 - iii. Expand work search efforts to surrounding areas or states; (3-15-02)
 - iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)
 - v. Enroll in and attend a specific training program to meet the requirements of the claimant’s employment plan; or (3-15-02)
 - vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)

- d.** Code 3 claimants will be required to engage in one (1) or more of the following activities to increase their prospects of securing employment: (3-15-02)
- i. Make at least three (3) employer contacts per week in the manner prescribed by the local office; (4-11-06)
 - ii. Attend a Job Search Workshop; (3-15-02)
 - iii. Expand work search efforts to surrounding areas or states; (3-15-02)
 - iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)
 - v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-15-02)
 - vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)

IDAPA 09 - DEPARTMENT OF LABOR

09.01.35 - UNEMPLOYMENT INSURANCE TAX ADMINISTRATION RULES

DOCKET NO. 09-0135-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 72-1333, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

A new rule is being promulgated to require employers to report contributions online unless a waiver is granted by the Department. Waivers will be granted to employers if the online filing requirement poses a significant burden. The Department currently allows the reporting of contributions by either paper or online filing. The online reporting of employer contributions will allow the Department to process quarterly reports from nearly 50,000 employers more quickly with fewer resources and at a lower cost. The online reporting system corrects errors hundreds of employers typically make in paper reports. This will help employers avoid thousands of dollars in fines for reporting less quarterly taxes by the reporting deadline than the employer legally owes.

A new rule is being promulgated to revise the current “independently established” prong of the independent contractor test for unemployment insurance tax purposes with a more straight forward, common sense economic reality test. The current test has 15 factors and is too complicated to enforce and gives employers poor guidance as to which workers may or may not be independent contractors. The economic reality test is currently used by the U.S. Department of Labor and the Social Security Administration and focuses on whether workers are economically dependent upon the business to which they render services.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 83 through 89](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There will be no fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions

concerning this pending rule, contact Michael Johnson 332-3570 ext. 3082.

DATED this 1st of October, 2013.

Michael Johnson
Bureau Chief
Idaho Department of Labor
317 West Main Street
Boise, Idaho 83735
Phone 332-3570 ext. 3082
Fax 334-6125

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 72-1333, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2013.

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

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

A new rule is being promulgated to require employers to report contributions online unless a waiver is granted by the Department. Waivers will be granted to employers if the online filing requirement poses a significant burden. The Department currently allows the reporting of contributions by either paper or online filing. The online reporting of employer contributions will allow the Department to process quarterly reports from nearly 50,000 employers more quickly with fewer resources and at a lower cost. The online reporting system corrects errors hundreds of employers typically make in paper reports. This will help employers avoid thousands of dollars in fines for reporting less quarterly taxes by the reporting deadline than the employer legally owes.

A new rule is being promulgated to revise the current “independently established” prong of the independent contractor test for unemployment insurance tax purposes with a more straight forward, common sense economic reality test. The current test has 15 factors and is too

complicated to enforce and give employers poor guidance as to which workers may or may not be independent contractors. The economic reality test is currently used by the U.S. Department of Labor and the Social Security Administration and focuses on whether workers are economically dependent upon the business to which they render services.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There will be no fiscal impact to the General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin, [Vol. 13-7, pages 38 and 39](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michael Johnson 332-3570 ext. 3082.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 24th of July, 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-1301

011. GENERAL PROVISIONS.

The following Unemployment Insurance Tax Administration Rules are adopted pursuant to Section 67-4702, Idaho Code. (4-11-06)

01. Quarterly Reporting. Subject employers shall report all wages paid for services in covered employment each calendar quarter. In the event a subject employer does not pay wages during a calendar quarter, the employer shall file a quarterly report indicating that no wages were paid. Ref. Section 72-1337, Idaho Code. (3-22-07)

02. Contribution Due Date. Contributions are due on or before the last day of the month following the calendar quarter except if the last day of the month falls on a weekend or holiday, in which case the next workday is the due date. Ref. Section 72-1349, Idaho Code. (3-19-99)

03. Penalties and Interest on Bankruptcy. Penalty and/or interest shall not be assessed on amounts covered in the Department's Proof of Claim with the Bankruptcy Court for the period after the filing date of the Bankruptcy Petition and ending with the conclusion of bankruptcy proceedings and distribution of assets. Post petition penalty and interest shall be compromised, provided the amount due is paid in full by a date established after the termination of the bankruptcy proceedings. Ref. Section 72-1356, Idaho Code. (3-19-99)

04. Lien Interest. Lien interest on a delinquent account shall be assessed against the remaining unpaid balance computed from the day following the recording of a tax lien, at a rate established by law. (See Section 056). Ref. Section 72-1360, Idaho Code. (3-19-99)

05. Penalty and Interest During Controversy. Penalty and/or interest shall be compromised for periods when a valid controversy exists if amounts determined to be due are paid in full by a date established at the conclusion of the issue. Ref. Sections 72-1354 and 72-1360, Idaho Code. (3-19-99)

06. Confidential Information. Information obtained from an employer shall be held as confidential and shall not be released without the consent of the employer except as provided in IDAPA 09.01.08, "Rules on Disclosure of Information," Section 011 or when disclosure is necessary for collection of any amount due under the employment security law, or as otherwise provided by law or these rules. Ref. Sections 9-340 and 72-1342, Idaho Code. (3-19-99)

07. Filing of an Employer Appeal. (3-30-01)

a. An appeal shall be in writing, signed by an interested party or representative, and shall contain words that, by fair interpretation, request the appeal process for a specific determination or redetermination of the Department. The appeal may be filed by delivering it, or faxing it, to any Idaho Labor local office or to the UI Compliance Bureau of the Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. A faxed appeal that is received by an Idaho Department of Labor local office or the UI Compliance Bureau by 5 p.m. (as of the time zone of the office receiving the appeal) on a business day shall be deemed filed on that date. A faxed appeal that is received by an Idaho Department of Labor local office or the UI Compliance Bureau on a weekend or holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. An appeal may also be filed by mailing it to any Idaho Department of Labor local office or to the UI Compliance Bureau, Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark on the request. Ref. Section 72-1361, Idaho Code. (3-22-07)

b. An appeal should be accompanied by a specific statement, information or evidence which provides an explanation as to why the original determination is erroneous. (3-30-01)

c. In cases where a determination of amounts due is made by the Department pursuant to Section 72-1358, Idaho Code, the reports shall replace the determination and will be used to establish the employer's liability if (i) the employer files reports for the periods covered by the determination before the determination becomes final, and (ii) the Department determines that the reports are accurate and complete. If the Department determines the reports are not accurate or complete, the reports shall be treated as an appeal of the determination. (3-30-01)

08. Determinations. Determinations shall be in writing, signed by an authorized representative of the director, and shall contain provisions which advise the interested parties of their right to appeal the determination within fourteen (14) days from the date of mailing, or the date of electronic transmission to an electronic-mail address approved by the Department, of the determination in accordance with Sections 72-1361 and -1368(5), Idaho Code. (7-1-10)

09. Determination of Payment Date. Each amount shall be deemed to have been paid on the date that the Department receives payment thereof in cash or by check or other order for the payment of money honored by the drawer on presentment; provided, that if sent through the mail, it shall be deemed to have been paid as of the date mailed as determined by the postmark on the envelope containing same, or the date of the check in lieu of a postmark. Provided further, that in the case of payments received by means of garnishment, execution, or levy, the amount received shall be deemed to have been paid as of the date that the order of garnishment, execution, or levy is served. Ref. Section 72-1349, Idaho Code. (3-19-99)

10. Release of Lien upon Payment in Full. An amount secured by a lien shall be deemed to be satisfied when payment in full is received by the Department in the form of cash, money order, or other certified funds, or proof presented that a check or other negotiable instrument has been honored by its drawer upon presentment. Ref. Section 45-1908, Idaho Code. (3-19-99)

11. Contribution Reports. Each contribution shall be accompanied by an employer's contribution report. All contribution reports shall be filed electronically with the department unless the employer has petitioned the department in writing for a waiver and the department has granted a waiver allowing the filing of a non-electronic contribution report. All contribution reports shall be in a form or medium prescribed and furnished or approved for such purpose by the department, giving such information as may be required, including number of individuals employed and wages paid or payable to each, which must be signed, ~~or~~ furnished, or acknowledged by the covered employer or, on their behalf by someone having personal knowledge of the facts therein stated, and who has been authorized by the covered employer to submit the information. Ref. Section 72-1349, Idaho Code. ~~(4-11-06)~~()

a. Common paymaster arrangements as referenced by Internal Revenue Code Section 3306 are prohibited for Idaho unemployment insurance purposes. Each covered employer shall complete and submit an Idaho business registration form and the Department will assign to the covered employer a unique unemployment insurance account number. The covered employer must file quarterly reports under its assigned unemployment insurance account number. The workers of one (1) covered employer may not be reported using the assigned unemployment insurance account number of a different covered employer or related entity. Ref. Sections 72-1325 and 72-1315, Idaho Code. (3-22-07)

(BREAK IN CONTINUITY OF SECTIONS)

112. DETERMINING STATUS OF WORKER.

01. Determining if Worker Is an Employee. In making a determination as to whether a worker is performing services in covered employment, it shall be determined whether the worker is an employee. To determine whether a worker is an employee, the following factors may be considered: (3-22-07)

a. The way in which the business entity represented its relationship with the worker prior to the investigation or litigation, including representations to the Internal Revenue Service; (3-19-99)

b. Statements made to the Department; (3-19-99)

c. Method of payment to the worker, in particular whether federal, state, and FICA taxes are withheld from paychecks; and (3-19-99)

d. Whether life, health, or other benefits are provided to the worker at the business entity's expense. (3-19-99)

02. Determining if Worker Is an Independent Contractor. If it cannot be determined that a worker is an employee pursuant to Subsection 112.01 above, then a determination shall be made whether the worker is an "independent contractor" pursuant to the terms of Section 72-1316(4), Idaho Code. For the purposes of that section and these rules, an independent contractor is a worker who meets the requirements of both Sections 72-1316(4)(a) and (b), Idaho Code. (3-19-99)

03. Proving Worker Is Free from Control or Direction in His Work. To meet the requirement of Section 72-1316(4)(a), Idaho Code, the alleged employer must prove that a worker has been and will continue to be free from control or direction in the performance of his work, both under his contract of service and in fact. The following factors may be considered in this determination: (3-22-07)

a. Whether the alleged employer has control over: (3-19-99)

i. The details of the work; (3-19-99)

ii. The manner, method or mode of doing the work; and (3-19-99)

iii. The means by which the work is to be accomplished, but without reference to having control over the results of the work. (3-19-99)

b. The freedom from direction and control must exist in theory (under a contract of service) and in fact; and (4-11-06)

- c. The employer must demonstrate that it lacked a right to control the worker. (4-11-06)

04. Proving Worker Is Engaged in Independently Established Business. To meet the requirement of Section 72-1316(4)(b), Idaho Code, it must be proven that a worker is engaged in an independently established trade, occupation, profession or business. The following factors may are significant and shall be considered in making this determination, although no single factor is regarded as controlling: ~~(3-22-07)~~()

a. ~~Skills, qualifications, and training required for the job~~ The level of skill required to perform the work; ~~(3-19-99)~~()

i. A worker who performs routine tasks requiring little or no training is indicative of the worker's status as an employee. ()

ii. A worker who performs work requiring skills marketable as a trade, occupation, profession or business, such as an electrician, attorney, physician, or CPA, is indicative of the worker's status as an independent contractor. ()

iii. A worker who performs work requiring special licensing or compliance with regulatory requirements is indicative of the worker's status as an independent contractor. ()

iv. A worker who receives all or substantially all of the worker's job training from the alleged employer is indicative of the worker's status as an employee. ()

b. ~~Method of payment, benefits, and tax withholding~~ The extent to which the worker's services are an integral part of the alleged employer's business; ~~(3-19-99)~~()

i. A worker who performs the primary type of work that the alleged employer is in business to provide to its customers or clients is indicative of the worker's status as an employee. For example, an automotive repair business hires an additional mechanic to help in its service repair shop. Since the work provided by the worker is the primary type of work the automotive repair business provides to its customers, the work is indicative of the worker's status as an employee. ()

ii. A worker who performs a specific job that is secondary to an integral part of the employer's business is indicative of the worker's status as an independent contractor. For example, if a manufacturing business requiring routine electrical work within its manufacturing facility hires an independent electrical company to provide that service, the electrical work performed is indicative of the worker's status as an independent contractor. ()

iii. A worker who supervises the alleged employer's employees is indicative of the worker's status as an employee. ()

iv. If the success of a business depends to an appreciable degree upon the performance of certain services, the worker performing those services is indicative of that worker's status as an employee. ()

v. If a worker is not required to work solely for the alleged employer and there is a separate contractual relationship for each job that ends upon the completion of that job, the work is indicative of the worker's status as an independent contractor. ()

c. ~~Right to negotiate agreements with other workers~~ The permanency of the relationship; (3-19-99)()

i. The longer a worker works solely for a single alleged employer, the more indicative it is of the worker's status as an employee. ()

ii. A worker who makes the worker's services available to the general public for hire on a regular and consistent basis is indicative of the worker's status as an independent contractor. ()

iii. A worker whose hours worked are regularly scheduled, rather than sporadic or occasional, is indicative of the worker's status as an employee. ()

iv. Work with a specific ending date that ends the working relationship between the worker and the alleged employer is indicative of the worker's status as an independent contractor. ()

v. Work that is open ended allowing the worker to continue working for the same alleged employer as long as performance standards are met, is indicative of the worker's status as an employee. ()

d. ~~Right to choose sales techniques or other business techniques~~ A worker's investment in facilities and equipment; (3-19-99)()

i. A worker who is reimbursed for work-related purchases, materials or supplies, or is furnished work-related materials or supplies by the alleged employer is indicative of the worker's status as an employee. ()

ii. A worker who uses the tools and equipment of the alleged employer is indicative of the worker's status as an employee. ()

iii. A worker's significant investment in tools and equipment compared to the cost of the tools and equipment provided by the alleged employer is indicative of the worker's status as an independent contractor. ()

iv. A worker who is financially responsible to the alleged employer for damage to equipment or tools is indicative of the worker's status as an independent contractor. ()

v. A worker's investment in physical facilities used by the worker in performing services is indicative of the worker's status as an independent contractor. ()

vi. A worker's lack of investment in physical facilities indicating a dependence on the alleged employer for whom the worker's services are performed is indicative of the worker's

status as an employee. ()

e. ~~Right to determine hours~~ Whether a worker is customarily engaged in an outside trade, occupation, profession, or business providing the same type of services the worker provides for the alleged employer engaging his services; (3-19-99)()

i. A worker who provides one (1) type of service for an alleged employer, while providing the same type of service to others for hire, is indicative of the worker's status as an independent contractor. ()

ii. A worker who provides one (1) type of service for an alleged employer, while providing a different type of service to others for hire, is indicative of the worker's status as an employee of the alleged employer. ()

iii. A worker who advertises independently via yellow pages, business cards, web pages, or other types of media is indicative of the worker's status as an independent contractor. ()

f. ~~Whether a worker is customarily engaged in an outside trade, occupation, profession, or business providing the same type of services the worker provides for the business engaging his services~~ A worker's opportunities for profit and loss; (4-4-13)()

i. A worker required to carry business related expenses such as insurance, bonding, or workers compensation coverage is indicative of the worker's status as an independent contractor. ()

ii. A worker's ability to earn a profit by performing work more efficiently or suffer a loss because of the work performed is indicative of the worker's status as an independent contractor. ()

iii. A worker who is subject to a risk of economic loss due to significant investments or a bona fide liability for expenses is indicative of the worker's status as an independent contractor. ()

g. ~~Special licensing or regulatory requirements for performance of work;~~ Other factors when viewed fairly in light of all the circumstances that may or may not indicate that the worker was engaged in an independently established trade occupation, profession, or business. These factors may include control of the premises, right to determine hours, or who sets the rate of pay. (3-19-99)()

~~h. Whether the work is part of the employer's general business;~~ (3-19-99)

~~i. The nature and extent of the work;~~ (3-19-99)

~~j. The term and duration of the relationship;~~ (3-19-99)

~~k. The control of the premises;~~ (3-19-99)

- ~~l.~~ *Whether the worker has the authority to hire subordinates;* (3-19-99)
- ~~m.~~ *Whether the worker owns or leases major items of equipment or incurs substantial unreimbursed expenses, provided, that in a case where a worker leases major items of equipment from the alleged employer:*
 - ~~i.~~ *The terms of the lease; and* (3-19-99)
 - ~~ii.~~ *The actions of the parties pursuant to those terms must be commercially reasonable as measured by applicable industry standards.* (3-19-99)
- ~~n.~~ *Whether either party would be liable to the other party upon peremptory or unilateral termination of the business relationship; and,* (3-19-99)
- ~~o.~~ *Other factors which, viewed fairly in light of all the circumstances in a given case, may indicate the existence or lack of an independently established trade occupation, profession or business.* (3-19-99)

05. Meeting Criteria for Covered Employment. A worker who meets one (1), but not both, of the tests in Subsections 112.03 and 112.04 above shall be found to perform services in covered employment. (3-19-99)

06. Evidence of Contractual Liability for Termination. For purposes of making a determination under Section 72-1316(4), Idaho Code, and this regulation, the party alleging that summary termination by either party would result in contractual liability must present some evidence upon which to base such allegation. Ref. Section 72-1316(4), Idaho Code. (3-19-99)

IDAPA 10 - IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

10.01.01 - RULES OF PROCEDURE

DOCKET NO. 10-0101-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1208, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Current Idaho Code requires that if an applicant for licensure as a professional land surveyor has not graduated from an approved four year surveying program they must have a four year degree in a related science and demonstrate to the satisfaction of the board that they possess knowledge and skill approximating that attained through graduation from an approved four year surveying program. Since 2010 the Board has had rules which defined what satisfied that requirement. Last year the National Council of Examiners for Engineering and Surveying developed standards for an approved surveying program based on accreditation requirements. The board has adopted those standards, with some modification, in lieu of those in place since 2010 in order to utilize nationalized standards.

The pending rule is changed from the proposed rule. There is one addition college course added to the list of example college courses that may be taken to fulfill the education requirements for certification as a land surveyor intern and for comity licensure with other states. The added college course is Survey Adjustment and Coordinates Systems. This course is an optional course and not a required course.

The pending rule is adopted as amended. The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the July 3, 2013 Idaho Administrative Bulletin, [Vol. 13-7, pages 40 through 46](#).

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

There is no fiscal impact to the state general or agency dedicated funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Keith Simila at (208) 373-7210.

DATED: August 8, 2013.

Keith Simila, P.E.
Executive Director
1510 Watertower St.
Meridian, Idaho 83642
Telephone: (208) 373-7210
Fax: (208) 373-7213
Email: keith.simila@ipels.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

Monday, July 8, 2013, 9:00 A.M.

**1510 E. Watertower Street
Meridian, Idaho 83642**

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

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

Current Idaho Code requires that if an applicant for licensure as a professional land surveyor has not graduated from an approved four year surveying program they must have a four year degree in a related science and demonstrate to the satisfaction of the board that they possess knowledge and skill approximating that attained through graduation from an approved four year surveying program. Since 2010 the Board has had rules which defined what satisfied that requirement. Last year the National Council of Examiners for Engineering and Surveying developed standards for an approved surveying program based on accreditation requirements. The

board is considering adopting those standards with some modification in lieu of those in place since 2010 in order to utilize nationalized standards.

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

There is no fee associated with this rule change.

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

There is no fiscal impact to the state general fund or the agency dedicated fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2013 Idaho Administrative Bulletin, [Volume 13-5, page 67](#).

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

There are no materials incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Keith Simila, (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2013.

DATED: June 7, 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0101-1301

017. EXAMINATIONS.

01. Special or Oral Examination. Examinations for licensure as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern will be held on dates and at times and places to be determined by the Board. Special oral or

written examinations may be given by the Board as necessary. (3-29-10)

02. Eligibility for Examinations, Educational Requirements. The application for licensure as a professional engineer, professional land surveyor or certification as an engineer intern or land surveyor intern, together with the written examination, shall be considered in the determination of the applicant's eligibility. Each applicant must meet the minimum requirements as set forth in Section 54-1212, Idaho Code, before being assigned to any examination. (3-29-10)

a. In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs which are accredited by the Engineering Accreditation Commission (EAC) of ABET, Inc. Non-EAC/ABET accredited engineering programs, related science programs, and engineering technology programs will be considered by the Board on their specific merits, but are not considered equal to engineering programs accredited by EAC/ABET. The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee. (3-29-10)

b. An applicant who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for assignment to the examination for certification as an Engineer Intern or as required by Section 54-1212(1)(b), Idaho Code, for assignment to the examination for licensure as a professional engineer: (3-29-12)

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in calculus and differential equations are required. Additional courses may include linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include courses in chemistry and calculus-based general physics with a minimum of a two (2) semester (or equivalent) sequence in one or the other. Additional basic sciences courses may include life sciences (biology), earth sciences (geology, ecology), and advanced chemistry or physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. (3-29-12)

ii. Sixteen (16) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. (3-29-12)

iii. Forty-eight (48) college credit hours of engineering science and engineering design. Courses shall be taught within the college / faculty of engineering having their roots in

mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses can be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. (3-29-12)

iv. Standard, regularly scheduled courses from accredited university programs, (on campus, correspondence, video, etc.) are normally acceptable without further justification other than transcript listing. The Board may require detailed course descriptions for seminar, directed study, special problem and similar courses to insure that the above requirements are met. (7-1-93)

v. Graduate level engineering courses, i.e. courses which are available only to graduate students, are normally not acceptable since the Board believes graduate engineering courses may not provide the proper fundamental foundation to meet the broad requirements of professional engineering. (7-1-93)

c. Beginning July 1, 2010~~4~~, an applicant who has completed a four (4) year bachelor degree program in a related science must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(4)(b), Idaho Code, for assignment to the examination for certification as a Land Surveyor Intern or as required by Section 54-1212(2)(b), Idaho Code, for assignment to the examination for licensure as a professional land surveyor: ~~(5-8-09)()~~

i. ~~Three (3) credits in Surveying Law and Boundary Descriptions~~ **Eighteen (18) college semester credit hours of mathematics and basic sciences. A minimum of twelve (12) credits in mathematics must be beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus. A minimum of six (6) credits must be in basic sciences. These courses must cover one (1) or more of the following topics: general chemistry, advanced chemistry, life sciences (biology), earth sciences (geology, ecology), general physics, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements;** ~~(3-30-07)()~~

ii. ~~Three (3) credits in Route Surveying~~ **Sixteen (16) college semester credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, and social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses that instill cultural values are acceptable, while routine exercises of personal craft are not; and** ~~(3-30-07)()~~

iii. ~~Three (3) credits in Public Land Surveying;~~ **Thirty (30) college semester credit hours of surveying science and surveying practice. Courses shall be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, and remote sensing. Required courses shall include a minimum of three (3) credit hours each in basic surveying, route surveying, geodesy, surveying law, surveying office practice, land development design and planning, public land survey system and global positioning systems, and shall account for a minimum of twenty-four (24) semester credit hours. Graduate-level surveying courses can be included to fulfill curricular requirements in this area.** ~~(3-30-07)()~~

- ~~iv. Three (3) credits in Surveying Software Applications;~~ (3-30-07)
- ~~v. Three (3) credits in Research and Evidence in Surveying;~~ (3-30-07)
- ~~vi. Three (3) credits in Surveying Adjustments and Coordinate Systems;~~ (3-30-07)
- ~~vii. Three (3) credits in Subdivision Planning and Platting;~~ (3-30-07)
- ~~viii. Three (3) credits in Geodesy; and~~ (3-30-07)
- ~~ix. Three (3) credits in Survey Office Practice and Business Law in Surveying.~~ (3-30-07)

d. The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has received a master's degree or Doctor of Philosophy degree from an U.S. institution which has a bachelor degree program accredited by the Engineering Accreditation Commission of ABET, Inc. in the discipline of the applicant's master's degree or Doctor of Philosophy degree, and, in addition, has completed the coursework requirements of Subsection 017.02.b. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (3-29-10)

03. Excused Non-Attendance at Exam. In the event that an applicant cannot attend an examination, he shall immediately notify the Board to that effect and shall state the reason for non-attendance. Normally, no more than one (1) valid excuse and reassignment shall be granted to an applicant. If an applicant fails to appear for two (2) administrations of an examination their application may be terminated and they may be required to submit a new application and pay a new application fee in order to be reconsidered. (3-30-01)

04. Two Examinations for Engineering Licensure. The complete examining procedure for licensure as a professional engineer normally consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer intern certification, and the second is the Principles and Practice of Engineering for professional

engineer licensure. The examination shall be a duration as determined by the Board. Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering program. A certificate as an Engineer Intern will be issued only to those student applicants who earn a passing grade on the examination and who receive a degree. Having passed the Fundamentals of Engineering examination, applicants will be required to take the Principles and Practice of Engineering examination at a later date when qualified by experience. (3-29-10)

05. Fundamentals of Engineering. The Fundamentals of Engineering examination will cover such subjects as are ordinarily given in engineering college curricula and which are common to all fields of practice. The examination may also cover subject matters that are specific to the engineering discipline of the applicants' education. (5-8-09)

06. Principles and Practice of Engineering -- Disciplines. The Principles and Practice of Engineering examination will cover the practice of engineering to test the applicant's fitness to assume responsibility for engineering works affecting the public health, safety and welfare. Separate examinations will be given to test the applicant's fitness in any discipline for which there is an examination which, in the opinion of the Board, meets the requirements of duration and difficulty necessary to adequately test the applicant's fitness to practice in that particular discipline. The Board may use examinations prepared by the National Council of Examiners for Engineering and Surveying (NCEES) or it may prepare or commission the preparation of examinations in disciplines other than those for which examinations may be available from NCEES. (4-22-94)

07. Two Examinations for Land Surveying Licensure. The complete examining procedure for licensure as a professional land surveyor consists of two (2) separate written examinations. The first is the Fundamentals of Surveying examination for land surveyor intern certification, and the second is the Principles and Practice of Surveying for professional land surveyor licensure. The examination shall be a duration as determined by the Board. Having passed the Fundamentals of Surveying examination, applicants will be required to take the Principles and Practice of Surveying examination at a later date when qualified by experience. The examination shall cover the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of Surveying examination may consist of separate modules, each of which must be passed. (3-29-10)

08. Oral or Unassembled Examinations. An oral examination or unassembled written examination, in addition to the prescribed written examination, may be required for professional engineer and professional land surveyor applicants. (7-1-93)

09. Special Examinations. A special examination, written or oral or both, may be required in certain instances where the applicant is seeking licensure through comity or reciprocity with another state or political entity having required written examinations that are not wholly comparable in length, nature or scope. This examination supplements the certified qualifying record of the applicant and establishes a more common basis for judging the application and awarding a certificate of qualification or licensure in this state. The length of these special examinations shall be determined by the Board, but shall in no case exceed the lengths specified for the regular examination. Special examinations may be given at any date and need not conform with regular examination dates. (5-8-09)

10. Grading. Each land surveyor intern, engineer intern and professional engineer applicant must normally attain a scaled score of seventy (70) or above on the entire examination or modules as determined by the Board, before being awarded certification or licensure. Examinees on the Principles and Practice of Land Surveying examination must normally attain a scaled score of seventy (70) or above on each module of the examination. (3-29-10)

11. Use of NCEES Examinations. Examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) for professional engineer, engineer intern, professional land surveyors, and land surveyor intern may be used by the Board. The examination for the field of structural engineering shall be the examination as determined by the Board. (3-29-10)

12. Review of Examination by Examinee. Due to security concerns about the examinations, examinees shall not be allowed to review their examination. Examinees who fail an examination will be provided a diagnostic analysis of their performance on the examination if such an analysis is available to the Board. (3-20-04)

13. Proctoring of Examinations. Unless otherwise approved, the Board will not proctor an examination for another jurisdiction except State-Specific examinations nor will they request another jurisdiction to proctor an examination for an Idaho applicant. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

019. LICENSEES OR CERTIFICATE HOLDERS OF OTHER STATES AND BOARDS.

01. Interstate Licensure Evaluation. Each application for Idaho professional engineer license or professional land surveyor license submitted by an applicant who is licensed as a professional engineer, or licensed as a professional land surveyor, respectively, in one (1) or more states, territories or foreign countries, shall be considered by the Board on its merits, and the application evaluated for substantial compliance with respect to the requirements of the Idaho law. Graduates of programs accredited by organizations signatory to the “Washington Accord” and graduates from programs evaluated by ABET as being substantially equivalent to EAC/ABET programs shall be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. Individuals who have passed examinations considered by the Board to be of comparable difficulty and duration as those utilized by the Board shall be considered to have satisfied the examination requirement for issuance of a license as a professional engineer or professional land surveyor. (5-8-09)

a. The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has been licensed in another jurisdiction of the United States for an minimum of ten (10) years and has not had any disciplinary action against

them and there is none pending, and possesses the education, experience and examination credentials that were specified in the applicable registration chapter in effect in this state at the time such certification was issued. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (5-8-09)

b. An applicant who was originally licensed in another jurisdiction after June 30, 1996 and who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code: (3-29-12)

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in calculus and differential equations are required. Additional courses may include linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include courses in chemistry and calculus-based general physics with a minimum of a two (2) semester (or equivalent) sequence in one or the other. Additional basic sciences courses may include life sciences (biology), earth sciences (geology, ecology), and advanced chemistry or physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. (3-29-12)

ii. Sixteen (16) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. (3-29-12)

iii. Forty-eight (48) college credit hours of engineering science and engineering design. Courses shall be taught within the college / faculty of engineering having their roots in mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses can be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. (3-29-12)

c. An applicant who was originally licensed in another jurisdiction after June 30,

20104 who has completed a four (4) year bachelor degree program in a related science must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(2)(b), Idaho Code, for licensure as a professional land surveyor: ~~(3-30-07)()~~

i. ~~Three (3) credits in Surveying Law and Boundary Descriptions~~ **Eighteen (18) college semester credit hours of mathematics and basic sciences. A minimum of twelve (12) credits in mathematics must be beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus. A minimum of six (6) credits must be in basic sciences. These courses must cover one or more of the following topics: general chemistry, advanced chemistry, life sciences (biology), earth sciences (geology, ecology), general physics, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements;** ~~(3-30-07)()~~

ii. ~~Three (3) credits in Route Surveying~~ **Sixteen (16) college semester credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, and social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses that instill cultural values are acceptable, while routine exercises of personal craft are not; and** ~~(3-30-07)()~~

iii. ~~Three (3) credits in Public Land Surveying;~~ **Thirty (30) college semester credit hours of surveying science and surveying practice. Courses shall be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, and remote sensing. Required courses shall include a minimum of three (3) credit hours each in basic surveying, route surveying, geodesy, surveying law, surveying office practice, land development design and planning, public land survey system and global positioning systems, and shall account for a minimum of twenty-four (24) semester credit hours. Graduate-level surveying courses can be included to fulfill curricular requirements in this area.** ~~(3-30-07)()~~

iv. ~~Three (3) credits in Surveying Software Applications;~~ ~~(3-30-07)~~

v. ~~Three (3) credits in Research and Evidence in Surveying;~~ ~~(3-30-07)~~

vi. ~~Three (3) credits in Surveying Adjustments and Coordinate Systems;~~ ~~(3-30-07)~~

vii. ~~Three (3) credits in Subdivision Planning and Platting;~~ ~~(3-30-07)~~

viii. ~~Three (3) credits in Geodesy; and~~ ~~(3-30-07)~~

*ix. ~~Three (3) credits in Survey Office Practice and Business Law in Surveying.~~
(3-30-07)*

02. Denials or Special Examinations. An application from a licensee of another state, territory or foreign country may be denied by the Board for any just cause and the application fee retained; or the Board may approve the applicant for a special written and/or oral examination. (3-29-10)

03. Business Entity Requirements. No application for a certificate of authorization to practice or offer to practice professional engineering or professional land surveying, or both, in Idaho by a business entity authorized to practice professional engineering or professional land surveying or both in one (1) or more states, territories or foreign countries shall be considered by the Board unless such application includes the name and address of the individual or individuals, duly licensed to practice professional engineering or professional land surveying or both in this state, who will be in responsible charge of the engineering or land surveying services, or both, as applicable, to be rendered by the business entity in Idaho. The said individual or individuals must certify or indicate to the Board their willingness to assume responsible charge. (5-8-09)

IDAPA 10 - IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY

DOCKET NO. 10-0102-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1208, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The current Rules of Professional Responsibility prohibit a licensee from soliciting or accepting a contract from a government authority on which an existing “principal or officer” of his organization serves as a member of the elected policy and governing body. In the course of investigating a recent complaint, the undefined term “principal” became an issue which caused the rule to be scrutinized. Rather than define “principal,” the Board is proposing that additional terms be used to more specifically name positions within a business entity about which this rule is intended. In addition, current rules prohibit a licensee from participating in decisions with respect to professional services by their firm. Rather than try to identify all such possible occurrences, the Board is proposing a rule which states that those persons are subject to the statutory provisions concerning ethics in government, and stating that a violation of those statutes is a violation of the Rules of Professional Responsibility.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 3, 2013 Idaho Administrative Bulletin, [Vol. 13-7, pages 47 through 49](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact to the state general or agency dedicated funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Keith Simila at (208) 373-7210.

DATED: August 8, 2013.

Keith Simila, P.E., Executive Director Telephone: (208) 373-7210
1510 Watertower St. Fax: (208) 373-7213
Meridian, Idaho 83642 Email: keith.simila@ipels.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

Monday, July 8, 2013, 9:00 A.M.

**1510 E. Watertower Street
Meridian, Idaho 83642**

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

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

The current Rules of Professional Responsibility prohibit a licensee from soliciting or accepting a contract from a government authority on which an existing “principal or officer” of his organization serves as a member of the elected policy and governing body. In the course of investigating a recent complaint, the undefined term “principal” became an issue which caused the rule to be scrutinized. Rather than define “principal,” the Board is proposing that additional terms be used to more specifically name positions within a business entity about which this rule is intended. In addition, current rules prohibit a licensee from participating in decisions with respect to professional services by their firm. Rather than try to identify all such possible occurrences, the Board is proposing a rule which states that those persons are subject to the statutory provisions concerning ethics in government, and stating that a violation of those statutes is a violation of the Rules of Professional Responsibility.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee associated with this rule change.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal

impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

There is no fiscal impact to the state general fund or the agency dedicated fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2013 Idaho Administrative Bulletin, [Volume 13-5, page 68](#).

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

There are no materials incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Keith Simila, (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2013.

DATED: June 7, 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0102-1301

008. CONFLICT OF INTEREST.

01. Conflict of Interest to Be Avoided. Each Licensee or Certificate Holder shall conscientiously avoid conflict of interest with an employer or client, and, when unavoidable, shall forthwith disclose the circumstances in writing to the employer or client. In addition, the Licensee or Certificate Holder shall promptly inform the employer or client in writing of any business association, interests, or circumstances which could influence a Licensee's or Certificate Holder's judgment or quality of service, or jeopardize the clients' interests. (5-8-09)

02. Compensations From Multiple Parties on the Same Project. A Licensee or Certificate Holder may accept compensation, financial or otherwise, from more than one (1) party for services on the same project, or for services pertaining to the same project, provided the circumstances are fully disclosed, in writing, in advance and agreed to by all interested parties. (5-8-09)

03. Solicitation From Material or Equipment Suppliers. A Licensee or Certificate Holder shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying or recommending the products of said suppliers, except with full disclosure as outlined in Subsection 008.02. (5-8-09)

04. Gratuities. A Licensee or Certificate Holder shall not solicit or accept gratuities, gifts, travel, lodging, loans, entertainment or other favors directly or indirectly, from contractors, their agents or other third parties dealing with a client or employer in connection with work for which the Licensee or Certificate Holder is responsible, which can be construed to be an effort to improperly influence the Licensee's or Certificate Holder's professional judgment. Minor expenditures such as advertising trinkets, novelties and meals are excluded. Neither shall a Licensee or Certificate Holder make any such improper offer. (5-8-09)

05. Solicitation From Agencies. A Licensee, a Certificate Holder or a representative thereof shall not solicit or accept a contract from a governmental authority on which an existing ~~principal or~~ officer, director, employee, member, partner, or sole proprietor of his organization serves as a member of the elected or appointed policy and governing body of such governmental authority or serves as a member of an entity of such governmental authority having the right to contract or recommend a contract for the services of a Licensee or a Certificate Holder. (5-8-09)()

06. Professional Services Decisions of Agencies. A Licensee, Certificate Holder or representative thereof serving as a member of the governing body of a governmental authority, whether elected or appointed, or an advisor or consultant to a governmental board, commission or department shall ~~not participate in decisions with respect to professional services to be offered, that have been offered or may have been performed by that person's associates, firm or employer for the concerned governmental body upon which that person serves, whether such professional services are commissioned by an entity of the said governmental body or by another person or entity~~ at all times be subject to the statutory provisions concerning ethics in government, Section 59-701, Idaho Code, et seq. A violation of the Ethics in Government Act will be considered a violation of these rules. (5-8-09)()

07. Unfair Advantage of Position and Work Outside Regular Employment. When a Licensee or an individual Certificate Holder is employed in a full time position, the person shall not use the advantages of the position to compete unfairly with other professionals and shall not accept professional employment outside of that person's regular work or interest without the knowledge of and written permission or authorization from that person's employer. (5-8-09)

**IDAPA 10 - IDAHO BOARD OF LICENSURE OF PROFESSIONAL
ENGINEERS AND PROFESSIONAL LAND SURVEYORS**

10.01.04 - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT

DOCKET NO. 10-0104-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1208, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The draft amendments will clarify what records must be kept to document continuing professional development.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 3, 2013 Idaho Administrative Bulletin, [Vol. 13-7, pages 50 and 51](#).

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

There is no fiscal impact to the state general or agency dedicated funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Keith Simila at (208) 373-7210.

DATED: August 8, 2013.

Keith Simila, P.E.
Executive Director
1510 Watertower St.
Meridian, Idaho 83642
Telephone: (208) 373-7210
Fax: (208) 373-7213
Email: keith.simila@ipels.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

Monday, July 8, 2013, 9:00 A.M.

**1510 E. Watertower Street
Meridian, Idaho 83642**

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

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

The amendments will clarify what records must be kept to document continuing professional development.

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

There is no fee associated with this rule change.

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

There is no fiscal impact to the state general fund or the agency dedicated fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2013 Idaho Administrative Bulletin, [Volume 13-5, page 69](#).

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

There are no materials incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Keith Simila, (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2013.

DATED: June 7, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0104-1301

008. RECORD KEEPING.

Maintenance of records to support credits claimed is the responsibility of the Licensee. Records required include, but are not limited to: (7-1-99)

01. Log. A log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned. ~~Time sheets or expense sheets signed by the Licensee documenting the Continuing Professional Development activity claimed (sponsoring organization, location, duration, instructor's or speaker's name), time and/or expense related thereto, and claimed PDH credits earned shall be an acceptable log;~~ and (5-8-09)(____)

02. Attendance Verification. Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; Time sheets or expense sheets signed by the Licensee documenting the Continuing Professional Development activity claimed (sponsoring organization, location, duration, instructor's or speaker's name), time and/or expense related thereto, and claimed PDH credits earned shall be acceptable if attendance certificates are not available; or (7-1-99)(____)

03. Records. Records may be maintained by a repository for same. (5-8-09)

04. Documented Self-Study. In order to qualify in this category, the licensee must prepare and retain an abstract of the material studied, the date the activity occurred and the number of PDH's claimed, and a bibliographic reference of the material studied. A photocopy of pertinent parts of the material studied, annotated with the date the activity occurred and the number of PDH's claimed, shall be deemed to meet this requirement. (5-8-09)

05. Record Retention. All continuing professional development records must be maintained for a period of six (6) years and copies must be provided to the Board upon request for audit purposes. (5-8-09)

**IDAPA 14 - BOARD OF REGISTRATION
FOR PROFESSIONAL GEOLOGISTS**

**14.01.01 - RULES OF PROCEDURE OF THE BOARD OF REGISTRATION
FOR PROFESSIONAL GEOLOGISTS**

DOCKET NO. 14-0101-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2808, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 133 through 136](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at 208-334-3233.

DATED this 28th day of October, 2013.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W State St.
P O Box 83720
Boise, ID 83720-0063
Phone: 208-334-3233
Fax: 208-334-3945

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2808, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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

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

The Board is amending its rules to define ‘responsible charge’ and to clarify when a geologist may seal work prepared by someone else. This change will ensure the safety and welfare of the public.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule change is simple in nature and was discussed during a noticed open meeting of the Board.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at 208 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 21st day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 14-0101-1301

010. DEFINITIONS.

For the purposes of these rules, the following definitions apply: (3-26-08)

01. Act. The legislation enacted by the First Regular Session of the Forty-first Legislature (Chapter 137, 1971 Session Laws), and compiled at Sections 54-2801, et seq., Idaho Code, providing for registration of professional geologists. (3-26-08)

02. Applicant. Any person who has made application for registration under the Act and who has neither been granted registration nor had the Application denied by the Board. (3-26-08)

03. Application. An Application consists of completed form or forms prescribed by the Board and all official transcripts, reference statements, and a signed code of ethics. (3-26-08)

04. Board. The Idaho Board of Registration for Professional Geologists as provided for in the Act. (7-1-93)

05. Geologist-in-Training. The interim designation given to any person who has met the academic requirements and successfully passed the fundamental and academic geological portion of the professional examination but has not yet completed the requisite years of experience and passed the practices of geology examination as provided in the Act. The Geologist-in-Training designation is applicable for a period of ten (10) years from notification of the successful completion of the fundamentals of geology examination. If after ten (10) years the Geologist-in-Training has not met all requirements for registration as a professional geologist, the Geologist-in-Training certification is withdrawn and the Applicant must re-apply for registration. The possession of a Geologist-in-Training certificate by an Applicant does not entitle the Applicant to practice professional geology without supervision as provided in the Act. (3-26-08)

06. Registrant. Any person currently registered as a professional geologist under provisions of the Act. (7-1-93)

07. Responsible Position. A position wherein a person, having independent control, direction, or supervision of a geological project, investigates and interprets geologic features. (7-1-93)

08. Responsible Charge. Responsible charge means the control and direction of

geology work, requiring initiative, professional skill, independent judgment, and professional knowledge of the content of relevant documents during their preparation. ()

(BREAK IN CONTINUITY OF SECTIONS)

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Filing of Documents. All correspondence, including remittances and renewal fees, shall be directed to the office of the Board. (3-26-08)

02. Meetings. The Board shall meet at least once each year at the call of the chairman; the Board shall elect a chairman and vice-chairman at such annual meeting. In addition to this annual meeting, the chairman may call special meetings from time to time when, in his opinion, it is deemed necessary, or upon the written request of any three (3) members of the Board. (4-9-09)

03. Officers. Officers elected from the Board shall be chairman and vice-chairman. (4-9-09)

a. The chairman shall be the executive head of the Board; shall, when present, preside at meetings; shall appoint committees; and shall perform all the duties pertaining to the office of chairman. (3-26-08)

b. The vice-chairman shall, in the absence or incapacity of the chairman, exercise the duties and possess all the powers of the chairman. (7-1-93)

04. Committees. Regular or special committees may be appointed by the chairman, as necessary, to perform special duties and shall present reports to the Board at the time specified or at the earliest regular or special meeting of the Board. (7-1-93)

05. Quorum. As provided in the Act, a quorum shall be at least three (3) members of the Board legally holding office at the time of meeting. Official business of the Board shall be conducted only at Board meetings with a quorum present. (7-1-93)

06. Certificates. Certificates of registration shall be issued to each Registrant, as prescribed by the Act, on forms adopted by the Board. Certificates shall be displayed by Registrants in their place of business. A new certificate may be issued by the Board, to replace one lost, destroyed or mutilated. Each certificate shall bear an individual number, as assigned to that particular Registrant by the Board, which number shall be included in the annual roster of Registrants prepared by the secretary. (7-1-93)

07. Seals. (7-1-93)

a. The official seal of the Board shall consist of a seal of the state of Idaho

surrounded with the words “Board of Registration for Professional Geologists.” (7-1-93)

b. The Board has adopted a similar seal for use by each registrant. The seal may be a rubber stamp, crimp, or electronically generated image. Whenever the seal is applied, the Registrant’s signature and date shall also be included. If the signature is handwritten, it shall be adjacent to or across the seal. No further words or wording are required. A facsimile signature generated by any method will not be acceptable unless accompanied by a digital signature. SEE “APPENDIX A” AT END OF THIS CHAPTER. (3-26-08)

c. The seal, signature, and date shall be placed on all final specifications, reports, information, and calculations, whenever presented to a client or any public or governmental agency. Any such document presented to a client or public or governmental agency that is not final and does not contain a seal, signature, and date shall be clearly marked as “Preliminary,” “Draft,” “Not for Construction,” or with similar words to distinguish the document from a final document. (3-26-08)

d. The seal, signature, and date shall be placed on all original documents. The application of the Registrant’s seal, signature, and date shall constitute certification that the work thereon was done by him or under his supervision. Each plan or drawing sheet shall be sealed and signed by the Registrant or Registrants responsible for each sheet. In the case of a business entity, each plan or drawing sheet shall be sealed and signed by the Registrant or Registrants involved. The supervising professional geologist shall sign and seal the title or first sheet. Copies of electronically produced documents, listed in Paragraph 100.08.b. of these rules, distributed for informational uses such as for bidding purposes or working copies, may be issued with the Registrant’s seal and a notice that the original document is on file with the Registrant’s signature and date. The words “Original Signed By:” and “Date Original Signed:” shall be placed adjacent to or across the seal on the electronic original. The storage location of the original document shall also be provided. Only the title page of reports, specifications, and like documents need bear the seal, signature, and date of the Registrant. (3-26-08)

e. The seal and signature shall be used by Registrant only when the work being stamped was under the Registrant’s supervision responsible charge. Upon sealing, Registrant takes full professional responsibility for that work. After-the-fact ratification by the sealing of documents relating to work that was not performed by the Registrant but by an unregistered subordinate or other unregistered individual and without thorough technical review throughout the project by the sealing Registrant is prohibited. (3-26-08)()

f. In the event a Registrant in responsible charge of a project leaves employment, is transferred, is promoted, becomes incapacitated, dies, or is otherwise not available to seal, sign, and date final documents, the duty of responsible charge for the project shall be accomplished by successor Registrant by becoming familiar with and reviewing, in detail, and retaining the project documents to date. Subsequent work on the project must clearly and accurately reflect the successor Registrant’s responsible charge. The successor Registrant shall seal, sign, and date all work product in conformance with Section 54-2815, Idaho Code. ()

08. Address Change. Each Applicant and Registrant shall notify the Board within sixty (60) days of any and all changes of address, giving both old and new address. (7-1-93)

- 09. Board Report.** The Board shall publish on its website, among other things: (4-9-09)
- a.** Copy of the Act; (7-1-93)
 - b.** Rules of the Board; (4-9-09)
 - c.** Minutes of the meetings; (4-9-09)
 - d.** Financial report; (4-9-09)
 - e.** Roster of Registrants; and (4-9-09)
 - f.** Code of ethics. (4-9-09)

**IDAPA 15 - OFFICE OF THE GOVERNOR
DIVISION OF HUMAN RESOURCES**

**15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES
AND PERSONNEL COMMISSION**

DOCKET NO. 15-0401-1302

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5226, Idaho Code, and Section 67-5309, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Division of Human Resources (DHR) is adding definitions and clarifying rules so consistency is achieved across agencies. Two definitions were added, Administrative Leave and Salary Equity Increase, as the terms were already addressed in Executive Policy or 2006 Agency Guidance Memorandum, but the purpose was not consistently understood and applied. Two definitions regarding Veterans, Disabled Veteran and Veteran, were added to match the statute change to Section 67-502(17), Idaho Code, approved during the 2013 legislative session (SB 1045a). Also, the definitions of Merit Increase and Under fill were revised. In addition, other DHR rules were updated to add or clarify verbiage.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 104 through 117](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michelle Peugh, HR Specialist, Sr. at 208-854-3073.

DATED this November 22, 2013.

Vicki Tokita, Administrator
Division of Human Resources
304 N. 8th Street
P.O. Box 83720
Boise, ID 83720-0066
Phone: 208-334-2263
Fax: 208-854-3088

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-5309, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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

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

The changes clarify the rules so consistency is achieved across agencies and brings the rules in compliance with Section 65-502(17), Idaho Code, which was amended in the 2013 Legislature by SB1045a. The requirement of service in active duty during a war or in a combat zone has been removed from the definition of “veteran” and “disabled veteran” has been added to clarify language in related rules. Definitions for ‘Administrative Leave’ and ‘Salary Equity Increase’ have been added, as the terms were already addressed in Executive Policy or 2006 Agency Guidance Memorandum, but the purpose was not consistently understood and applied. Definitions for ‘Merit Increase’ and ‘Underfill’ were revised. Other rule sections were updated to add or clarify language.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking

was published in the June 5, 2013 Idaho Administrative Bulletin, [Vol. 13-6, page 41](#).

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

No documents were incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michelle Peugh, HR Specialist Sr., 208-854-3073.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this August 15, 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0401-1302

010. DEFINITIONS -- A THROUGH E.

Each of the terms defined in these rules have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

01. Administrative Leave. Temporary paid leave from a job assignment where pay and benefits remain intact. ()

02. ~~2.~~ Administrator. The Administrator of the Division of Human Resources in the Office of the Governor or delegate for those responsibilities assigned by the administrator to a specific appointing authority. (5-8-09)

023. Agency Classification. A classification of positions unique to an agency. (5-8-09)

034. Allocation. The assignment of a classification to a pay grade in the compensation schedule. (3-16-04)

045. Appeal. Any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest. (3-16-04)

056. Appellant. An employee, appointing authority, or applicant filing an appeal or a petition for review with the Commission. (3-16-04)

067. Appointing Authority. The officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to hire, dismiss or otherwise significantly impact the employment status of individuals in any agency. (Ref. Section 67-5302(3), Idaho Code) (5-8-09)

078. Appointment, Limited. The appointment of a person to a classified position where the work is projected to be of limited duration, for which the person has qualified by examination. (3-16-04)

089. Appointment, Nonclassified. The appointment of a person to a position exempt from the application of these rules by the provisions of Section 67-5303, Idaho Code. (7-1-87)

0910. Appointment, Permanent. The appointment of a person to a classified position who has been certified by the appointing authority to have successfully completed the required probationary period and whose employment is permanent, subject to removal or discipline only under the provisions of Title 67, Chapter 53, Idaho Code, and the rules of the Division of Human Resources and Idaho Personnel Commission. (3-16-04)

101. Appointment, Probationary. The appointment of a person to a classified position for which the person has qualified by examination but is serving a work trial period as a condition for certification to permanent appointment. (4-5-85)

112. Appointment, Project Exempt. The appointment of a person to a nonclassified position established under federal grants, which by law restricts employment eligibility to specific individuals or groups on the basis of non-merit selection requirements. (Ref. Section 67-5303(m), Idaho Code) (3-16-04)

123. Appointment, Provisional. The appointment of a person to a position in classified service for which the person has not qualified by examination pending the establishment of a register for the classification of such position. (3-16-04)

134. Appointment, Seasonal. An appointment to a regular position in classified service with intermittent work periods. (Ref. Section 67-5302(31), Idaho Code) (3-16-04)

145. Appointment, Temporary. The appointment of a person to a nonclassified position which is of a limited duration, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period for any one (1) agency. Temporary appointments may occur for intermittent periods of time and include recurring assignments. (Ref Section 67-5302(33), Idaho Code) (5-8-09)

156. Base Pay. The rate paid for performing a job, excluding bonuses, shift differentials, overtime or other compensation premiums. (5-8-09)

167. Certifiable Range. An examination score and a rank on an eligibility register sufficiently high to be among the top twenty-five (25) available names, plus names of all

individuals with scores identical to the twenty-fifth ranking eligible, for certification to fill a position in the classification for which the register was established. (4-7-11)

178. Classified Service. That body of positions in state agencies subject to Title 67, Chapter 53, Idaho Code, as defined therein and excludes temporary, project exempt, and nonclassified appointments. (5-8-09)

189. Commission. As utilized in these rules, refers to the Idaho Personnel Commission as established in Section 67-5307, Idaho Code. (5-8-09)

1920. Compensation Plan. The overall system of salary administration for classified service including Sections 67-5309B and 67-5309C, Idaho Code; the classification and compensation schedules, Division of Human Resources and Idaho Personnel Commission rules and policies, and agency policies governing employee pay. (5-8-09)

201. Compensation Schedule. The pay grades established by the Division of Human Resources and associated rates of pay. (Ref. Section 67-5309B, Idaho Code) (5-8-09)

212. Consultant. An independent contractor who provides professional or technical advice, counsel, or service. (Ref. Rule Section 050) (5-8-09)

23. Disabled Veteran. Those veterans separated under honorable conditions who: ()

a. Have served on active duty in the armed forces and have a current service-connected disability rating of ten percent (10%) or more or are receiving compensation related to a service-connected disability including retirement benefits or pension from the military or the department of veterans affairs; or ()

b. Are Purple Heart recipients. (Ref. Section 65-502(4), Idaho Code) ()

224. Dismissal. The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Section 190 of these rules. (5-8-09)

235. Due Process. As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard. (Ref. Section 67-5315, Idaho Code) (3-16-04)

246. Employment History. The information available to the public without the employee's consent in accordance with Section 9-340(C), Idaho Code, for every agency for which a current or former public official works, including the official reasons for separation from employment but not including accrued leave balances or usage. (5-8-09)

257. Examination. The application of written tests, oral interviews, performance tests, investigation, physical evaluation, evaluation of education and experience, or any other measure of job-related knowledge and ability, including performance in probationary periods. (4-5-85)

(BREAK IN CONTINUITY OF SECTIONS)

012. DEFINITIONS -- K THROUGH O.

Each of the terms defined in these rules will have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (5-8-09)

01. Key Employee. An individual specifically hired for an at-will or nonclassified position for which there is no, or only a limited, selection process. Examples may include a private secretary or deputy to an official who holds a confidential relationship to the appointing or employing officer. (Ref. Section 65-502(5), Idaho Code) (5-8-09)

02. Layoff. An involuntary reduction in hours of work or separation of an incumbent in the classified service either by reduction in force due to shortage of work or funds, or abolishment of positions. (4-5-85)

03. Light or Limited Duty. A general term describing a temporary limited assignment in relation to recovery from injury, illness or other limiting condition as approved by the appointing authority. (3-16-04)

04. Merit Increase. The advancement of an employee's compensation within a pay grade based upon performance in accordance with Section 67-5309B(3) and (4), Idaho Code. ~~(5-8-09)~~()

05. Merit Increase Matrix. A pay distribution tool used to advance employee pay based on performance and market data. (5-8-09)

06. Military Duty. Training and service performed by an inductee, enlistee or reservist or any entrant into the armed forces of the United States, not including active duty training as a reservist in the armed forces of the United States or as a member of the National Guard of the United States, when the call is for training only. (Ref. Section 65-502(6), Idaho Code) (5-8-09)

07. Minimum Qualification Specialty. A minimum qualification required for one (1) or more positions in a classification that is in addition to the other minimum qualifications required for all positions in the classification. (3-16-04)

08. Occasional or Sporadic Work. Work that is voluntarily performed by an employee in a different capacity from the employee's regular work and is infrequent, irregular or occurring in scattered instances. (7-1-87)

09. On-Call Time. Time when an employee is required to carry a pager, cellular phone, or to leave word at home or with the agency where the employee may be reached if needed to work, and the employee can use the time effectively for personal purposes. (5-8-09)

013. DEFINITIONS -- P THROUGH Z.

Each of the terms defined in these rules will have the meaning given herein unless a different

meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (5-8-09)

01. Pay Line Exception. A temporary assignment of pay grade, pursuant to Section 67-5309D, Idaho Code, in excess of the pay grade allocated pursuant to Section 67-5309B, Idaho Code, as approved by the administrator. (5-8-09)

02. Permanent Employee. An employee in the classified service who has successfully completed entrance probation. Permanent employees remain subject to separation as set forth in these rules and Section 67-5309(n), Idaho Code. (5-8-09)

03. Promotion. The advancement through the competitive process of an employee with permanent status from a position which he occupies in one (1) classification to a position in another classification having a higher paygrade. (5-8-09)

04. Reduction in Pay. A reduction of an employee's salary from one (1) pay rate to a lower rate within the pay grade to which the employee's classification is allocated. (3-16-04)

05. Register. A list of names of persons or the name of one (1) person who has been determined to be eligible for employment in a classification on the basis of examination and merit factors as established by the administrator. An adequate register lists at least five (5) names of eligible candidates currently available for consideration for each vacancy in the classification for which the register was established. (3-16-04)

06. Resignation. The voluntary quitting or abandonment of state employment, excluding retirement. (5-8-09)

07. Respondent. The party whose interests are adverse to those of the appellant. (7-1-93)

08. Salary Equity Increase. The advancement of an employee's compensation within a pay grade based upon factors such as market demand, compression within the agency or classification, or inequities, and the employee's performance, in accordance with Section 67-5309B(3), Idaho Code. ()

089. Suspension. An enforced period of absence, with or without pay, for disciplinary purposes, for felony charges, or pending investigation of charges made against an employee pursuant to Section 190 of these rules. (5-8-09)

0910. Termination. The separation of an entrance or voluntary probationary employee from classified service for unsatisfactory service during the probationary period without cause assigned by the appointing authority pursuant to Section 152 of these rules. (5-8-09)

101. Transfer. A change of work location of an employee in which the employee changes from one (1) position to another in the same classification or to another classification in the same pay grade. (3-16-04)

112. Underfill. ~~The filling of a classification of position with an employee in a~~

~~classification of lower pay grade to accommodate a training period as approved by the administrator.~~ Appointment to a position established at a higher classification while being compensated at a lower pay grade during completion of a training plan. Underfills must be approved in advance by the administrator. (3-16-04)()

123. **USERRA.** Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. Sections 4301 through 4333. Prohibits employment discrimination against persons because of their service in the Armed Forces Reserve, the National Guard, or other uniformed services. (5-8-09)

14. **Veteran.** Any person who has been discharged or released from active duty in the armed forces under honorable conditions provided they have served on active duty for a minimum of one hundred eighty (180) consecutive days. "Active duty" means full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the secretary of the military department concerned. (Ref. Section 65-502(17), Idaho Code) ()

135. **Workweek.** A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Section 073) (12-10-90)

(BREAK IN CONTINUITY OF SECTIONS)

020. VETERANS PREFERENCE.

Except for key employee positions, preference must be given to qualified veterans in as defined by Section 65-502, Idaho Code who meet the minimum qualifications for a position at initial employment and for retention. (5-8-09)()

~~**01. Qualified Veteran.** To receive the preference, the person must have: (5-8-09)~~

~~**a.** Served on active duty in the armed forces during a war, in a campaign, or expedition for which a campaign badge has been authorized, or served on active duty during the period beginning April 28, 1952 and ending July 1, 1955; (5-8-09)~~

~~**b.** Served on active duty as defined in 38 U.S.C. Section 101(21) at any time in the armed forces for a period of more than one hundred eighty (180) consecutive days, any part of which occurred after January 31, 1955 and before October 15, 1976; (5-8-09)~~

~~**c.** Served on active duty as defined in 38 U.S.C. Section 101(21) in the armed forces during the period beginning on August 2, 1990 and ending on January 2, 1992; (5-8-09)~~

~~**d.** Served on active duty as defined in 38 U.S.C. Section 101(21) at any time in the armed forces for a period of more than one hundred eighty (180) consecutive days, any part of which occurred during the period beginning on September 11, 2001 and ending on the date prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom.~~

~~(Ref. Section 67-502(14), Idaho Code, and 5 U.S.C. Section 2108); or~~ (5-8-09)

~~e. Served as may be further defined in 38 U.S.C. Section 101(11).~~ (5-8-09)

021. ~~Disabled Veteran Defined (for Preference Points on Competitive Exam)~~ **Initial Appointment.** Veterans, ~~D~~disabled veterans, Purple Heart recipients, and their spouses, unmarried widows, or unmarried widowers, ~~or spouses;~~ when qualified under state law will have additional points added to a passing score and placed on the register in accordance with ~~the provisions set forth in~~ Section 102 of these rules. (Ref. Rule Subsection 093.03, and Sections 65-502(2), 503, and 504(3), and 67-5309(f), Idaho Code) (5-8-09)()

032. **Retention.** Veterans (as defined in Title 65, Chapter 5, Idaho Code) will receive ~~the equivalent of three (3) years of satisfactory service in~~ additional points awarded towards the total calculation of retention points in a reduction of work force determination. (Ref. Rule Section 141 and Section 65-501, Idaho Code) (5-8-09)()

(BREAK IN CONTINUITY OF SECTIONS)

067. RECLASSIFICATION OF POSITIONS.

01. Procedure. Positions may be reclassified in the same pay grade, upward, or downward as determined by an analysis by ~~the~~ Division of Human Resources' ~~staff~~ of the duties and responsibilities assigned by appointing authorities to specific positions. An incumbent occupying a reclassified position shall be properly classified by an appointing authority within thirty (30) calendar days of being notified by the administrator that the duties and responsibilities assigned to the position are not properly classified. (4-5-85)()

02. Effective Date. Reclassifications of positions shall not be effective until they are approved by the administrator, but may be retroactive to the beginning of the pay period during which approval is granted. Reclassification of an employee shall not precede the effective date of the reclassification of the position. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

071. MERIT INCREASE MATRIX.

Salary increases must be based on a merit increase matrix approved by the Division of Human Resources. Shift and geographic premium pay, bonuses, reinstatements, transfers, promotions, salary equity increases, and recruitment and retention awards are not subject to a matrix. (5-8-09)()

072. OPERATION OF COMPENSATION PLAN.

01. Authorized Pay Rate. No employee in the state classified service will be paid at a rate less than the minimum nor greater than the maximum rate of the pay grade assigned to the classification. (5-8-09)

02. Starting Salary. The starting salary for a new appointee may be anywhere within the pay grade assigned to the employee's classification and is at the appointing authority's discretion considering available budget, market, and relation to existing staff salaries. (5-8-09)

03. Payline Exceptions. Temporary assignments to a new pay grade may be made by the administrator. Such assignments apply to an entire classification for the purpose of recruitment or retention and will be reviewed annually to determine the need for continuance. (5-8-09)

04. Salary Equity Increases. An appointing authority may, with approval by the administrator, advance an employee's salary within a pay grade based upon factors such as market demand, to address compression within an agency or classification, or inequities. In accordance with Section 67-5309B(3), Idaho Code, the employee's performance must be considered. ()

045. Salary After Reappointment from Layoff. Employees appointed by the agency that laid them off (Ref. Rule Subsection 101.01 and Section 146) will be paid in the current pay grade for the classification to which reappointed or at the same payrate the employee received immediately preceding layoff, whichever is greater, but not to exceed the maximum of the current pay grade. (5-8-09)

056. Salary Upon Transfer. (7-10-88)

a. A transfer between agencies (Ref. Rule Section 125) in the same classification or one of equal pay grade does not require a change in the employee's salary, but a lower or higher rate may be negotiated between the employee and the appointing authority. (5-8-09)

b. If the transfer is to a classification of lower pay grade (demotion), the employee's salary is negotiable between the employee and appointing authority within the lower pay grade. (3-16-04)

067. Salary Upon Reinstatement. Unless related to reemployment after a lay off, the salary of a reinstated employee (Ref. Rule Section 124) is negotiable between the employee and appointing authority in the current pay grade for the classification in which the employee has reinstatement privileges. (5-8-09)

078. Salary Upon Downward Reassignment. When a classification is reassigned downward the employee's salary will be protected to the maximum within the new pay grade. (3-16-04)

089. Salary Upon Return from Military Duty. An employee who returns to state service from active military duty in accordance with the provisions of Section 65-508, Idaho Code, and USERRA will be paid at the comparable rate in the current pay grade for the classification to which he was assigned prior to leaving for military service. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

101. TYPES OF ELIGIBILITY REGISTERS.

There are four (4) kinds of eligibility registers: (4-5-85)

01. Reemployment Preference Registers. Registers with reemployment preference for a given classification will contain the names of classified employees of permanent status who have been laid off except limited service appointments. (~~See Section Ref. Rules 140 of these rules and 144.~~ (4-7-11)())

02. Agency Promotional Registers. Agency promotional registers for a given classification will contain the names of classified employees in a given agency who successfully passed an agency promotional examination for the class. (Ref. Rule Subsection 086.05) (5-8-09)

03. Statewide Promotional Registers. Statewide promotional registers for a given classification will contain the names of all classified employees in all state agencies who successfully passed a statewide promotional examination for the class. (Ref. Rule Subsection 086.05) (5-8-09)

04. Open Competitive Registers. Open competitive registers for a given classification will contain the names of applicants who successfully passed an open competitive examination for the classification. (5-8-09)

102. PLACEMENT ON REGISTER.

01. Score Order. Eligible candidates will be placed on the register for a given classification ranked in descending numerical order based on their final score on the examination for such classification. (5-8-09)

02. Veterans' Preference. Eligible veterans or surviving spouses entitled to five (5) point preference will be placed on the open competitive register in accordance with their final score on the examination augmented by preference points. (Ref. Rule Subsection 093.03 and Section 65-504, Idaho Code) (5-8-09)

03. Disabled Veterans' Preference. Preference will be awarded to disabled veterans as follows: ()

a. ~~Eligible ten percent (10%) or more of~~ Disabled veterans, Purple Heart recipients, ~~or surviving~~ spouses of any eligible disabled veterans who cannot qualify for any public employment because of a service-connected disability, and unmarried widows or widowers of disabled veterans entitled to ten (10) point preference will be placed on the open-competitive register in order of their final score on the examination augmented by preference points. (~~Ref. Rule Subsection 093.03 and Sections 65-503 and 65-504, Idaho Code~~) ()

b. Disabled ~~V~~veterans who have a current service-connected disability of thirty

percent (30%) or more will be offered an interview when their final score on the hiring list places them within the top twenty-five (25) qualified candidates. If more than ten (10) **disabled veterans with a disability rating of** thirty percent (30%) or ~~greater disabled veterans~~ **more** place in the top twenty-five (25) qualified scores of a hiring list, at least ten (10) will be offered an interview. (Ref. Rule Subsection 093.03 and Section 65-504, Idaho Code) ~~(3-29-12)~~()

04. Veterans' Preference Points for Initial Appointment Only. The additional points added by reason of veterans' preference will be used the first time a qualified veteran is hired by a state agency and not for the purpose of promotions. (Ref. Section 65-504, Idaho Code) Initial appointments do not include: (5-8-09)

- a. Jobs held by patients, inmates, or students employed at a state institution; (5-8-09)
- b. Temporary or casual employment; or (5-8-09)
- c. An office filled by election. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

109. CERTIFICATION AND SELECTION.

Whenever a vacancy in a classified position is to be filled by a competitive recruitment process, the appointing authority shall make selection from a hiring list created from eligibility registers certified by the Division of Human Resources' ~~staff~~. Non-promotional internal or external transfers or reinstatements do not require registers certified by the Division of Human Resources. ~~(3-16-04)~~()

110. NUMBER OF NAMES ON REGISTER.

The Division of Human Resources' ~~staff~~ shall certify a hiring list from the eligibility register, in the order of their scores, a sufficient number of names so that the appointing authority shall be able to select for appointment from among twenty-five (25) eligible candidates for each position to be filled. If appointments are to be made to more than one (1) position, one (1) additional name shall be added for each vacancy so that the appointing authority shall have twenty-five (25) names to consider for each vacancy. The names of all eligible candidates with scores identical to the twenty-fifth ranking eligible candidate on the register shall be provided to appointing authorities for selection purposes. ~~(4-7-11)~~()

(BREAK IN CONTINUITY OF SECTIONS)

141. CALCULATION OF RETENTION POINTS.

There will be an evaluation of all employees in the classification in the agency or organizational unit affected by the reduction in force based on a retention point system. Retention points are derived from experience as described in performance evaluations, ~~and~~ classified credited state

service, and veterans preference as described in Subsection 141.03. ~~Qualified veterans are given preference through additional retention points. (Ref. Subsection 141.03).~~ The appointing authority will determine a process for the impartial assessment of evaluations to assign points as follows:

Exemplary Performance	-	.100 points
Solid Sustained Performance	-	.075 points
Achieves Performance Standards	-	.050 points
Does Not Achieve Performance Standards	-	.0 points

~~(5-8-09)~~()

01. No Performance Evaluation on File for a Twelve-Month Period. All credited state service for which there is no performance evaluation will receive seventy-five thousandths (.075) points per hour. A supervisor's failure to document performance in a timely manner cannot be used to disadvantage an employee during retention point calculation. (5-8-09)

a. Grace period. Supervisors have ninety (90) days after each two thousand eighty (2,080) hours an employee works to complete the performance evaluation documentation. During that ninety (90) day time frame, the evaluation may be written to cover the two thousand eighty (2,080) hours or extended to also cover the time frame up to the date of the evaluation. (3-16-04)

b. Changes in prior periods not allowed. Once an evaluation has been signed by the supervisor, employee, manager, and other applicable reviewers, the document may not be changed, unless the change is a result of a problem solving dispute resolution. (3-16-04)

02. Calculation of Retention Points Since Last Evaluation. The most recent performance evaluation should be used to pro-rate retention points when calculating credited state service since that evaluation, unless that evaluation occurred more than two thousand eighty (2,080) hours from the date of calculation. In such cases, points are calculated in conformance with Subsection 141.01 of these rules. (5-8-09)

03. Qualified Veterans Preference. Veterans as defined in Title 65, Chapter 5, Idaho Code, will receive preference by the addition of retention points equivalent to three (3) years of service at a level that achieves performance standards. (Ref. Section 65-501, Idaho Code)

~~(5-8-09)~~()

04. Calculation Date Cutoff. No points will be calculated for the sixty (60) days prior to the effective date of the layoff. (3-16-04)

05. Audit of Retention Points. Each employee is entitled to an audit of retention points by an independent auditor designated by the administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor is binding on both parties unless an appeal is filed within thirty-five (35) calendar days from the date of the auditor's notification to the affected parties.

(5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

180. ~~NONDISCIPLINARY DEMOTION REQUIRED.~~ (RESERVED)

~~An appointing authority shall make a nondisciplinary demotion when the position occupied by an employee is reclassified to a classification allocated to a lower pay grade in accordance with assigned responsibilities pursuant to Rule 067. (3-16-04)~~

(BREAK IN CONTINUITY OF SECTIONS)

190. DISCIPLINARY ACTIONS.

01. Cause for Disciplinary Actions or Separation From State Service. Dismissal, suspension, demotion, or the reduction in pay, of a classified employee, may occur for any of the following causes during the employee's employment: (5-8-09)

a. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, or rules of the agency or the Division of Human Resources and Idaho Personnel Commission. (5-8-09)

b. Inefficiency, incompetency, or negligence in performing duties, or job performance that fails to meet established performance standards. (5-8-09)

c. Physical or mental incapability for performing assigned duties, if a reasonable accommodation cannot be made for the disabling condition. (5-8-09)

d. Refusal to accept a reasonable and proper assignment from an authorized supervisor. (4-5-85)

e. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the agency. (5-8-09)

f. Intoxication or being under the influence of alcohol, or the misuse of medications or controlled substances, while on duty. (5-8-09)

g. Careless, negligent, or improper use or unlawful conversion of state property, equipment, or funds. (4-5-85)

h. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage. (4-5-85)

i. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude. (4-5-85)

- j.** Acceptance of gifts in exchange for influence or favors given in the employee's official capacity. (5-8-09)
- k.** Habitual pattern of failure to report for duty at the assigned time and place. (4-5-85)
- l.** Habitual improper use of sick leave. (4-5-85)
- m.** Unauthorized disclosure of confidential information from official records. (4-5-85)
- n.** Absence without leave. (4-5-85)
- o.** Misstatement or deception in application for employment. (4-5-85)
- p.** Failure to obtain or maintain a current license or certificate lawfully required as a condition in performance of duties. (4-5-85)
- q.** Prohibited participation in political activities. (Ref. Section 67-5311, Idaho Code) (4-5-85)

02. Suspension for Investigation. An appointing authority may ~~suspend with pay~~ place an employee on administrative leave for investigation of disciplinary causes enumerated in Subsection 190.01 of these rules. Each suspension for investigation will be superseded by reinstatement to duty, dismissal, ~~or~~ disciplinary demotion, or suspension within thirty (30) calendar days of the suspension for investigation or within an extension of an additional thirty (30) calendar days approved by the administrator. Further extensions may be granted with the approval of the Administrator. (5-8-09)()

03. Disciplinary Suspension. An appointing authority may suspend without pay an employee for discipline for causes enumerated above. Disciplinary suspension of an employee with permanent status is subject to appeal by the employee to the Commission. (5-8-09)

04. Suspension on Felony Charges. An appointing authority may suspend without pay an employee upon the issuance of a complaint, an information or indictment for felony charges. Such suspensions may remain in effect during the time such charges are pending. Full reinstatement of all benefits and salary that the employee would have otherwise been entitled must be provided by the appointing authority to the employee upon a subsequent finding that charges or information were without grounds or the employee was not found guilty. For the purpose of this rule, a judgment withheld under Rule 33(d) of the Idaho Rules of Criminal Procedure is a conviction. (5-8-09)

05. Notice to Administrator. Whenever an appointing authority considers it necessary to take disciplinary action against an employee, he must notify the employee and the administrator concurrently in writing; and must set forth the specific rules violated and the reasons for the action. Suspensions with pay for investigation (Ref. Rule Subsection 190.02) may be made without prior notice to the employee; in this case, the appointing authority must notify the administrator as soon as practical. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

210. PERFORMANCE EVALUATIONS.

01. Performance Evaluations. Each agency ~~must adopt and maintain a system of employee performance evaluations provided it meets the~~ shall use the statewide online performance evaluation system; however, another system may be used, provided it meets the basic objectives of the state's online performance evaluation system as approved in advance by the administrator. Agency records and supporting documentation are subject to review by the Division of Human Resources and the employee's overall performance rating must be transmitted to the administrator. (5-8-09)()

02. Approval of Form. The Division of Human Resources' staff will make available a standard format for this purpose of the statewide online performance evaluation system. An appointing authority may utilize another form provided it meets the basic performance criteria and ratings and is approved in advance by the administrator. (5-8-09)()

03. Purpose. The purpose of performance evaluation is to provide an objective evaluation by the immediate supervisor of an employee's performance in comparison with established expectations for the position; and to identify an employee's strengths and weaknesses and where improvement is necessary. All performance evaluations must be discussed with affected employee who will be allowed opportunity to submit written comments regarding the evaluation contents. (5-8-09)

04. Use of Evaluations. Performance evaluations should be used in connection with promotions, transfers, demotions, retentions, separations, and reassignments (Ref. Section 67-5309(h), Idaho Code); and used as the affirmative certification for merit increases, and bonuses, and salary equity increases (Ref. Section 67-5309B, Idaho Code); and for certifying a probationary employee to permanent status (Ref. Rule Section 151). Other uses of performance evaluations are optional with the appointing authority. (5-8-09)()

05. Evaluation Schedule. All classified employees must be evaluated after one thousand forty (1,040) hours of credited state service from the date of initial appointment or promotion and after each for their performance during probationary periods for appointments and promotions and for every two thousand eighty (2,080) hours of credited state service thereafter (generally, an annual basis). (Ref. Sections 67-5309(h) and (j), 67-5309B(6), Idaho Code.) Part-time employees must be evaluated on an annual basis. (5-8-09)()

06. Retention of Evaluation. A copy of the performance evaluation must be retained in agency records, and a copy must be furnished to the employee. ~~The performance rating must be transmitted to the administrator. Agency records and supporting documentation are subject to review by the Division of Human Resources. All performance evaluation documents must be copied and forwarded with the employee when an interagency promotion, demotion or transfer occurs.~~ (5-8-09)()

07. Supervisors' Requirements. Supervisors are required to manage performance on a consistent basis including completion of performance evaluations on all employees under their direct supervision. (Ref. Section 67-5309B(6), Idaho Code) ~~(3-16-04)~~()

211. -- 219. (RESERVED)

220. RECORDS.

01. Employee Service Records. (7-1-93)

a. For each employee in classified service, the Division of Human Resources maintains a service record which must include all personnel transactions pertinent to the employee's employment history. (Ref. Section 67-5309(o), Idaho Code) (5-8-09)

~~**b.** Service records or a facsimile thereof for classified employees must be maintained permanently by the administrator.~~ (5-8-09)

eb. Any employee may at all reasonable times during business hours review his service record maintained in the Division of Human Resources or maintained in any agency. Except for material used to screen and test for employment, all information maintained in an employee's service record must be made available to the employee or designated representative upon request. File contents may be corrected if found in error according to the procedure contained in Section 9-342, Idaho Code. (5-8-09)

02. Administrative Records. The administrator must permanently maintain a record of the proceedings of the Commission and a record of all hearings of appeals. (5-8-09)

03. Employee Personnel Action Documents. The appointing authority must furnish each employee with notice of every personnel action affecting the employee's status, pay, tenure, or other terms and conditions of employment, including a copy of their performance evaluations. (5-8-09)

04. Transfers, Reemployment and Promotions Between Agencies. When an employee seeks a transfer, reemployment, or promotion between agencies, the appointing authority of the hiring agency, or designee, is entitled to examine the employee's service record and performance information before the hiring decision is made. (Ref. Section 67-5309(o), Idaho Code) (4-7-11)

a. All performance evaluation documents must be copied by the former agency and forwarded to the new agency when an interagency promotion, demotion, or transfer occurs. ()

(BREAK IN CONTINUITY OF SECTIONS)

250. SPECIAL LEAVES.

01. Leave of Absence Without Pay. (7-1-93)

a. Approval. In addition to workers' compensation, family medical leave, disability, or other statewide leave policies, the appointing authority may grant an employee leave without pay for a specified length of time when such leave would not have an adverse effect upon the agency. The request for leave must be in writing and must establish reasonable justification for approval. (5-8-09)

b. Reemployment. The appointing authority approving the leave of absence assumes full responsibility for returning the employee to the same position or to another position in a classification allocated to the same pay grade for which the employee meets minimum qualifications. (7-1-87)

c. Exhaustion of Accrued Leave. Unless prohibited by workers compensation, family medical leave, disability, or other statewide leave policies, the appointing authority has discretion on whether the employee is required to exhaust accrued vacation leave, earned administrative leave or compensatory time off for overtime before commencing leave without pay. (Ref. Section 240) (5-8-09)

d. Resignation. If vacation leave, earned administrative leave and compensatory time off for overtime are not exhausted and the employee resigns from state service while on leave, he will be paid for such accruals in accordance with Sections 67-5334 and 67-5328, Idaho Code. (5-8-09)

02. Leave Defaults. When an employee does not have accrued sick leave to cover an entire absence the following leave types will be used to the extent necessary to avoid leave without pay: accrued compensatory time and vacation. If abuse of sick leave is suspected see Subsection 240.07 of these rules. (5-8-09)

03. Military Leave With Pay. Employees who are members of the National Guard or reservists in the armed forces of the United States engaged in military duty ordered or authorized under the provisions of law, are entitled each calendar year to one hundred twenty (120) hours of military leave of absence from their respective duties without loss of pay, credited state service or evaluation of performance. Such leave is separate from vacation, sick leave, holiday, or compensatory time off for overtime. (Ref. Section 46-216, Idaho Code). (5-8-09)

04. Military Leave Without Pay. An employee whose employment is reasonably expected to continue indefinitely, and who leaves his position either voluntarily or involuntarily in order to perform active military duty, has reemployment rights as defined in Subsection 124.05 of these rules. The employee will either be separated from state service or placed in "inactive" status, at the option of the appointing authority. (5-8-09)

05. Leave of Absence With Pay. A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee is compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following leaves: (5-8-09)

- a. Vacation leave; (5-8-09)
- b. Sick leave; (5-8-09)
- c. Special leave situations; ~~and~~ ~~(5-8-09)~~()
- d. Compensatory time off for overtime worked; ~~and~~ ~~(5-8-09)~~()
- e. Administrative leave. ()

06. Court and Jury Services and Problem-Solving and Due Process Leave. (7-1-98)

a. Connected with Official State Duty. When an employee is subpoenaed or required to appear as a witness in any judicial or administrative proceeding in any capacity connected with official state duty, he is not considered absent from duty. The employee is not entitled to receive compensation from the court. Expenses (mileage, lodging, meals, and miscellaneous expenses) incurred by the employee must be reimbursed by his respective agency in accordance with agency travel regulations. (5-8-09)

b. Private Proceedings. When an employee is required to appear as a witness or a party in any proceeding not connected with official state duty, the employee must be permitted to attend. The employee may use accrued leave or leave without pay. (5-8-09)

c. Jury Service. When an employee is summoned by proper judicial authority to serve on a jury, he will be granted a leave of absence with pay for the time which otherwise the employee would have worked. The employee is entitled to keep fees and mileage reimbursement paid by the court in addition to salary. Expenses in connection with this duty are not subject to reimbursement by the state. (5-8-09)

d. Problem-solving and due process procedures. Any employee who has been requested to serve as a mediator as provided by an agency problem-solving or due process procedure or to appear as a witness or representative during such a proceeding will be granted leave with pay, without charge to vacation leave or compensatory time off for overtime, to perform those duties. (5-8-09)

e. Notification. An employee summoned for court and jury service or requested to serve as a ~~grievance panelist~~, witness, or representative must notify his supervisor as soon as possible to obtain authorization for leave of absence. ~~(5-8-09)~~()

07. Religious Leave. Appointing authorities will make reasonable accommodations to an employee's need for leave for religious observances. Such leave is charged to the employee's accrued vacation leave or compensatory time off for overtime. (5-8-09)

08. Leave During Facility Closure or Inaccessibility. (7-1-93)

a. Authorization. When a state facility is closed or declared inaccessible because of

severe weather, civil disturbances, loss of utilities or other disruptions, affected employees are authorized **administrative** leave ~~of absence with pay~~ to cover their scheduled hours of work during the closure or inaccessibility. (5-8-09)()

b. Early release. When the appointing authority or designated representative authorizes early release of employees, the resulting time off will be charged to **administrative** leave ~~of absence with pay~~. (5-8-09)()

09. Red Cross Disaster Services Leave. Employees who have been certified by the American Red Cross as disaster service volunteers will be granted up to one hundred twenty (120) hours of paid leave in any twelve (12) month period to participate in relief services pursuant to Section 67-5338, Idaho Code. (5-8-09)

10. Employee Assistance Program Leave. Up to two (2) hours per visit will be granted for utilization of the Employee Assistance Program (EAP) during normal working hours. This leave is limited to the number of free program visits provided in the state's Behavioral Health Program. (5-8-09)

11. Bone Marrow and Organ Donor Leave With Pay. (5-8-09)

a. Approval. Upon request, a full-time employee will be granted five (5) work days' leave with pay to serve as a bone marrow donor or thirty (30) work days' leave with pay to serve as an organ donor. The employee must provide the appointing authority with written verification that the employee is the person serving as the donor. Paid leave, as provided in these rules, is limited to one-time bone marrow and one-time organ donor leave per employee. (Ref. Section 67-5343, Idaho Code) (5-8-09)

b. Use. An employee who is granted such leave of absence will receive compensation without interruption during the leave period. For purposes of determining credited state service, pay advancement, performance awards, or any benefit affected by a leave of absence, the service of the employee is considered uninterrupted by the paid leave of absence. (Ref. Section 67-5343, Idaho Code) (5-8-09)

251. ADMINISTRATIVE LEAVE.

Administrative leave may be granted by an appointing authority for employee investigations, due process procedures, severe weather, emergencies or incidents that could jeopardize agency operations, or the safety of others. Administrative leave for other reasons must be approved by the administrator. ()

2512. -- 259. (RESERVED)

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.09 - MEDICAL FEES

DOCKET NO. 17-0209-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective on *sine die*, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508; 72-720; 72-721; 72-722; 72-723; and 72-803, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 240 through 243](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patti Vaughn, Medical Fee Schedule Analyst, (208) 334-6084.

DATED this 5th day of November, 2013.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, 72-723, and 72-803, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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

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

This Rule adjusts the dispensing fees for pharmacies allowed under the pharmaceutical fee schedule. These fees were determined in collaboration with interested stakeholders. Under the physician fee schedule, a correction is made to a range of CPT codes in the conversion factor table that had been improperly included in Surgery Group 2. This Rule seeks to make permanent the changes already in effect by the Temporary Rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fiscal impact.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no negative fiscal impact.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule complies with the requirements of Section 72-803, Idaho Code, requiring the Commission to adopt, and adjust as necessary each year, rules governing the approval of fees for medical services in workers' compensation cases.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No documents have been incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Patti Vaughn, Medical Fee Schedule Analyst 208-334-6084.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 26th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0209-1301

031. ACCEPTABLE CHARGES FOR MEDICAL SERVICES PROVIDED BY PHYSICIANS UNDER THE IDAHO WORKERS' COMPENSATION LAW.

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission (hereinafter “the Commission”) hereby adopts the following rule for determining acceptable charges for medical services provided by physicians under the Idaho Workers' Compensation Law. (4-7-11)

01. Acceptable Charge. Payors shall pay providers the acceptable charge for medical services provided by physicians. (4-7-11)

02. Adoption of Standard for Physicians. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the acceptable charge for medical services provided under the Idaho Workers' Compensation Law by physicians. (4-7-11)

03. Conversion Factors. The following conversion factors shall be applied to the *fully-implemented total* facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR
Anesthesia	00000 - 09999	Anesthesia	\$60.33
Surgery - Group One	22000 - 22999	Spine	\$135.00
	23000 - 24999	Shoulder, Upper Arm, & Elbow	
	25000 - 27299	Forearm, Wrist, Hand, Pelvis & Hip	
	27300 - 27999	Leg, Knee, & Ankle	
	29800 - 29999	Endoscopy & Arthroscopy	
	61000 - 61999	Skull, Meninges & Brain	
	62000 - 62259	Repair, Neuroendoscopy & Shunts	
63000 - 63999	Spine & Spinal Cord		

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR
Surgery - Group Two	28000 - 28999 64000 550 - 64999	Foot & Toes Nerves & Nervous System	\$124.00
Surgery - Group Three	10000 - 19999 20000 - 21999 29000 - 29799 30000 - 39999 40000 - 49999 50000 - 59999 60000 - 60999 62260 - 62999 <u>64000 - 64549</u> 65000 - 69999	Integumentary System Musculoskeletal System Casts & Strapping Respiratory & Cardiovascular Digestive System Urinary System Endocrine System Spine & Spinal Cord <u>Nerves & Nervous System</u> Eye & Ear	\$88.54
Radiology	70000 - 79999	Radiology	\$88.54
Pathology & Laboratory	80000 - 89999	Pathology & Laboratory	To Be Determined
Medicine - Group One	90000 - 90799 94000 - 94999 97000 - 97799 97800 - 98999	Immunization, Injections, & Infusions Pulmonary / Pulse Oximetry Physical Medicine & Rehabilitation Acupuncture, Osteopathy, & Chiropractic	\$49.00
Medicine - Group Two	90800 - 92999 93000 - 93999 95000 - 96020 96040 - 96999 99000 - 99607	Psychiatry & Medicine Cardiography, Catheterization, Vascular Studies Allergy / Neuromuscular Procedures Assessments & Special Procedures E / M & Miscellaneous Services	\$70.00

(7-1-13)()

04. Anesthesiology. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. (4-7-11)

05. Adjustment of Conversion Factors. The conversion factors set out in this rule shall be adjusted each fiscal year (FY) by the Commission to reflect changes in inflation or market conditions in accordance with Section 72-803, Idaho Code. (4-7-11)

06. Services Without CPT Code, RVU or Conversion Factor. The acceptable charge for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a

service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 031.03, above, determine the acceptable charge for that service, based on all relevant evidence in accordance with the procedures set out in Section 0345, below. ~~(4-7-11)~~()

07. Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will be reimbursed as follows: (4-7-11)

a. Modifier 50: Additional fifty percent (50%) for bilateral procedure. (4-7-11)

b. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (4-7-11)

c. Modifier 80: Twenty-five percent (25%) of coded procedure. (4-7-11)

d. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (4-7-11)

08. Medicine Dispensed By Physicians. Reimbursement to physicians for any medicine shall not exceed the acceptable charge calculated for that medicine as if provided by a pharmacy under Section 033 of this rule without a dispensing or compounding fee. Reimbursement to physicians for repackaged medicine shall be the Average Wholesale Price (AWP) for the medicine prior to repackaging, identified by the National Drug Code (NDC) reported by the original manufacturer. Reimbursement may be withheld until the original manufacturer's National Drug Code (NDC) is provided by the physician. (7-1-13)

(BREAK IN CONTINUITY OF SECTIONS)

033. ACCEPTABLE CHARGES FOR MEDICINE PROVIDED BY PHARMACIES.

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Commission hereby adopts the following rule for determining acceptable charges for medicine provided by a pharmacy under the Idaho Workers' Compensation Law. (7-1-13)

01. Acceptable Charge. Payors shall pay providers the acceptable charge for medicine provided by a pharmacy. (7-1-13)

02. Adoption of Standards for Pharmacies. The following standards shall be used to determine the acceptable charge for medicine provided by pharmacies. (7-1-13)

a. Brand/Trade Name Medicine. The standard for determining the acceptable charge for brand/trade name medicine shall be the Average Wholesale Price (AWP), plus a ~~two~~ **five** dollar (\$~~2~~**5**) dispensing fee. ~~(7-1-13)~~()

b. Generic Medicine. The standard for determining the acceptable charge for generic medicine shall be the Average Wholesale Price (AWP), plus an ~~an~~ **five eight** dollar (~~\$58~~) dispensing fee. (7-1-13)()

c. Compound Medicine. The standard for determining the acceptable charge for compound medicine shall be the sum of the Average Wholesale Price (AWP) for each drug included in the compound medicine, plus a five dollar (\$5) dispensing fee and a two dollar (\$2) compounding fee. All components of the compound medicine shall be identified by their original manufacturer's National Drug Code (NDC) when submitted for reimbursement. Payors may withhold reimbursement until the original manufacturer's NDC assigned to each component of the compound medicine is provided by the pharmacy. Components of a compound medicine without an NDC may require medical necessity confirmation by the treating physician prior to reimbursement. (7-1-13)

d. **Prescribed** Over-The Counter (OTC) Medicine. The standard for determining the acceptable charge for **prescribed** over-the-counter (OTC) medicine **filled by a pharmacy** shall be the reasonable charge, ~~but no~~ **plus a two dollar (\$2)** dispensing fee. (7-1-13)()

03. Disputes. The Commission shall determine the acceptable charge for medicine provided by a pharmacy that is disputed based on all relevant evidence in accordance with the procedures set out in Section 035 of this rule. (7-1-13)

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.10 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- SECURITY FOR COMPENSATION -- INSURANCE CARRIERS

DOCKET NO. 17-0210-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective *sine die*, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-301, 72-304 and 72-302, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 244 through 250](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jane McClaran, Financial Officer, (208) 334- 6042.

DATED this 25th day of November, 2013.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-301, 72-304 and 72-302, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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

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

This rule establishes an annual deductible policy reporting period of March 3rd to coincide with the premium tax due date; and requires the mandatory data elements in the proof of coverage reporting. This rule change also removes the Appendices B and C reporting forms from the rule but directs insurance carriers to the Commission's address or website to obtain report forms.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fiscal impact to the General Fund or to the Commission's fund as a result of these proposed changes.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no negative fiscal impact resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because a subcommittee of the Commission's Advisory Committee, which included insurance carrier representatives and self-insured employers, has been providing input to the Industrial Commission in the drafting of these rules.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jane McClaran, (208) 334-6042.

Anyone may submit written comments regarding this proposed rulemaking. All written

comments must be directed to the undersigned and must be delivered on or before October 18, 2013.

DATED this 27th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0210-1301

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

Idaho Industrial Commission office hours are Monday through Friday, 8:00 a.m. to 5:00 p.m., except holidays designated by the state of Idaho. The mailing address for filing documents is Idaho Industrial Commission, PO BOX 83720, Boise, ID 83720-0041. The Commission office is located at 700 S. Clearwater Lane, Boise, ID 83712. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule is subject to and in compliance with the Public Records Act. ()

~~0047.~~ -- 009. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

011. (RESERVED)

01~~7~~2. RULES GOVERNING QUALIFICATION OF INSURANCE CARRIER TO UNDERWRITE WORKERS' COMPENSATION LIABILITY.

01. Deposit With State Treasurer. To receive the approval of the Industrial Commission to write Worker's Compensation coverage under Section 72-301, Idaho Code, a carrier whose application has been approved by the Director of Insurance to underwrite casualty and surety insurance under Sections 41-506 and 41-507, Idaho Code, shall initially deposit security in the amount of two hundred fifty thousand dollars (\$250,000) with the State Treasurer, under the provisions of Section 72-302, Idaho Code. (4-7-11)

02. Application. Before the Commission shall approve any insurance carrier to do business under the Workers' Compensation Law, said carrier shall apply to the Industrial Commission for permission to write compensation insurance and said application shall include

the following: (4-7-11)

a. A statement from the Director of the Idaho Department of insurance that the insurance carrier has been granted authority under the insurance laws of the state of Idaho to write casualty or surety insurance; (4-7-11)

b. The latest audited financial statement of said carrier; (4-7-11)

c. The name and address of the agent for service of process in Idaho; (4-7-11)

d. The name and address of the Idaho resident licensed adjuster or adjusters with authority to make compensation payments and adjustments of claims arising under the Act. If more than one (1) adjuster is utilized in Idaho, a list of every such adjuster and all corresponding policyholders shall be provided; (4-7-11)

e. A statement that the carrier will provide such blank forms as are, or may be, prescribed by the Commission and distributed to such employers as it may insure. (4-7-11)

f. A statement that all surety bonds covering the payment of compensation will be filed with the Idaho State Treasurer in compliance with the law for all employers insured. All carriers will use the continuous bond form set out herein. (4-7-11)

SURETY BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____,
as Principal, and _____, as Surety, are held and firmly bound unto the State of Idaho and the beneficiaries of awards rendered under the Workers' Compensation Law of the State of Idaho, for all sums said Principal is liable for by reason of workers' compensation policies issued to employers in the State of Idaho, insuring such employers' liability under Title 72, Idaho Code, the Workers' Compensation Law. Under the authority of Chapter 3, Title 72, Idaho Code, the liability of the Surety on this bond shall in no event exceed an amount equal to the total amount of all outstanding and unpaid compensation awards against the Principal.

In case of any default by the Principal or in the event said Principal shall fail to pay, by reason of insolvency, or because a receiver has been appointed therefor, or by reason of refusal, neglect or delay to pay any final award or awards, the State of Idaho and any beneficiaries under the Workers' Compensation Law shall have a right of action at law against said Surety immediately upon default by said Principal.

This bond is issued for an indefinite term to begin on the _____ day of _____, 20____, and will continue in full force and effect until terminated in either of the following two (2) manners: This bond may be cancelled by the Surety by filing sixty (60) days' written cancellation notice by registered mail with the Industrial Commission of the State of Idaho. This bond may be cancelled by the Industrial Commission of the State of Idaho by written notice to the Surety hereon, which notice shall specify the date of termination of the bond.

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed and this instrument to be sealed by the respective parties thereto this _____ day of _____, 20____. (4-7-11)

g. A statement that renewal certificates on said bonds will be issued and filed with the Industrial Commission immediately, if said bonds are to be renewed. (4-7-11)

h. A statement that the cancellation of surety contracts will be made as set forth in the law, if said contracts are cancelled; (4-7-11)

i. A statement that said carrier will deposit, in addition to the security required for authorization to write Workers' Compensation coverage by these rules, such further security equal to all unpaid outstanding awards of compensation; (4-7-11)

j. A statement that said carrier will comply with the statutes of the state of Idaho and rules of the Industrial Commission to the end that payments of compensation shall be sure and certain and not unnecessarily delayed; and (4-7-11)

k. A statement that said carrier will make such reports to the Commission as it may require in reference to matters under the Workers' Compensation Law, including IC Form 36A, Report of Outstanding Awards – Insurance Carriers; which must be filed quarterly with the Commission. (4-7-11)

01~~2~~3. RULES GOVERNING INSURANCE CARRIERS.

An insurance carrier must apply for and receive the approval of the Industrial Commission to write workers' compensation insurance pursuant to Section 72-301, Idaho Code. After receiving such approval, an insurance carrier shall comply with the following: (4-7-11)

01. Maintain Statutory Security Deposits with the State Treasurer. (4-7-11)

a. Each insurance carrier shall maintain with the Idaho State Treasurer a security deposit in the amount of twenty-five thousand dollars (\$25,000) if approved by the commission prior to July 15, 1988, or two hundred and fifty thousand dollars (\$250,000) if approved subsequent to that date. (4-7-11)

b. In addition to the security required in Subsection 01~~2~~3.01.a., of this rule, each insurance carrier shall deposit an amount equal to the total unpaid outstanding awards of said insurance carrier. Such deposit shall be in the form permitted by Section 72-301, Idaho Code. Surety bonds shall be in the form set forth in Subsection 01~~2~~3.02.f. of these rules. If a surety bond is deposited, the surety company shall be completely independent of the principal and authorized to transact such business in the state of Idaho. A partial release of security deposited hereunder must be requested in writing and approved by the Commission. (4-7-11)()

c. Securities which are maintained to satisfy the requirements of this rule may be held in the federal reserve book-entry system, as defined in Section 41-2870(4), Idaho Code, and interests in such securities may be transferred by bookkeeping entry in the federal reserve book-entry system without physical delivery of certificates representing such securities. (4-7-11)

02. Appoint Agent for Service of Process. Each insurance carrier shall appoint the Director of the Department of Insurance as its agent to receive service of legal process. (4-7-11)

03. Maintain Resident Idaho Office. Each insurance carrier shall maintain an Idaho licensed resident adjuster or adjusters, or its own adjusting offices or officers resident in Idaho who have been appointed and have been given authority as to claims arising under the Act. (4-7-11)

a. Each authorized insurance carrier shall notify the Commission Secretary in writing of any change of the designated resident adjuster(s) for every insured Idaho employer within fifteen (15) days of such change. (4-7-11)

b. Each authorized insurance carrier will ensure that every in-state adjuster can classify and identify all claims adjusted on behalf of said insurance carrier, and that the in-state adjuster will provide such information to the Industrial Commission upon request. (4-7-11)

04. Supply Forms. Each insurance carrier shall supply such forms as are or may be prescribed by the Commission pursuant to the Workers' Compensation Law and distribute them to all employers it insures. A list of required forms is available from the [public information section Employer Compliance Bureau](#) of the Industrial Commission, ~~700 S. Clearwater Lane, P. O. Box 83720, Boise, Idaho 83720-0041~~, telephone (208)334-6000, [or on the Commission's website at www.iic.idaho.gov.](#) (4-7-11)()

05. Comply with Industrial Commission Reporting Requirements. Each insurance carrier shall file such reports as the Industrial Commission may require concerning matters under the Workers' Compensation Law. (4-7-11)

06. Report Proof of Coverage. (4-7-11)

a. Each insurance carrier shall report proof of coverage information to a third party designated by the Industrial Commission as its agent to receive, process, and forward the proof of coverage information required by these rules to the Commission. The name and address of the Commission's designated agent(s) is available upon request from the Employer Compliance Bureau of the Industrial Commission, ~~700 S. Clearwater Lane, P. O. Box 83720, Boise, Idaho 83720-0041~~; telephone (208) 334-6000, [or on the Commission's website at www.iic.idaho.gov.](#) (4-7-11)()

b. As an alternative to Subsection 01~~23~~.06.a., an insurance carrier may be allowed to report proof of coverage information directly to the Industrial Commission in an electronic format prescribed by the Commission by first making a written request to the Commission and obtaining the Commission's permission. A formal written agreement with the Commission is required prior to the electronic transmission of proof of coverage data to the Commission. (4-7-11)()

c. The Industrial Commission hereby adopts the International Association of Industrial Accident Boards and Commissions' (IAIABC) electronic proof of coverage record layout and transaction standards as the required reporting mechanism for new policies, renewal policies, endorsements, cancellations, and non-renewals of policies. A copy of the record layout,

data element requirements, and transaction standards is available upon request from the Employer Compliance Bureau, of the Industrial Commission, ~~700 S. Clearwater Lane, P. O. Box 83720, Boise, Idaho 83720-0041~~; telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. Each insurance carrier shall report data for all mandatory elements in the current IAIABC proof of coverage record layout and transaction standards on each policy reported. (4-7-11)()

d. The most recent proof of coverage information contained in the Industrial Commission's database shall be presumed to be correct for the purpose of determining the insurance carrier providing coverage. (4-7-11)

07. Report New Policy, Renewal Policy, and Endorsement Information Within Thirty Days. Each insurance carrier shall report the issuance of any new workers' compensation policy, renewal policy, or endorsement to the Industrial Commission or its designated agent within thirty (30) days of the effective date of the transaction. (4-7-11)

08. Report Cancellation and Non-Renewal of Policy Within Time Prescribed by Statute. Each insurance carrier shall report the cancellation and/or nonrenewal of any workers' compensation insurance policy to the Industrial Commission or its designated agent within the time frames prescribed by Section 72-311, Idaho Code. Receipt of cancellation or nonrenewal notices by the Commission's designated agent shall be deemed to have been received by the Commission. (4-7-11)

09. Report Election of Coverage on Form IC52 or Similar Format. Each insurance carrier shall report election of coverage or revocation of election of coverage on or in a format substantially the same as Form IC52, "Election of Coverage," which follows this chapter as Appendix A. This report shall be submitted to the Industrial Commission in writing on eight and one-half by eleven inch (8 1/2" x 11") paper. (4-7-11)

10. Report Deductible Policy. On or before March 3rd of each year, every insurance carrier shall submit a report of all deductible policies that were issued and in effect during the previous calendar year. That report shall be submitted in a form substantially similar to the current "Deductible Policy Report" available upon request from the Fiscal Bureau of the Industrial Commission, telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. The report shall include the following information: insured name, policy number, effective and expiration dates, deductible amount, the premium charged for the policy before credit for the deductible and the final premium after credit for the deductible. ()

101. Report Outstanding Awards. Each insurance carrier shall report to the Industrial Commission at the end of each calendar quarter, or more often as required by the Commission, any outstanding award. (4-7-11)

a. The report of outstanding awards shall be filed with the Industrial Commission by the end of the month following the end of each calendar quarter. (4-7-11)

b. The report shall be filed even if there are no outstanding awards. In that event, the carrier shall certify the fact that there are no outstanding awards to be reported. (4-7-11)

c. The report shall be submitted on or in a format that is substantially the same as the current Form IC36A, "Report of Outstanding Awards – Insurance Carriers" ~~which follows this chapter as Appendix B~~ available upon request from the Fiscal Bureau of the Industrial Commission, telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. The report may be produced as a computerized spreadsheet or database printout and shall be submitted to the Commission in writing on paper no larger than eight and one-half inches by eleven inches (8 ½" x 11") in size. (4-7-11)()

d. The report shall be signed and certified to be correct by a corporate officer. If an insurance carrier has designated more than one adjuster for workers' compensation claims in Idaho, a corporate officer of the insurance carrier shall prepare, certify and file a consolidated report of outstanding awards. (4-7-11)

e. The report shall list all outstanding awards, commencing with the calendar quarter during which the award is made or benefits are first paid, whichever occurs earlier. (4-7-11)

142. Comply with Law and Rules. Each insurance carrier shall comply with the statutes of the state of Idaho and the rules of the Industrial Commission to ensure that payments of compensation shall be sure and certain and not unnecessarily delayed. (4-7-11)

0134. -- 050. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

271. RULES GOVERNING REPORTING INDEMNITY PAYMENTS AND MAKING PAYMENT OF INDUSTRIAL SPECIAL INDEMNITY FUND ASSESSMENT.

Pursuant to Section 72-327, Idaho Code, the state insurance fund and every insurance carrier authorized to transact workers' compensation insurance in Idaho shall report annually to the Industrial Commission the total gross amount of indemnity benefits paid on Idaho workers' compensation claims during the applicable reporting period. (4-7-11)

01. Filing. The report of indemnity payments shall be filed with the Industrial Commission simultaneously with the first Semi-Annual Premium Tax Report which, pursuant to Section 72-523, Idaho Code, is due each year on March 3rd. (4-7-11)

02. Form. The report of indemnity payments shall be submitted in writing on, or in a format substantially the same as Form IC327, "Report of Indemnity Payments," ~~contained in Appendix C at the end of this chapter~~ available upon request from the Fiscal Bureau of the Industrial Commission, telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. (4-7-11)()

03. Report Required When No Indemnity Paid. If an entity required to report under this rule has no claims against which indemnity payments have been made during the reporting period, a report shall be filed so indicating. (4-7-11)

04. Penalty for Late Filing. A penalty shall be assessed by the Commission for filing

the report of indemnity payments later than March 3 each year. (4-7-11)

a. A penalty of two hundred dollars (\$200) shall be assessed for late filing of seven (7) days or less. (4-7-11)

b. A penalty of one hundred dollars (\$100) per day shall be assessed for late filing of more than seven (7) days. (4-7-11)

c. A penalty assessed by the Commission shall be payable to the Industrial Commission and shall be submitted with the April 1 payment of the industrial special indemnity fund assessment, following notice by the Commission of the penalty assessment. (4-7-11)

05. Estimating Indemnity Payments for Entities That Fail to Report Timely. If an entity required to report indemnity payments under these rules fails to report within the time allowed in these rules, the Commission will estimate the indemnity payments for that entity by using the indemnity amount reported for the preceding reporting period and adding twenty percent (20%). (4-7-11)

06. Adjustment for Overpayments or Underpayments. Overpayments or underpayments, including those resulting from estimating the indemnity payments of entities that fail to report timely, will be adjusted on the billing for the subsequent period. (4-7-11)

272. -- 999. (RESERVED)

APPENDIX A

IC52 ELECTION OF COVERAGE

Check the appropriate box	
_ Election	_ Revocation of Election

The undersigned hereby notifies the Industrial Commission of the following:

- _ Household domestic service
- _ Casual employment
- _ Employment of outworkers
- _ Employment of members of an employer's family dwelling in his household. (Applies only to sole-proprietorships)
- _ Employment as the owner of a sole proprietorship
- _ Employment of a working member of a partnership or a limited liability company (Circle

either partnership or Limited Liability Company; if the election applies only to certain partners/members, name the covered partners/members.)

– Employment of an officer of a corporation who at all times during the period involved owns not less than ten percent (10%) of all of the issued and outstanding voting stock of the corporation and, if the corporation has directors, is also a director thereof (If the election applies only to certain corporate officers, name the covered officers)

– Employment for which a rule of liability for injury, occupational disease, or death is provided by the laws of the United States

– Pilots of agricultural spraying or dusting planes

– Associate real estate brokers and real estate salesmen paid solely by commission

– Volunteer ski patrollers

– Officials of athletic contests involving secondary schools

(Name of Insurance Company)

Policy Number _____

Insured Name _____

Effective Date of Election/Revocation _____

(Signature of authorized representative)

(Employer's signature)

[APPENDIX B is being deleted]

[APPENDIX C is being deleted]

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.11 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- SECURITY FOR COMPENSATION -- SELF-INSURED EMPLOYERS

DOCKET NO. 17-0211-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective *sine die*, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-301, 72-304 and 72-302, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 251 through 257](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jane McClaran, Financial Officer, (208) 334-6042.

DATED this 25th day of November, 2013.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-301, and 72-304, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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

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

This rule change allows the Industrial Commission to require a self-insured employer to provide a Guaranty Resolution that confirms the agreement of joint venturers or a parent corporation to guarantee the payment of all Idaho workers' compensation claims of employees of the self-insured employer. The rule also provides no credit for excess insurance coverage provided by a surplus lines carrier. The rule change also allows the Industrial Commission to presume that the most recent proof of coverage information contained in the Industrial Commission's database is correct for purposes of determining coverage by a self-insured employer. The rule also removes reporting forms from the rule and provides that the forms are available from the Commission or on the Commission's website.

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

There is no fiscal impact to the General Fund or to the Commission's fund as a result of these proposed changes. There is a potential positive fiscal impact to the dedicated Industrial Administration fund, but the amount is unknown.

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

There is no negative fiscal impact resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted because a subcommittee of the Commission's Advisory Committee, which included insurance carrier representatives and self-insured employers, has been providing input to the Industrial Commission in the drafting of these rules.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jane McClaran, (208) 334-6042.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 27th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0211-1301

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

Idaho Industrial Commission office hours are Monday through Friday, 8:00 a.m. to 5:00 p.m., except holidays designated by the state of Idaho. The mailing address for filing documents is Idaho Industrial Commission, PO BOX 83720, Boise, ID 83720-0041. The Commission office is located at 700 S. Clearwater Lane, Boise, ID 83712. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule is subject to and in compliance with the Public Records Act. ()

0047. -- 0409.(RESERVED)

0120. DEFINITIONS.

For the purposes of this chapter, the following definitions are applicable: (4-7-11)

01. Compensation. All benefits payable under the provisions of the Idaho Workers Compensation Law. (3-29-12)

02. Indemnity Benefits. All payments made to or on behalf of workers' compensation claimants, including temporary or permanent disability benefits, permanent partial impairment benefits, death benefits paid to dependents, retraining benefits, and any other type of income

benefits, but excluding medical and related benefits. (4-7-11)

03. Indemnity Claim. Any claim made for the payment of indemnity benefits. (4-7-11)

04. Payroll. The gross amount paid by an employer for salaries, wages or commissions earned by its own direct employees, but not including any money paid to another entity or received from another entity for leased employees. (4-7-11)

011. -- 012. (RESERVED)

013. RULES GOVERNING QUALIFICATIONS OF SELF-INSURED EMPLOYERS.

In order to be considered for approval by the Industrial Commission to self-insure under Section 72-301, Idaho Code, an employer shall comply with the following requirements: (4-7-11)

01. Payroll. Have an average annual Idaho payroll over the preceding three (3) years of at least four million dollars (\$4,000,000); (4-7-11)

02. Application. Submit a completed application, available from the Industrial Commission's Fiscal [Section Bureau](#), along with the application fee of two hundred fifty dollars (\$250), to the Idaho Industrial Commission, Attention: Fiscal [Section Bureau](#), ~~at 700 S. Clearwater Lane, PO Box 83720-0041, Boise, Idaho 83720-0041~~; telephone (208) 334-6000. (4-7-11)()

03. Documentation. Submit documentation satisfactory to the Commission demonstrating the sound financial condition of the employer, such as the most recent CPA reviewed or, if available, audited, financial statement; (4-7-11)

04. Adjuster. Designate in writing a licensed Idaho resident adjuster; (4-7-11)

05. Previous Claims. Provide a history of all workers' compensation claims filed with the employer or the employer's workers' compensation carrier, as well as all compensation paid, during the previous five (5) calendar years. (3-29-12)

06. Excess Insurance. Provide an insurance plan **that must include excess insurance coverage** and copies of all proposed policies of excess workers' compensation insurance coverage. (3-29-12)()

07. Actuarial Study. Provide an actuarial study prepared by a qualified actuary determining adequate rates for the proposed self-funded worker's compensation plan based upon a fifty percent (50%) confidence level. (3-29-12)

08. Feasibility Study. Provide a self-insurance feasibility study that includes an analysis of the advantages and disadvantages of self insurance as compared to current coverage, and the related costs and benefits. (3-29-12)

09. Custodial Agreement. Set up a custodial agreement with the State Treasurer for securities required to be deposited under Sections 72-301 and 72-302, Idaho Code; (4-7-11)

10. Supplemental Information. Provide supplemental information as requested; (4-7-11)

11. Initial Security Deposit. Prior to final approval, deposit an initial security deposit with the Idaho State Treasurer in the form permitted by Section 72-301, Idaho Code, or a self-insurer's bond in substantially the form set forth in Subsection 014.02, of this rule, in the amount of one hundred and fifty thousand dollars (\$150,000), plus five percent (5%) of the first ten million dollars (\$10,000,000.00) of the employer's average annual payroll in the state of Idaho for the three (3) preceding years; along with such additional security as may be required by the Commission based on prior claims history; (4-7-11)

12. Initial Guaranty Agreement. The Commission may allow or, where financial reports or other factors such as the high risk industry of the employer indicate the need, require an employer that is organized as a joint venture or a wholly owned subsidiary to provide a guaranty agreement from each member of the joint venture or the parent company. This guaranty agreement confirms the continuing agreement of each of the joint venture members or the parent company to guarantee the payment of all Idaho workers' compensation claims of employees of that joint venture or subsidiary employer seeking to become self-insured. The guaranty agreement shall be in substantially the same form as the current sample Indemnity and Guaranty Agreement and, as applicable, the companion Consent of the Board of Directors, available from the Commission and posted on the Commission's website at www.iic.idaho.gov. ()

123. Written Approval. Obtain written approval from the Industrial Commission. (4-7-11)

014. CONTINUING REQUIREMENTS FOR SELF-INSURED EMPLOYERS.

Upon receiving the approval of the Industrial Commission to be a self-insured employer under Section 72-301, Idaho Code, to continue such approval a self-insured employer shall comply with the following requirements: (4-7-11)

01. Payroll Requirements. Maintain an average annual Idaho payroll over the preceding three (3) years of at least four million dollars (\$4,000,000). Any self-insured employer that does not meet the payroll requirement of this rule for two consecutive semi-annual premium tax reporting periods shall be allowed to maintain their self-insured status for six (6) months from the end of the last reporting period in order to permit them time to increase their payroll or obtain workers' compensation coverage with an insurance carrier authorized to write workers' compensation insurance in the state of Idaho. (3-29-12)

02. Security Deposit with Treasurer. (4-7-11)

a. Maintain a primary security deposit with the Idaho State Treasurer in the form permitted by Section 72-301, Idaho Code, a self-insurer's bond in substantially the form set forth below, or in such other form approved by the Commission, in the amount of one hundred fifty thousand dollars (\$150,000), plus five percent (5%) of the employers' average annual payroll in the state of Idaho for the three (3) preceding years, not in excess of ten million dollars (\$10,000,000). In addition thereto, the self-insured employer shall deposit additional security in such amount as the Commission determines is necessary to secure the self-insured employer's

total unpaid liability for compensation under the Workers' Compensation Law. No approved security shall be accepted for deposit above its par value. Additional deposits of approved security may be required semi-annually if the market value of an approved investment falls below its par value or if the total value of the employer's security deposit falls below the total security required to be maintained on deposit when calculated in accordance with this rule. ~~(3-29-12)~~()

b. Self-insured employers shall receive a credit for the primary security deposit against the self-insured employer's obligation to post the additional security required by Subsection 014.02.a. of this rule. (3-29-12)

c. Excess insurance coverage approved by the Commission may apply as a credit against the self-insured employer's obligation to post the additional security required by Subsection 014.02.a. of this rule. The Commission must be provided with thirty (30) days advance written notice of any change or cancellation of an approved excess insurance policy. No credit will be given for any excess insurance coverage provided by a surplus lines carrier, as described in Chapter 12, Title 41, Idaho Code. ~~(3-29-12)~~()

d. All security deposited by the self-insured employer shall be maintained as provided by Section 72-302, Idaho Code. (4-7-11)

e. Any withdrawal or partial release of security deposited hereunder must be requested in writing and approved by the Commission. (4-7-11)

SELF-INSURER'S COMPENSATION BOND

KNOW ALL MEN BY THESE PRESENTS, THAT _____, a corporation of the State of _____, hereinafter called the Principal, as Principal, and the _____, a surety corporation authorized to transact a surety business in the State of Idaho, as Surety, are held and firmly bound unto the State of Idaho, for the use and benefit of all those employees of the Principal to whom or to the dependents of whom the Principal may, during the life of this bond, become liable for benefits under the Idaho Workers' Compensation Law, as hereinafter more fully referred to, in the sum equal to and limited by the sum or sums that may become due and/or payable by said Principal to said employees under the terms, provisions and limitations of said Workers' Compensation Law, and in accordance with the terms, agreements, conditions and limitations of this obligation not exceeding, however, the sum of _____ dollars, for the payment of which, well and truly made, the Principal well and truly binds itself, its successors and assigns, and the Surety binds itself, its successors and assigns, jointly and severally, well and truly by these presents.

WHEREAS, in accordance with the provisions of Idaho Code, Title 72, Chapters 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto, and Principal has elected to secure compensation to its employees by depositing and maintaining with the Industrial Commission of Idaho a surety bond issued and executed by the surety herein named, which surety is duly qualified to transact such business in the state of Idaho subject to the approval of the Industrial Commission of the State of Idaho.

NOW, THEREFORE, the condition of this obligation is such that if the said Principal shall pay compensation according to the terms, provisions, and limitations of Idaho Code, Title 72,

Chapter 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto, to its injured employees or the dependents of its killed employees contemplated by the terms of and covered under the said law, and shall furnish medical, surgical, nursing and the hospital services and attention and funeral expenses as provided for in said law (all of which shall be understood to be included in the term "compensation" as hereinafter used), then this obligation shall be null and void, otherwise to remain in full force and effect, subject, however to the following express conditions and agreements:

That any employee or the dependent of any employee of the Principal entitled to compensation under said Workers' Compensation Law, shall have the right to enforce in his own name the liability of the Surety hereunder, in whole or in part, for such compensation, either by at any time filing a separate claim against the Surety or by at any time making the Surety a part of the original claim against the employer; provided, however, that payment in whole or in part of such compensation by either the Principal or the Surety shall, to the extent thereof, be a bar to the recovery against the other of the amount so paid.

That as between the employee and the Surety, notice to or knowledge of the occurrence of injury on the part of the employer shall be deemed notice to or knowledge, as the case may be, on the part of the Surety; that the obligation of the Surety, and the Surety, shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the Principal for the payment of compensation under the provisions of the Workers' Compensation Law aforesaid, and that the insolvency or bankruptcy of the Principal and its discharge therein, shall not relieve the Surety from the payment of compensation for injuries, including death resulting therefrom, sustained during the life of this bond by an employee of the Principal covered under the Workers' Compensation Law.

That upon request of the Industrial Commission of Idaho, it will make such changes in this form of bond by endorsement to be attached hereto or by the execution of a surety bond replacing this one, as the said Commission may deem requisite, to bring this bond into conformity with its rulings as to the form of surety bond required of employers under Idaho Code, Title 72, Chapters 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto.

This bond is issued for an indefinite term to begin on the _____ day of _____, 20____, and will continue in full force and effect until terminated in either of the following two manners: This bond may be cancelled by the Surety by filing sixty (60) days written cancellation notice by registered mail with the Industrial Commission of the State of Idaho. This bond may be cancelled by the Industrial Commission of the State of Idaho by written notice to the Surety hereon, which notice shall specify the date of termination of the bond.

IN TESTIMONY WHEREOF, the said Principal and said Surety have caused these presents to be executed in due form this _____ day of _____, 20____.

Countersigned

By

Resident Agent

Principal

SEAL

SEAL

By _____

By _____

Samples of this form are available from the Fiscal Section Bureau of the Industrial Commission, 700 S. Clearwater Lane, P. O. Box 83720, Boise, Idaho 83720-0041, Telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. (4-7-11)()

03. Continue or Provide Guaranty Agreement. ()

a. A self-insured employer that is organized as a joint venture or a wholly owned subsidiary shall continue in effect any guaranty agreement that the Commission has previously allowed or required, until termination is permitted by the Commission. ()

b. Where an adverse change in financial condition or other relevant factors such as claims history or industry risk indicates the need, a self-insured employer that is organized as a joint venture or a wholly owned subsidiary may be allowed to, or shall upon request, provide a guaranty agreement from each member of the joint venture or the parent company. This guaranty agreement confirms the continuing agreement of each of the joint venture members or the parent company to guarantee the payment of all Idaho workers' compensation claims of employees of that joint venture or subsidiary self-insured employer. The guaranty agreement shall be in substantially the same form as the current sample Indemnity and Guaranty Agreement, and as applicable, the companion Consent of the Board of Directors, available from the Commission and posted on the Commission's website at www.iic.idaho.gov. ()

034. Maintain a Licensed Resident Adjuster. Maintain a resident licensed claims adjuster located within the state of Idaho who shall have full authority to service said claims on behalf of the employer including, but not limited to, the following: (4-7-11)

- a.** Investigate and adjust all claims for compensation; (4-7-11)
- b.** Pay all compensation benefits due; (4-7-11)
- c.** Accept service of claims, applications for hearings, orders of the Commission, and all process which may be issued under the Workers' Compensation Law; (4-7-11)
- d.** Enter into compensation agreements and lump sum settlements with Claimants; (4-7-11)
- e.** Provide at the employer's expense necessary forms to any employee who wishes to file a claim under the Workers' Compensation Law. (4-7-11)

045. File Reports. Report to the Industrial Commission semi-annually, or more often as required by the Commission, total unpaid liability on all open claims. (3-29-12)

a. The semi-annual report of total unpaid liability shall be filed with the Industrial Commission by the end of the months of January and July. (3-29-12)

b. The report shall provide the aggregate number of open claims, including indemnity with medical and medical only claims, along with the amount of any compensation paid on open claims, as of the end of each June and December. (3-29-12)

c. The report shall be filed even if there are no open claims. In that event, the employer shall certify the fact that there are no open claims to be reported. (3-29-12)

d. The report shall be submitted on or in a format that is substantially the same as **the current** Form IC-211, "Self-Insured Employer Report of Total Unpaid Liability," *which follows this chapter as Appendix A* available from the Fiscal Bureau of the Industrial Commission or on the Commission's website at www.iic.idaho.gov. The report may be produced as a computerized spreadsheet or database printout and shall be submitted to the Commission in writing on paper no larger than eight and one-half inches by eleven inches (8 ½" x 11") in size. ~~(3-29-12)~~()

e. The report shall be signed and certified to be correct by a corporate officer. If an employer has designated more than one adjuster for workers' compensation claims in Idaho, a corporate officer of the employer shall prepare, certify and file a consolidated report of all unpaid liability. (3-29-12)

f. A self-insured employer shall also make such other reports to the Commission as it may require in reference to matters under the Workers' Compensation Law. (4-7-11)

056. Submit to Audits by Industrial Commission. Each year a self-insured employer shall provide the Industrial Commission with a copy of its annual financial statements, or other acceptable documentation. Each self-insured employer shall submit to audit by the Commission or its designee at any time and as often as it requires to verify the amount of premium such self-insured employer would be required to pay as premium to the State Insurance Fund, and to verify compliance with the provisions of these rules and the Idaho Workers' Compensation Law. **For the purpose of determining such premium for uninsured contractors of a self-insured employer, the most recent proof of coverage information contained in the Industrial Commission's database shall be presumed to be correct for the purpose of determining such coverage.** ~~(4-7-11)~~()

067. Comply with Law and Rules. Comply with the statutes of the state of Idaho and the rules of the Industrial Commission to the end that payment of compensation shall be sure and certain and not unnecessarily delayed. The Commission may withdraw its approval of any employer to operate as a self-insurer if it shall appear to the Commission that workers secured by said self-insured employer are not adequately protected and served, or the employer is failing to comply with the provisions of these rules or the Workers' Compensation Law. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

271. RULE GOVERNING REPORTING INDEMNITY AND MEDICAL PAYMENTS AND MAKING PAYMENT OF INDUSTRIAL SPECIAL INDEMNITY FUND ASSESSMENT.

Pursuant to Section 72-327, Idaho Code, every authorized self-insurer authorized to self-insure its workers' compensation obligations in Idaho shall report annually to the Industrial Commission the total gross amount of indemnity benefits paid on Idaho workers' compensation claims during the applicable reporting period. (4-7-11)

01. Filing. The report of indemnity and medical payments shall be filed with the Industrial Commission simultaneously with the first Semi-Annual Premium Tax Report; which, pursuant to Section 72-523, Idaho Code, is due each year on March 3rd. (3-29-12)

02. Form. The report of indemnity and medical payments shall be submitted in writing on, or in a format substantially the same as the current Form IC2-327, "Workers' Compensation Claims Involving Medical Payments Only and Claims Involving Indemnity Payments Report," ~~contained in Appendix B at the end of this chapter~~ available from the Fiscal Bureau of the Industrial Commission or on the Commission's website at www.iic.idaho.gov. ~~(3-29-12)~~()

03. Report Required When No Indemnity Paid. If an entity required to report under this rule has no claims against which indemnity payments have been made during the reporting period, a report shall be filed so indicating. (4-7-11)

04. Penalty for Late Filing. A penalty shall be assessed by the Commission for filing the report of indemnity and medical payments later than March 3rd each year. (3-29-12)

a. A penalty of two hundred dollars (\$200) shall be assessed for late filing of seven (7) days or less. (4-7-11)

b. A penalty of one hundred dollars (\$100) per day shall be assessed for late filing of more than seven (7) days. (4-7-11)

c. A penalty assessed by the Commission shall be payable to the Industrial Commission and shall be submitted with the April 1 payment of the industrial special indemnity fund assessment, following notice by the Commission of the penalty assessment. (4-7-11)

05. Estimating Indemnity Payments for Entities That Fail to Report Timely. If an entity required to report indemnity and medical payments under these rules fails to report within the time allowed in these rules, the Commission will estimate the indemnity payments for that entity by using the indemnity amount reported for the preceding reporting period and adding twenty percent (20%). (3-29-12)

06. Adjustment for Overpayments or Underpayments. Overpayments or underpayments, including those resulting from estimating the indemnity payments of entities that fail to report timely, will be adjusted on the billing for the subsequent period. (4-7-11)

272. -- 999. (RESERVED)

[APPENDIX A and APPENDIX B are being removed]

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.04 - RULES PERTAINING TO BAIL AGENTS

DOCKET NO. 18-0104-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rulemaking will delete Section 016 from Rule 18.01.04 to conform the rule to the interpretation of Section 41-1042, Idaho Code, consistent with the Idaho Supreme Court's holding in *Two Jinn v. Idaho Department of Insurance*, 154 Idaho 1, 293 P.3d 150 (2013.)

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 157 and 158](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tom Donovan, at 208-334-4214 or tom.donovan@doi.idaho.gov or Dale Freeman at 208-334-4321, dale.freeman@doi.idaho.gov.

DATED this 25th day of September, 2013.

William W. Deal
Director
Idaho Department of Insurance
700 W. State St - 3rd floor
Boise ID 83720
208-334-4250
208-334-4398 (fax)

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section, 41-211, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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

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

This rulemaking will delete Section 016 from Rule 18.01.04 to conform the rule to the interpretation of Section 41-1042, Idaho Code, consistent with the Idaho Supreme Court's holding in *Two Jinn v. Idaho Department of Insurance*, 154 Idaho 1, 293 P.3d 150 (2013).

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013, Idaho Administrative Bulletin, [Volume 13-7, page 64](#).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tom Donovan, at 208-334-4214, or tom.donovan@doi.idaho.gov or Dale Freeman at 208-334-4321, dale.freeman@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 8th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0104-1301

016. ~~ALLOWABLE BAIL AGENT CHARGES AND FEES.~~ **(RESERVED)**

~~01: **Charges for Bail Transaction.** A bail agent shall not directly or indirectly impose or seek to impose any fees or charges except for those permitted under Section 41-1042, Idaho Code, as a part of any application, issuance, effectuation or continuation of a bail bond. (4-7-11)~~

~~02: **Charges for Additional Services.** Charges and fees outside the scope of Section 41-1042, Idaho Code, such as charges for returning a defendant to custody after a breach of the bail bond contract, must be negotiated separately after the bail bond has been effectuated. Negotiations for additional charges shall not be entered into as a part of the application, issuance and effectuation of a bail bond and shall not be a condition of or requirement for entering into or continuing a bail bond contract. Any fees or charges that are negotiated separately shall be reasonable in relation to the expenses or services for which the fee or charge is imposed and must be accompanied by a statement that clearly explains that any agreement to pay fees or charges is not a requirement or condition to the validity of the existing bail bond. (4-7-11)~~

~~03: **Collateral.** Except as provided in Section 017.03 of this rule, collateral accepted in connection with the bail bond transaction shall be used solely for reimbursement of penal amounts paid to the courts in the case of forfeiture of the bail bond. (4-7-11)~~

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.23 - RULES PERTAINING TO THE IDAHO INSURANCE HOLDING COMPANY SYSTEM REGULATORY ACT

DOCKET NO. 18-0123-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-3817, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 258 through 281](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tom Donovan at (208)334-4214, tom.donovan@doi.idaho.gov.

DATED this 31st day of October, 2013.

William W. Deal, Director
Department of Insurance
700 West State Street - 3rd Floor
Boise ID 83720-0043
Phone: (208)334-4250
Fax: (208)334-4398

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to sections 41-211 and 41-3817, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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

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

This rulemaking will update the existing rule consistent with changes made to Title 41, Chapter 38, Idaho Code during the 2013 legislative session in House Bill 197 affecting insurance holding company systems. Changes will include, but not be limited to, setting forth the elements of the new filing requirements for a new Form F – Enterprise Risk Report.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin, **Volume 13-7**, page 65.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Thomas A. Donovan at (208) 334-4214, tom.donovan@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 30th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0123-1301

18.01.23 - RULES PERTAINING TO ~~THE~~ IDAHO ACQUISITIONS OF CONTROL AND INSURANCE HOLDING COMPANY SYSTEMS ~~REGULATORY ACT~~

000. ~~(RESERVED)~~ LEGAL AUTHORITY

These rules are promulgated by the Director of the Department of Insurance pursuant to the authority of sections 41-211 and 41-3817, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be referred to as IDAPA 18.01.23, “Rules Pertaining to ~~the~~ Idaho Acquisitions of Control and Insurance Holding Company Systems ~~Regulatory Act.~~” (7-1-99)()

02. Scope. The purposes of these rules are: To set forth rules and procedural requirements which the Director deems necessary to carry out the provisions of the Idaho Acquisitions of Control and Insurance Holding Company Systems Regulatory Act, ~~compiled as Sections 41-3801 through 41-3821~~ Title 41, Chapter 38, Idaho Code, also hereinafter referred to as “the Act.” The information called for by these rules is hereby declared to be necessary and appropriate in the public interest and for the protection of policyholders and shareholders of this state. (7-1-99)()

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provisions of Title 41, Chapter 2, and Title 67, Chapter 52, Idaho Code and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (7-1-99)()

~~004.—010.~~ ~~(RESERVED)~~

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB ADDRESS.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Mailing Address. The department’s mailing address is: Idaho Department of

Insurance, P.O. Box 83720, Boise, ID 83720-0043. ()

03. Street Address. The department's principal place of business is 700 West State Street, 3rd Floor, Boise, ID 83720-0043. ()

04. Web Site Address. The department's website is http://www.doi.idaho.gov. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho public records law within Title 9, Chapter 3, Idaho Code. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Executive Officer. Chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title. ()

02. Ultimate Controlling Person. That person who is not controlled by any other person. ()

03. Section 41-3802, Idaho Code. Unless the context otherwise requires, other terms found in these rules and in Section 41-3802, Idaho Code, are used as defined therein. Other nomenclature or terminology is used as provided for in Title 41, Idaho Code, or industry usage if not defined therein. ()

011. FORMS -- GENERAL REQUIREMENTS.

01. Forms Intended to Be Guides. Forms A, B, C, D, ~~and E,~~ and F are intended to be guides in the preparation of statements required by Sections 41-3802~~4~~, 41-3808, 41-3806~~9~~ and 41-3807~~10~~, of the Act Idaho Code. They are not intended to be blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are ~~so~~ prepared in such a manner as to indicate to the reader the clearly the scope and coverage of the items ~~without the necessity of his referring to the text of the items or the instructions thereto~~. All instructions, whether occurring under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made. (7-1-99)()

02. Filings of Statement. Each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Director electronically and at least one hard copy by personal delivery or mail ~~addressed to:~~

*Director of Insurance
700 West State Street, 3rd Floor
Boise, Idaho 83720*

~~A copy of Form C shall be filed in each state in which an insurer is authorized to do business, if the Commissioner of that state has notified the insurer of its request in writing, in which case the insurer has thirty (30) days from receipt of the notice to file such form. The statement shall be manually signed in the manner prescribed on the form. At least one (1) of the copies shall be signed in the manner prescribed on the form. Unsigned copies shall be conformed.~~ If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement. ~~(12-24-93)()~~

03. Format. ~~Statements should be prepared on paper eight and one half by eleven inches (8 1/2" x 11") in size and preferably bound at the top or the top left hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable and suitable for photocopying.~~ **Statements should be prepared electronically. Statements shall be easily readable and suitable for review and reproduction.** Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency. ~~(12-24-93)()~~

04. Hearing. **If an applicant requests a hearing on a consolidated basis under Section 41-3806(3), Idaho Code, in addition to filing the Form A with the Director, the applicant shall file a copy of Form A with the NAIC (National Association of Insurance Commissioners) in electronic form.** ~~()~~

012. FORMS -- INCORPORATION BY REFERENCE, SUMMARIES AND OMISSIONS.

01. Incorporation by Reference. Information required by any item of Form A, Form B, Form D, ~~or~~ **Form E, or Form F** may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B, Form D, ~~or~~ **Form E, or Form F** provided such document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the Director which were filed within three (3) years need not be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing. ~~(7-1-99)()~~

02. Summaries or Outlines. Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular ~~facts~~ **parts** of any exhibit or document currently on file with the Director which was filed within three (3) years and may be qualified in its entirety by such reference. In any case where two (2) or more documents required to be filed as exhibits are substantially identical in all

material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one (1) of such documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which such documents differ from the documents a copy of which is filed. (12-24-93)()

013. FORMS -- INFORMATION UNKNOWN OR UNAVAILABLE AND EXTENSION OF TIME TO FURNISH.

If it is impractical to furnish any required information, document or report at the time it is required to be filed, there shall be filed with the Director a separate document: ()

01. Identification. Identifying the information, document or report in question; ()

02. Impracticality. Stating why the filing thereof at the time required is impractical; and ()

03. Extension. Requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Director within twenty-eight (28) days after receipt thereof enters an order denying the request. ()

0134. FORMS -- ADDITIONAL INFORMATION AND EXHIBITS.

In addition to the information expressly required to be included in Form A, Form B, Form C, Form D, and Form E, ~~there shall be added~~ and Form F, the Director may request such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to Forms A, B, C, D, ~~or E,~~ or F shall include on the top of the cover page the phrase: "Change No. [insert number] to" and shall indicate the date of the change and not the date of the original filing. (7-1-99)()

014. DEFINITIONS.

~~01. Executive Officer.~~ Any individual charged with active management and control in an executive capacity (including a President, Vice President, Treasurer, Secretary, Controller and any other individual performing functions corresponding to those performed by the foregoing officers) of a person, whether incorporated or unincorporated. (12-24-93)

~~02. Ultimate Controlling Person.~~ That person who is not controlled by any other person. (12-24-93)

~~03. Terms Defined in Holding Company Act.~~ Unless the context otherwise requires, other terms found in these rules are used as defined in Section 41-3801 of the Act. Other nomenclature or terminology is according to the Insurance Code, or the industry usage if not defined by the code. (12-24-93)

015. SUBSIDIARIES OF DOMESTIC INSURERS.

The authority to invest in subsidiaries under Section 41-3803, Idaho Code, is in addition to any authority to invest in subsidiaries which may be contained in any other provision of Title 41, Idaho Code. ()

0156. ACQUISITION OF CONTROL -- STATEMENT FILING.

A person required to file a statement pursuant to Section 41-3802~~4~~, *of the Act Idaho Code*, shall furnish the required information on Form A, which is hereby made a part of this rule. Such person shall also furnish the required information on Form E, hereby made a part of this rule and described in Section 019. of this chapter. (7-1-99)()

017. AMENDMENTS TO FORM A.

The applicant shall promptly advise the Director of any changes in the information furnished on Form A arising subsequent to the date upon which the information was furnished but prior to the Director's disposition of the application. ()

018. ACQUISITION OF SECTION 41-3804(1)(D) INSURERS.

01. Name of the Domestic Insurer. If the person being acquired is deemed to be a "domestic insurer" solely because of the provisions of Section 41-3804(1)(d), Idaho Code, the name of the domestic insurer on the cover page should be indicated as follows: "ABC Insurance Company, a subsidiary of XYZ Holding Company." ()

02. References to Insurer. Where a Section 41-3804(1)(d) insurer is being acquired, references to "the insurer" contained in Form A shall refer to both the domestic subsidiary insurer and the person being acquired. ()

0169. PRE-ACQUISITION NOTIFICATION.

01. Pre-Acquisition Notification -- Domestic Insurer. If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to Section 41-3802(1)(a), Idaho Code, that person shall file a pre-acquisition notification form, Form E, which was developed pursuant to Section 41-3805~~B~~8(3)(a), Idaho Code. (7-1-99)()

02. Pre-Acquisition Notification - Non-Domiciliary Insurer. If a non-domiciliary insurer licensed to do business in this state is proposing a merger or acquisition pursuant to Section 41-3805~~B~~8, Idaho Code, that person shall file a pre-acquisition notification form, Form E. No pre-acquisition form need be filed if the acquisition is beyond the scope of Section 41-3805~~B~~8, Idaho Code, as set forth in Section 41-3805~~B~~8(2), Idaho Code. (7-1-99)()

03. Expert Opinion. In addition to the information required by Form E, the director may wish to require an expert opinion as to the competitive impact of the proposed acquisition. (7-1-99)

01720. ANNUAL REGISTRATION OF INSURERS -- STATEMENT FILING.

An insurer required to file a statement pursuant to Section 41-3806~~9~~, *of the Act Idaho Code*, shall furnish the required information on Form B, which is hereby made a part of these rules. (12-24-93)()

01821. SUMMARY OF REGISTRATION -- STATEMENT FILING.

An insurer required to file an annual registration statement pursuant to section 41-3806~~9~~, *of the Act Idaho Code*, is also required to furnish information required on Form C, hereby made a part of

these rules. ~~An insurer shall file a copy of Form C in each state in which the insurer is authorized to do business, if requested by the Commissioner of that state.~~ (12-24-93)()

~~01922.~~ **AMENDMENTS TO FORM B.**

01. Amendment to Form B. An amendment to Form B shall be filed within fifteen (15) days after the end of any month in which there is a material change to the information provided in the annual registration statement. (7-1-99)

02. Form B Format. Amendments shall be filed in the Form B format with only those items which are being amended reported. Each amendment shall include at the top of the cover page "Amendment No. [insert number] to Form B for [insert year]" and shall indicate the date of the change and not the date of the original filings. (7-1-99)

~~0203.~~ **ALTERNATIVE AND CONSOLIDATED REGISTRATIONS.**

01. Filing on Behalf of Affiliated Insurers. Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under Section 41-380~~69~~, ~~of the Act~~ **Idaho Code**. A registration statement may include information regarding any insurer in the insurance holding system, even if such insurer is not authorized to do business in this state. In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided: (12-24-93)()

a. The statement or report contains substantially similar information required to be furnished on Form B; and (12-24-93)

b. The filing insurer is ~~a~~ **the** principal insurance company in the insurance holding company system. (12-24-93)()

02. Statement That Filing Insurer Is the Principal Insurer. The question of whether the filing insurer is the principal insurance company in the insurance holding system is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer, shall set forth a simple statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding system. (12-24-93)

03. Unauthorized Insurer. With the prior approval of the Director, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under Subsection ~~0203.01.a.~~ ~~above~~ **of this rule**. (7-1-99)()

04. Consolidated Registration Statements. Any insurer may take advantage ~~of any~~ of the provisions of Section 41-380~~69~~(8), or 41-380~~69~~(9), ~~of the Act~~ **Idaho Code**, without obtaining prior approval of the Director. The Director, however, reserves the right to require individual filings if he deems such filings necessary in the interest of clarity, ease of administration ~~of~~ the public good. (12-24-93)()

~~021.~~ **EXEMPTIONS.**

~~01. **Registration in Domiciliary State.** A foreign or alien insurer otherwise subject to Section 41-3806 of the Act shall not be required to register pursuant to said Section of the Act: (12-24-93)~~

~~a. If it is admitted in the domiciliary state of the principal insurer (as that term is defined in Section 024) and if said state is subject to disclosure requirements and standards adopted by statute or regulation which are substantially similar to those contained in Section 41-3806 of the Act, provided, the Director may require a copy of the registration statement or other information filed with the domiciliary state; or (12-24-93)~~

~~b. Until July 1, 1973. (12-24-93)~~

~~02. **Alien Insurer.** The state of entry of an alien insurer shall be deemed to be its domiciliary state for purposes of Section 017. (7-1-99)~~

~~03. **Application by Insurer Not Otherwise Exempt.** Any insurer not otherwise exempt or excepted from Section 017 may apply for an exemption from the requirements of Section 41-3806 of the Act by submitting a statement to the Director setting forth its reasons for being exempt. (7-1-99)~~

0224. DISCLAIMERS AND TERMINATION OF REGISTRATION.

01. Information Required. A disclaimer of affiliation or a request for termination of registration, claiming that a person does not, or will not, upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") shall contain the following information: (12-24-93)

a. The number of authorized, issued and outstanding voting securities of the subject; (12-24-93)

b. With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly; (12-24-93)

c. All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person: (12-24-93)

d. A statement explaining why such person should not be considered to control the subject. (12-24-93)

02. Request Deemed Granted. A request for termination of registration shall be deemed to have been granted unless the Director, within thirty (30) days after he receives the request, notifies the registrant otherwise. (12-24-93)

0235. TRANSACTIONS SUBJECT TO PRIOR NOTICE - NOTICE FILING.

01. Form D. An insurer required to give notice of a proposed transaction pursuant to

section 41-380710, ~~of the Act~~ Idaho Code, shall furnish the required information on Form D, ~~hereby made a part of these rules~~ set forth in Subsection 025.02. ~~(12-24-93)~~()

02. Agreements. Agreements for cost sharing services and management services shall at a minimum and as applicable: ()

a. Identify the person providing services and the nature of such services; ()

b. Set forth the methods to allocate costs; ()

c. Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual; ()

d. Prohibit advancement of funds by the insurer to the affiliate except to pay for services specified in the agreement; ()

e. State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance; ()

f. Define books and records of the insurer to include all books and records developed or maintained under or related to the agreement; ()

g. Specify that all books and records of the insurer are and remain the property of the insurer and are subject to control of the insurer; ()

h. State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer; ()

i. Include standards for termination of the agreement with and without cause; ()

j. Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services; ()

k. Specify that, if the insurer is placed in receivership or seized by the Director under Title 41, Chapter 33, Idaho Code: ()

i. All of the rights of the insurer under the agreement extend to the Director; and ()

ii. All books and records shall immediately be made available to the Director, and shall be turned over to the Director immediately upon the Director's request; ()

l. Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to Title 41, Chapter 33, Idaho Code; and ()

m. Specify that the affiliate shall continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the Director under Title 41, Chapter 33, Idaho Code, and will make them available to the Director, for so long as the affiliate continues to receive

timely payment for services rendered. ()

026. ENTERPRISE RISK REPORT.

The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to Section 41-3809(12), Idaho Code, shall furnish the required information on Form F, located at the end of this chapter. ()

0247. EXTRAORDINARY DIVIDENDS AND OTHER DISTRIBUTIONS.

~~01. *Notice to Director.* No insurer subject to registration under the provisions of the Act shall pay any extraordinary dividend or make any other extraordinary distribution to its stockholders until sixty (60) days after the Director has received notice of the declaration thereof and has not within such period disapproved such payment, or the Director has approved such payment within such sixty (60) day period. Such notice shall include the following information:~~
Request for Approval. Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following: (12-24-93)()

- a. The amount of the proposed dividend; (12-24-93)
- b. The date established for payment of the dividend; (12-24-93)
- c. A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value, together with an explanation of the basis for valuation; (12-24-93)
- d. A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information: (12-24-93)
 - i. The amounts, ~~and~~ dates, and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year; (12-24-93)()
 - ii. Surplus as regards policyholders (total capital and surplus) as of the 31st day of December next preceding; (12-24-93)
 - iii. If the insurer is ~~not~~ a life insurer, the net gain ~~income~~ from operations for the twelve (12) month period ending the 31st day of December next preceding; (12-24-93)()
 - iv. If the insurer is not a life insurer, the net income ~~less realized capital gains~~ for the twelve (12) month period ending the 31st day of December next preceding and the two preceding twelve (12) month periods; and (12-24-93)()
 - v. If the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two (2) calendar years. (12-24-93)
- e. A balance sheet and statement of income for the period intervening from the last

annual statement filed with the Director and the end of the month preceding the month in which the request for dividend approval is submitted; **and** ~~(12-24-93)~~()

f. A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs. (12-24-93)

02. **Other Dividends.** Subject to Section 41-38~~09~~**12**, ~~of the Act~~ **Idaho Code**, each registered insurer shall report to the Director all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof, including the same information required by Subsections 02~~87~~**.01.d.i. through 028.01.d.v.** ~~(12-24-93)~~()

0258. ADEQUACY OF SURPLUS.

The factors set forth in Section 41-38~~08~~**11**, ~~of the Act~~ **Idaho Code**, are not intended to be an exhaustive list. In determining the adequacy and reasonableness of the insurer's surplus, no single factor ~~shall be~~ **is necessarily** controlling. The Director, instead, will consider the net effect of all of these factors, plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the Director will consider the extent to which **each** of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the Director will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant. ~~(10-1-93)~~()

0269. -- 999. (RESERVED)

FORM A
STATEMENT REGARDING THE
ACQUISITION OF CONTROL OF
OR MERGER WITH A DOMESTIC INSURER

(Name of Domestic Insurer)

BY

(Name of Acquiring Person, Applicant)

Filed with the Insurance Department of **Idaho** _____

~~(state of domicile of insurer being acquired)~~

Dated: _____, 20____

Name, title, address and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

Form A

ITEM 1. ~~INSURER AND~~ METHOD OF ACQUISITION.

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT.

a. State the name and address of the applicant seeking to acquire control over the insurer.

b. If the applicant is not an individual, state the nature of its business operations for the past five (5) years or for such lesser period as such person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.

c. Furnish a chart or listing clearly presenting the identities of the interrelationships among the applicant and all affiliates of the applicant. ~~No affiliate need be identified if its total assets are equal to less than one-half (1/2) of one percent (1%) of the total assets of the ultimate controlling person affiliated with the applicant.~~ Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing, indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings ~~looking toward~~ involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT.

On the biographical affidavit, include a third party background check, and State the following with respect to (1) the applicant if he is an individual or (2) all persons who are directors, executive officers or owners of ten percent (10%) or more of the voting securities of the applicant if the applicant is not an individual:

- a. Name and business address;
- b. Present principal business activity, occupation or employment, including position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on;
- c. Material occupations, positions, offices or employments during the last five (5) years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith.
- d. Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten (10) years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

ITEM 4. NATURE, SOURCE AND AMOUNT OF CONSIDERATION.

- a. Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto.
- b. Explain the criteria used in determining the nature and amount of such consideration.
- c. If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, he must specifically request that the identity be kept confidential.

ITEM 5. FUTURE PLANS FOR INSURER.

Describe any plans or proposals which the applicant may have to declare as an extraordinary dividend, to liquidate ~~such~~ the insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

ITEM 6. VOTING SECURITIES TO BE ACQUIRED.

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

ITEM 7. OWNERSHIP OF VOTING SECURITIES.

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.

ITEM 8. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER.

Give a full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any persons listed in Item 3 is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom ~~such~~ the contracts, arrangements or understandings have been entered into.

ITEM 9. RECENT PURCHASES OF VOTING SECURITIES.

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3 during the twelve (12) calendar months preceding the filing of this statement. Include in ~~such~~ the description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefor. State whether any such shares so purchased are hypothecated.

ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE.

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3 during the twelve (12) calendar months preceding the filing of this statement.

ITEM 11. AGREEMENTS WITH BROKER-DEALERS.

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS.

a. Financial statements, ~~and~~ exhibits, and three-year financial projections of the insurer(s) shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

b. The financial statements shall include the annual financial statements of the persons identified in Item 2(c)) for the preceding five (5) fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and

similar information covering the period from the end of such person's last fiscal year, if ~~such~~ **the** information is available. ~~Such~~ **The** statements may be prepared on either an individual basis, or, unless the Director otherwise requires, on a consolidated basis if ~~such~~ consolidated statements are prepared in the usual course of business.

b. The financial statements shall include the annual financial statements of the persons identified in Item 2(c)) for the preceding five (5) fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if such information is available. Such statements may be prepared on either an individual basis, or, unless the Director otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of such person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

c. File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto, any proposed employment, consultation, advisory or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by Form A or Sections 01~~2~~**1** and 01~~4~~**3**.

ITEM 13. AGREEMENT REQUIREMENTS FOR ENTERPRISE RISK MANAGEMENT

Applicant agrees to provide, to the best of its knowledge and belief, the information required by Form F within fifteen (15) days after the end of the month in which the acquisition of control occurs.

ITEM ~~13~~4**. SIGNATURE AND CERTIFICATION.**

Signature and certifications required as follows:

SIGNATURE

Pursuant to the requirements of Section 41-380~~2~~**4**, *of the Act*
Idaho Code, _____

(Name of Applicant)

as caused this application to be duly signed on its behalf

in the City of _____ and State of _____
on the _____ day _____ 20____.

Pursuant to the requirements of Section 41-38024, ~~of the Act~~ **Idaho Code**,
~~(Name of Applicant)~~ has caused this application to be duly signed on its behalf in the City of
_____ and State of _____ on the _____ day _____ 20____.

(SEAL)

(Name of Applicant)

BY:

(Name) (Title)

ATTEST:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that **(s)**he has duly executed
the attached application dated _____ 20____,
for and on behalf of _____
(Name of Applicant)

that **(s)**he is **the _____ (Title of Officer) of such company and that (s)he**
is authorized to execute and file such instrument. Deponent further says that **(s)**he is familiar with
~~such~~ **the** instrument and the contents thereof, and that the facts therein set forth are true to the best
of his/**her** knowledge, information and belief.

(Signature) _____

(Type or print name beneath) _____

The undersigned deposes and says that **(s)**he has duly executed the attached application dated
_____, 20____, for and on behalf of _____
(Name of Applicant); that **(s)**he is **the _____ (Title of Officer) of such**
company and that (s)he is authorized to execute and file such instrument. Deponent further says
that **(s)**he is familiar with ~~such~~ **the** instrument and the contents thereof, and that the facts therein
set forth are true to the best of his/**her** knowledge, information and belief.
(Signature) _____

(Type or print name beneath) _____

FORM B

INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT

Filed with the Insurance Department of the State of Idaho

By

Name of Registrant

On behalf of the following insurance companies:

Name Address

Date: _____, 20____.

Name, Title, Address and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

ITEM 1. IDENTITY AND CONTROL OF REGISTRANT.

Furnish the exact name of each insurer registering or being registered (hereinafter called “the Registrant”), the home office address and principal executive offices of each; the date on which each Registrant became part of the insurance holding company system; and the method(s) by which control of each Registrant was acquired and is maintained.

ITEM 2. ORGANIZATIONAL CHART.

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. ~~No affiliate need be shown if its total assets are equal to less than one half (1/2) of one percent (1%) of the total assets of the ultimate controlling person within the insurance holding company system.~~ The chart or listing

should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of ~~such~~ control. As to each person specified in ~~such the~~ chart or listing, indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

ITEM 3. THE ULTIMATE CONTROLLING PERSON.

As to the ultimate controlling person in the insurance holding company system, furnish the following information:

- a. Name.
- b. Home office address.
- c. Principal executive office address.
- d. The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.
- e. The principal business of the person.
- f. The name and address of any person who holds or owns ten percent (10%) or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned-; and
- g. If court proceedings ~~looking toward~~ involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.

ITEM 4. BIOGRAPHICAL INFORMATION.

~~If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, furnish the following information for the directors and executive officers of the ultimate controlling person: the individual's name and address, his or her principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten (10) years.~~ If the ultimate controlling person is an individual, furnish the individual's name and address, his or her principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations.

ITEM 5. TRANSACTIONS, ~~RELATIONSHIPS~~ AND AGREEMENTS.

~~a.~~ Briefly describe the following agreements in force, ~~relationships subsisting~~ and transactions currently outstanding or which have occurred during the last calendar year between the Registrant and its affiliates:

- ~~(1)~~a. Loans, ~~and~~ other investments, ~~and~~ or purchases, sales or exchanges of securities of

the affiliates by the ~~insurer~~ Registrant or of the ~~insurer~~ Registrant by its affiliates;

- ~~(2)~~b. Purchases, sales or exchanges of assets;
- ~~(3)~~c. Transactions not in the ordinary course of business;
- ~~(4)~~d. Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the ~~insurer's~~ Registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the ~~insurer's~~ Registrant's business;
- ~~(5)~~e. All management ~~and~~ ~~agreements~~, service contracts and ~~all~~ cost-sharing arrangements;
- ~~(6)~~f. Reinsurance agreements;
- ~~(7)~~g. Dividends and other distributions to shareholders;
- ~~(8)~~h. Consolidated tax allocation agreements; and
- ~~(9)~~i. Any pledge of the ~~insurer's~~ Registrant's stock and/or of the stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

~~b.~~ No information need be disclosed if such information is not material ~~for purposes of Section 41-3809, Idaho Code~~. Sales, purchases, exchanges, loans or extensions of credit, ~~or~~ investments ~~or guarantees~~ involving one-half of one percent (1%) or less of the Registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material.

~~e.~~ The description shall be in a manner as to permit the proper evaluation thereof by the ~~Commissioner~~ Director, and shall include at least the following: the nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties; the identity of all parties to ~~such~~ ~~the~~ transaction; and relationship of the affiliated parties to the Registrant.

ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS.

~~Provide~~ ~~Aa~~ brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which such litigation or proceeding is or was pending:

- ~~(a).~~ Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and
- ~~(b).~~ ~~p~~Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

ITEM 7. STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS.

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual **registration** statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

ITEM 8. FINANCIAL STATEMENTS AND EXHIBITS.

a. Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

b. **If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity,** ~~the~~ the financial statements shall include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial statements may be prepared on either an individual basis, or unless the ~~Commissioner~~ **Director** otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

Other than with respect to the foregoing, such financial statement shall be filed in a standard form and format adopted by the National Association of Insurance Commissioners, unless an alternative form is accepted by the Director. Documentation and financial statements filed with the Securities and Exchange Commission or audited GAAP financial statements shall be deemed to be an appropriate form and format.

Unless the ~~Commissioner~~ **Director** otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of ~~such insurer filed with the insurance department of~~ the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of ~~such~~ **that** state.

Any ultimate controlling person who is an individual may file personal financial statements that have been reviewed rather than audited by an independent public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the Personal Financial Statements Guide by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent public accountant's Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles.

c. Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by Form B or Sections 0121 and 013 of these rules.

ITEM 9. FORM C REQUIRED.

A Form C, Summary of Changes to Registration Statement, must be prepared and filed with this Form B.

ITEM 10. SIGNATURES AND CERTIFICATION.

Signatures and certification of the form as follows:

SIGNATURE

Pursuant to the requirements of Section 41-38069, of the Act Idaho Code, the Registrant has caused this registration statement to be duly signed on its behalf in the City of _____ and the State of _____ on the day of _____, 20____.

(SEAL)

(Name of Registrant)

BY

(Name)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached registration statement dated _____ 20____, for and on behalf of _____;

(Name of Company)

that (s)he is the _____ of such,

(Name of Company)

company and that (s)he has authority to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

FORM C - SUMMARY OF REGISTRATION STATEMENT

Filed with the Insurance Department of the State of Idaho

By

Name of Registrant

On Behalf of Following Insurance Companies

Name	Address
Date: _____,	_____ 20____

Name, Title, Address and telephone number of
Individual to Whom Notices and Correspondence
Concerning This Statement Should Be Addressed:

Furnish a brief description of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. The description shall be in a manner as to permit the proper evaluation thereof by the Commissioner Director, and shall include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where such changes are ones which result in ownership or holdings of ten percent (10%) or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where: an individual is, for the first time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates his or her responsibilities with the ultimate controlling person; or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of such change shall be included. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts and the review that might otherwise occur.

SIGNATURE AND CERTIFICATION.

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of section 41-3806~~9~~, ~~of the Act~~ Idaho Code, the Registrant has caused this summary of changes to registration statement to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 20____.

(SEAL)
(Name of Registrant)

By
(Name) (Title)

Attest:

(Signature of Officer)

(Title)

**CERTIFICATI
ON**

The undersigned deposes and says that (s)he has duly executed the attached summary of changes to registration statement dated _____, 20____, for and on behalf of _____ **(Name of Applicant)**; that (s)he is the

(Name of Company)

(Title of Officer) of such company and *(Title of Officer)* that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

FORM D - PRIOR NOTICE OF A TRANSACTION

Filed with the Insurance Department of the State of **Idaho**

By

Name of Registrant

On Behalf of Following Insurance Companies

Name Address

Date: _____, _____ 20_____

Name, Title, Address and telephone number of
Individual to Whom Notices and Correspondence
Concerning This Statement Should Be Addressed:

ITEM 1. IDENTITY OF PARTIES TO TRANSACTION.

Furnish the following information for each of the parties to the transaction:

- a. Name.
- b. Home office address.

- c. Principal executive office address.
- d. The organizational structure, i.e. corporation, partnership, individual, trust, etc.
- e. A description of the nature of the parties' business operations.
- f. Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties.
- g. Where the transaction is with a non-affiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.

ITEM 2. DESCRIPTION OF THE TRANSACTION.

Furnish the following information for each transaction for which notice is being given:

- a. A statement as to whether notice is being given under section 41-3810(2)(a), (b), (c), (d), ~~or (e)~~, of the Act (f) or (g), Idaho Code.
- b. A statement of the nature of the transaction.
- c. A statement of how the transaction meets the 'fair and reasonable' standard of section 41-3810(1)(a), Idaho Code.
- ~~ed.~~ The proposed effective date of the transaction.

ITEM 3. SALES, PURCHASES, EXCHANGES, LOANS, EXTENSIONS OF CREDIT, GUARANTEES OR INVESTMENTS.

Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice, a description of the terms of any securities being received, if any, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or other arrangement, state the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of such investments, guarantees or arrangements.

Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the maximum amount which can at any time be outstanding or for which the insurer can be legally obligated under the loan, extension of credit or guarantee is less than, (a) in the case of non-life insurers, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus as regards policyholders or, (b) in the case of life insurers, three percent (3%) of the insurer's admitted assets, each as of the 31st day of December next preceding.

ITEM 4. LOANS OR EXTENSIONS OF CREDIT TO A NON-AFFILIATE.

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of or make investments in any affiliate. Describe the amount and source of ~~such~~ funds, securities, property or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than, in the case of non-life insurers, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus as regards policyholders or, with respect to life insurers, three percent (3%) of the insurer's admitted assets, each as of the 31st day of December next preceding.

ITEM 5. REINSURANCE.

If the transaction is a reinsurance agreement or modification thereto, as described by section 41-380710(2)(c)(ii), ~~of the Act Idaho Code,~~ or a reinsurance pooling agreement or modification thereto as described by section 41-3810(2)(c)(i), Idaho Code, furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or a change in the insurer's liabilities in any of the next three (3) years, in connection with the reinsurance agreement or modification thereto is less than five percent (5%) of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding. Notice shall be given for all reinsurance pooling agreements including modifications thereto.

ITEM 6. MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS AND COST-SHARING ARRANGEMENTS.

For management and service agreements, furnish:

- a. A brief description of the managerial responsibilities, or services to be performed.
- b. A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

For cost-sharing arrangements, furnish:

- a. A brief description of the purpose of the agreement.
- b. A description of the period of time during which the agreement is to be in effect.
- c. A brief description of each party's expenses or costs covered by the agreement.
- d. A brief description of the accounting basis to be used in calculating each party's costs under the agreement.
- e. A brief statement as to the effect of the agreement upon the insurer's policyholder surplus.
- f. A statement regarding the cost allocation methods that specifies whether proposed charges are based on "cost or market." If market based, state the rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable.
- g. A statement regarding compliance with the NAIC Accounting Practices and Procedure Manual regarding expense allocation.

ITEM 7. SIGNATURE AND CERTIFICATION.

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of Section 41-380710, of the Act Idaho Code,
has caused this notice to be duly signed on its behalf in
the City of _____ and State of _____
on the _____ day of _____, 20____.

(SEAL)

(Name of Applicant)

By _____

(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATE
ON

The undersigned deposes and says that (s)he has duly executed the attached notice dated _____, 20____, for and on behalf of _____; that (s)he is the

(Name of Applicant)(Title of Officer)
of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

FORM E

**PRE-ACQUISITION NOTIFICATION FORM REGARDING THE POTENTIAL
COMPETITIVE
IMPACT OF A PROPOSED MERGER OR ACQUISITION BY A NON-DOMICILIARY
INSURER DOING BUSINESS IN THIS STATE OR BY A DOMESTIC INSURER**

Name of Applicant

Name of Other Person
Involved in Merger or
Acquisition

Filed with the Insurance Department of [Idaho](#)

Dated: _____, 20 __

Name, title, address and telephone number of person completing this statement:

ITEM 1. NAME AND ADDRESS.

State the names and addresses of the persons who hereby provide notice of their involvement in a pending acquisition or change in corporate control.

ITEM 2. NAME AND ADDRESSES OF AFFILIATED COMPANIES.

State the names and addresses of the persons affiliated with those listed in Item 1. Describe their affiliations.

ITEM 3. NATURE AND PURPOSE OF THE PROPOSED MERGER OR ACQUISITION.

State the nature and purpose of the proposed merger or acquisition.

ITEM 4. NATURE OF BUSINESS.

State the nature of the business performed by each of the persons identified in response to Item 1 and Item 2.

ITEM 5. MARKET AND MARKET SHARE.

State specifically what market and market share in each relevant insurance market the persons identified in Item 1 and Item 2 currently enjoy in this state. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past five years and identify the source of such data. Provide a determination as to whether the proposed acquisition or merger, if consummated, would violate the competitive standards of the state as stated in Section 41-3808(4), Idaho Code. If the proposed acquisition or merger would violate competitive standards, provide justification of why the acquisition or merger would not substantially lessen competition or create a monopoly in the state.

For purposes of this question, market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state.

FORM F

ENTERPRISE RISK REPORT

Filed with the Insurance Department of the State of Idaho

By

Name of Registrant/Applicant

On Behalf of/Related to Following Insurance Companies

Name

Address

Date: _____, 20____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

ITEM 1. ENTERPRISE RISK.

The Registrant/Applicant, to the best of its knowledge and belief, shall provide information regarding the following areas that could produce enterprise risk as defined in Section 41-3802(3), Idaho Code, provided such information is not disclosed in the Insurance Holding Company System Annual Registration Statement filed on behalf of itself or another insurer for which it is the ultimate controlling person:

- a. Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system.
- b. Acquisition or disposal of insurance entities and reallocating of existing financial or insurance entities within the insurance holding company system.
- c. Any changes of shareholders of the insurance holding company system exceeding ten percent (10%) or more of voting securities.
- d. Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system.
- e. Business plan of the insurance holding company system and summarized strategies for the next 12 months.

f. Identification of material concerns of the insurance holding company system raised by a supervisory college, if any, in the last year.

g. Identification of insurance holding company system capital resources and material distribution patterns.

h. Identification of any negative movement, or discussions with rating agencies which may have caused, or may cause, potential negative movement in the credit ratings and individual insurer financial strength ratings assessment of the insurance holding company system (including both the rating score and outlook).

i. Information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should such guarantees be called upon.

j. Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

The Registrant/Applicant may attach the appropriate form most recently filed with the U.S. Securities and Exchange Commission, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the form provides responsive information. If the Registrant/Applicant is not domiciled in the U.S., it may attach its most recent public audited financial statement filed in its country of domicile, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the financial statement provides responsive information.

ITEM 2: OBLIGATION TO REPORT.

If the Registrant/Applicant has not disclosed any information pursuant to Item 1, the Registrant/Applicant shall include a statement affirming that, to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure pursuant to Item 1.

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.50 - ADOPTION OF THE INTERNATIONAL FIRE CODE

DOCKET NO. 18-0150-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The effective date of the temporary rule is **January 1, 2014**. The pending rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and is also adopting this rule as a temporary rule. The action is authorized pursuant to Sections 41-211 and 41-253, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule:

To revise language in IDAPA 18.01.50 to adopt the 2012 edition of the International Fire Code. This adoption will include revisions made to previous editions of the International Fire Code. This rule will bring the adopted edition of the International Fire Code current with the edition of the Building Code adopted by the Legislature in 2013.

In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin following this notice. There are no changes to the pending rule and it is being adopted as originally proposed. The original text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, **Vol. 13-10, pages 282 through 287**.

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

Necessary to protect the public health, safety or welfare.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending or temporary rule, contact Mark Larson, State Fire Marshal, at 208-334-4371, mark.larson@doi.idaho.gov.

DATED this 30th day of October, 2013.

Mark Larson, State Fire Marshal
Idaho Department of Insurance
700 W. State Street - 3rd Floor
Boise, ID 83720-0043
208-334-4371
208-334-4398 (fax)

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to section(s) 41-211 and 41-253, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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

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

To revise language in IDAPA 18.01.50 to adopt the 2012 edition of the International Fire Code. This adoption will include revisions made to previous editions of the International Fire Code. This rule will bring the adopted edition of the International Fire Code current with the edition of the Building Code adopted by the Legislature in 2013.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013, Idaho Administrative Bulletin, [Vol. 13-7, page 67](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: The 2012 International Fire Code is being incorporated.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact (Mark Larson, State Fire Marshal, 208-334-4371, mark.larson@doi.idaho.gov).

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 30th day of August 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0150-1301

004. INCORPORATION BY REFERENCE.

01. ~~2009~~¹² International Fire Code. In accordance with Section 67-5229, Idaho Code, and pursuant to the authority provided by Section 41-253, Idaho Code, the State Fire Marshal hereby adopts the ~~2009~~¹² edition of the International Fire Code as published by the International Code Council. Any revisions, additions, deletions and/or appendices to the ~~2009~~¹² International Fire Code are included herein. (~~4-7-11~~)()

02. Availability of Referenced Material. Copies of the ~~2009~~¹² edition of the International Fire Code are available for public inspection at the office of the State Fire Marshal. The ~~2009~~¹² International Fire Code and supplements thereto may be purchased by writing the International Code Council, Northwest Resource Center, 2122 112th Ave NE, Suite C, Bellevue, WA 98004 or online through the electronic store on the Council's website at <http://www.iccsafe.org/Pages/default.aspx>. (~~4-7-11~~)()

(BREAK IN CONTINUITY OF SECTIONS)

011. DEPARTMENT OF FIRE PREVENTION, SECTION 103.2 -- APPOINTMENTS, INTERNATIONAL FIRE CODE.

Delete the following language in section 103.2 of the International Fire Code: "... and the fire code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority." (~~3-29-12~~)()

(BREAK IN CONTINUITY OF SECTIONS)

016. PERMIT REQUIRED, SECTION 105.1.1, INTERNATIONAL FIRE CODE.

A permit, if required by the local jurisdiction, shall be obtained from the designated official prior to engaging in activities requiring a permit within the local jurisdiction. Delete “the required permit” from the last sentence of Section 105.1.1 of the International Fire Code and add “a permit if required by the authority having jurisdiction.” (4-2-08)()

017. VIOLATION PENALTIES, SECTION 109.34, INTERNATIONAL FIRE CODE.

In Section 109.3, Violation Penalties, International Fire Code, delete the sentence that includes “shall be guilty of a,” and replace with the word “misdemeanor.” In the first sentence of Section 109.4 of the International Fire Code, delete “[SPECIFY OFFENCE], punishable by a fine of not more than [AMOUNT] dollars, or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment” and add the word “misdemeanor”. (4-2-08)()

(BREAK IN CONTINUITY OF SECTIONS)

020. DEFINITION OF CODE OFFICIAL, SECTION 202, INTERNATIONAL FIRE CODE.

Add “or as appropriate the Idaho State Fire Marshal” to the end of the definition for *code official* FIRE CODE OFFICIAL in Section 202 of the International Fire Code. (5-3-03)()

021. CHAPTER 5 FIRE SERVICE FEATURES.

Make the following changes within Chapter 5 of the International Fire Code: ()

01. Section 501. (4-7-11)

a. To section 501.3 after the phrase, Construction documents for proposed, add the word “driveways.” (4-7-11)

b. To section 501.4 after the phrase, When fire apparatus access roads, add the word “driveways.” (4-7-11)

02. Section 502. To section 502, add the following definition in, DRIVEWAY. A vehicular ingress and egress route that serves no more than five (5) single family dwellings, not including accessory structures. (4-7-11)

03. Section 503. (4-7-11)

a. To section 503, add the following definition, “FIRE STATION, A building, or portion of a building that provides, at a minimum, all weather protection for fire apparatus. Temperatures inside the building used for this purpose must be maintained at above thirty-two (32) degrees Fahrenheit.” (4-7-11)

- b.** To section 503 add the words, “AND DRIVEWAYS” to the section heading. (4-7-11)
- c.** To section 503.1.1 add the following sentence, “Driveways shall be provided and maintained in accordance with Sections 503.7 through 503.11.” ~~(4-7-11)~~()
- d.** To section 503.6 delete the sentence, The installation of security gates across a fire apparatus access road shall be approved by the fire chief. (4-7-11)
- e.** Add the following section, “503.7 Driveways. Driveways shall be provided when any portion of an exterior wall of the first story of a building is located more than 150 feet (45720mm) from a fire apparatus access road. Driveways shall provide a minimum unobstructed width of 12 feet (3658mm) and a minimum unobstructed height of 13 feet 6 inches (4115mm). Driveways in excess of 150 feet (45720mm) in length shall be provided with turnarounds. Driveways in excess of 200 feet (60960mm) in length and 20 feet (6096mm) in width may require turnouts in addition to turnarounds.” (4-7-11)
- f.** Add the following section, “503.7.1 Limits. A driveway shall not serve in excess of five single family dwellings.” (4-7-11)
- g.** Add the following section, “503.7.2 Turnarounds. Driveway turnarounds shall have an inside turning radius of not less than 30 feet (9144mm) and an outside turning radius of not less than 45 feet (13716mm). Driveways that connect with an access road or roads at more than one point may be considered as having a turnaround if all changes of direction meet the radius requirements for driveway turnarounds.” (4-7-11)
- h.** Add the following section, “503.7.3 Turnouts. Where line of sight along a driveway is obstructed by a man-made or natural feature, turnouts shall be located as may be required by the fire code official to provide for safe passage of vehicles. Driveway turnouts shall be of an all-weather road surface at least 10 feet (3048mm) wide and 30 feet (9144mm) long.” (4-7-11)
- i.** Add the following section, “503.7.4 Bridge Load Limits. Vehicle load limits shall be posted at both entrances to bridges on driveways and private roads. Design loads for bridges shall be established by the fire code official.” (4-7-11)
- j.** Add the following section, “503.7.5 Address markers. All buildings shall have a permanently posted address, which shall be placed at each driveway entrance and be visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and maintained thereafter. The address shall be visible and legible from the road on which the road on which the address is located. Address signs along one-way roads shall be visible from both the intended direction of travel and the opposite direction. Where multiple address’s are required at a single driveway, they shall be mounted on a single post, and additional signs shall be posted at locations where driveways divide.” (4-7-11)
- k.** Add the following section, “503.7.6 Grade. The gradient for driveways shall not exceed 10 percent unless approved by the fire code official.” (4-7-11)

l. Add the following section, “503.7.7 Security Gates. Where security gates are installed, they shall have an approved means of emergency operation. The security gates and emergency operation shall be maintained operational at all times.” (4-7-11)

m. Add the following section, “503.7.8 Surface. Driveways shall be designed and maintained to support the imposed loads of local responding fire apparatus and shall be surfaced as to provide all weather driving capabilities.” (4-7-11)

04. Section 507. To section 507.2 Type of water supply. delete the existing language and add the following, “A water supply shall consist of water delivered by fire apparatus, reservoirs, pressure tanks, elevated tanks, water mains or other sources approved by the fire code official capable of providing the required fire flow. Exception. The water supply required by this code shall only apply to structures served by a municipal fire department or a fire protection district and within ten miles (16093m) of a responding fire station.” (4-7-11)

022. -- 026. (RESERVED)

027. ~~AUTOMATIC SPRINKLER SYSTEMS, SECTION 903.2.7 GROUP M, INTERNATIONAL FIRE CODE~~ ALTERNATIVE AUTOMATIC FIRE-EXTINGUISHING SYSTEMS, SECTION 904.1.1, INTERNATIONAL FIRE CODE.

Add the following language to *Item 4*: “...or mattresses exceeds 5000 square feet (464m²). the beginning of section 904.1.1 of the International Fire Code, “If required by the authority having the jurisdiction.”. (3-29-12)()

028. PORTABLE FIRE EXTINGUISHERS, SECTION 906.2.1, INTERNATIONAL FIRE CODE.

Add the following language to the beginning of section 9.6.2.1 of the International Fire Code, “If required by the authority having jurisdiction.”. ()

0289. – 036. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

038. CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS, SECTION 1101.1, INTERNATIONAL FIRE CODE.

Add the following language to the end of section 1101.1 of the International Fire Code, “only, if in the opinion of the fire code official, they constitute a distinct hazard to life or property.” ()

0389. -- 040. (RESERVED)

041. EXPLOSIVES AND FIREWORKS, CHAPTER ~~3356~~, INTERNATIONAL FIRE CODE.

Delete Sections ~~3356~~01.1.3, ~~3356~~01.2.2, ~~3356~~01.2.3, ~~3356~~01.2.4.1, ~~3356~~01.2.4.2, and ~~3308.1 through 3308.3~~ sections 5608.2, 5608.2.1, and 5608.3 of the International Fire Code. (4-7-11)()

042. -- 045. (RESERVED)

046. UNDERGROUND TANKS OUT OF SERVICE FOR ONE YEAR, SECTION ~~3457~~04.2.13.1.3 INTERNATIONAL FIRE CODE.

Add to Section ~~3457~~04.2.13.1.3, International Fire Code, the following paragraph: Upon approval of the Chief underground tanks that comply with the performance standards for new or upgraded underground tanks set forth in Title 40 Section 280.20 or 280.21 of the Code of Federal Regulations may remain out of service indefinitely so long as they remain in compliance with the operation, maintenance and release detection requirements of the federal rule. ~~(5-3-03)~~()

047. -- 050~~1~~. (RESERVED)

~~051. CHAPTER 46, CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS. To section 4601.1 delete the period and add, "only if in the opinion of the fire code official, they constitute a distinct hazard to life or property." (4-7-11)~~

052. REFERENCED STANDARDS, CHAPTER ~~4580~~, INTERNATIONAL FIRE CODE. Beginning on Page ~~418~~ 439, of the NFPA Referenced Standards, make the following changes to the listed editions:

Delete	Add	Delete	Add	Delete	Add
10-2007	10-2010	25-2008		120-2004	120-2010
11-2005	11-2010	12-2005	12-2008	241-2004	241-2009
12A-2004	12A-2009	59A-2006	59A-2009	484-2006	484-2009
13-2007	13-2010	80-2007	80-2010	484-2006	484-2009
13D-2007	13D-2010	92A-2005		495-2006	495-2010
13R-2007	13R-2010	52-2006	52-2010	498-2006	498-2010
14-2007	14-2010	72-2007	72-2010	750-2006	750-2010
17-2002	17-2009	101-2006	101-2009	1123-2006	1123-2010
17A-2002	17A-2009	110-2005	110-2010	701-2004	701-2010
20-2007	20-2010	211-2006	211-2010	703-2006	703-2009
22-2003	22-2008	260-2003	260-2009	111-2005	111-2010
24-2003	24-2010	261-2003	261-2009		

Delete	Add
10-2010	10-2013
13-2010	13-2013

Delete	Add
111-2010	111-2013
170-2009	170-2012

<u>Delete</u>	<u>Add</u>	<u>Delete</u>	<u>Add</u>
<u>13D-2010</u>	<u>13D-2013</u>	<u>204-2007</u>	<u>204-2012</u>
<u>13R-2010</u>	<u>13R-2013</u>	<u>211-2010</u>	<u>211-2013</u>
<u>14-2010</u>	<u>14-2013</u>	<u>241-2009</u>	<u>241-2013</u>
<u>17-2009</u>	<u>17-2013</u>	<u>260-2009</u>	<u>260-2013</u>
<u>17A-2009</u>	<u>17A-2013</u>	<u>261-2009</u>	<u>261-2013</u>
<u>20-2010</u>	<u>20-2013</u>	<u>289-2009</u>	<u>289-2013</u>
<u>22-2008</u>	<u>22-2013</u>	<u>318-2009</u>	<u>318-2012</u>
<u>24-2010</u>	<u>24-2013</u>	<u>385-2007</u>	<u>385-2012</u>
<u>51-2007</u>	<u>51-2013</u>	<u>409-2010</u>	<u>409-2011</u>
<u>51A-2011</u>	<u>51A-2012</u>	<u>495-2010</u>	<u>495-2013</u>
<u>52-2010</u>	<u>52-2013</u>	<u>498-2010</u>	<u>498-2013</u>
<u>55-2010</u>	<u>55-2013</u>	<u>505-2010</u>	<u>505-2013</u>
<u>59A-2009</u>	<u>59A-2013</u>	<u>654-2011</u>	<u>654-2013</u>
<u>61-2008</u>	<u>61-2013</u>	<u>720-2005</u>	<u>720-2012</u>
<u>72-2010</u>	<u>72-2013</u>	<u>1122-2008</u>	<u>1122-2013</u>
<u>80-2010</u>	<u>80-2013</u>	<u>1124-2012</u>	<u>1124-2013</u>
<u>99-2010</u>	<u>99-2012</u>	<u>1127-2008</u>	<u>1127-2013</u>
<u>105-2010</u>	<u>105-2013</u>	<u>2001-2011</u>	<u>2001-2013</u>
<u>110-2010</u>	<u>110-2013</u>		

(4-7-II)()

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS

DOCKET NO. 24-0201-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-521, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 323 and 324](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at 208-334-3233.

DATED this 28th day of October, 2013.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W State St.
P O Box 83720
Boise, ID 83720-0063
Phone: 208-334-3233
Fax: 208-334-3945

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-521, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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

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

This rule change will allow licensed barber instructors and licensed barber styling instructors to renew their licenses without completing the required twenty (20) hours of continued education. Continuing education has been difficult for licensed instructors to obtain and the Board of Barber Examiners has determined this requirement is not necessary for public protection. The Board is also removing the grandfather provision as it is no longer applicable.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rules are simple in nature and were discussed during a noticed open meeting of the Board.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at 208 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 29th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0201-1301

200. APPLICATIONS (RULE 200).

01. Complete Application for License. All applications for license shall be made on forms furnished by the Bureau of Occupational Licenses and received in that office at least thirty (30) days prior to the date of examination. All information requested on the application together with any required supporting documentation and the required fees must be received by the Bureau of Occupational Licenses before any application will be considered complete. (3-13-02)

02. Photographs Required. One (1) passport photograph taken within the six (6) months prior to submission of the application, shall be provided. (Section 54-509, Idaho Code). (3-13-02)

~~**03. Licensed Barber Instructor Continued Education.** Every licensed barber instructor must obtain twenty (20) hours of continued education approved by the board within the twelve (12) months preceding license renewal application. No more than eight (8) hours credit may be obtained in seminars, trade shows, etc. (3-13-02)~~

(BREAK IN CONTINUITY OF SECTIONS)

~~251. -- 299. (RESERVED)~~

~~**300. GRANDFATHER RIGHTS (RULE 300).**~~

~~Any person who held a current Idaho barber license on July 1, 2001 shall be issued an Idaho barber stylist license upon written request to the Board and without payment of additional fees until June 30, 2003. (3-13-02)~~

~~**301. — 349. (RESERVED)**~~

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS

DOCKET NO. 24-0801-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 182 through 185](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at 208-334-3233.

DATED this 28th day of October, 2013.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W State St.
P O Box 83720
Boise, ID 83720-0063
Phone: 208-334-3233
Fax: 208-334-3945

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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

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

The Board of Morticians has been working with the Idaho Funeral Service Association to establish alkaline hydrolysis as an approved cremation process and to clarify that funeral directors can sign certain records. The Board is updating its discipline rule to include Funeral Directors.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature and was discussed during a noticed open meeting of the Board.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at 208 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 9th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0801-1301

450. FUNERAL ESTABLISHMENT AND CREMATORY ESTABLISHMENT (RULE 450).

All applicants for establishment license shall submit a completed application on a form approved by the Board. All newly licensed establishments and all branch or satellite facilities must meet the same requirements for licensure.

(4-2-08)

01. Contents of Application. Each applicant for a license to operate a funeral establishment or crematory establishment in Idaho shall document the following:

(4-2-08)

- a. Name and address of owner whether individual or entity; and (4-2-08)
- b. Notarized signature of applicant or authorized agent; and (4-2-08)
- c. Name and license number of responsible licensee; and (4-2-08)
- d. Other such information as the board may require. (4-2-08)

02. Change in Ownership or Location. Any change in the ownership or location of a funeral establishment shall constitute a new funeral establishment for the purposes of licensure.

(7-1-93)

03. Funeral Establishment. All funeral establishments shall be required to provide each of the following:

(4-2-08)

- a. An operating room and necessary equipment for embalming; (4-2-08)
- b. A selection room for caskets and merchandise which may include video, catalogs, and electronic depiction of caskets and merchandise; (4-2-08)
- c. A chapel where funeral or other religious ceremonies may be held; and (4-2-08)
- d. A room for viewing and visitation. (4-2-08)

04. Funeral Firm. Every funeral firm in the state of Idaho and/or licensee thereof shall give or cause to be given to the person or persons making funeral arrangements or arranging for the disposition of the dead human body at the time of said arrangements and prior to rendering that service or providing that merchandise, a written statement showing to the extent then known the following:

(7-1-93)

- a.** The price of the service that the person or persons have selected and what is included therein. (7-1-93)
- b.** The prices of each of the supplementary items of service and/or merchandise requested. (7-1-93)
- c.** The amount involved for each of the items for which the firm will advance monies as an accommodation for the family. (7-1-93)
- d.** The method of payment. (7-1-93)
- e.** If the quoted price includes a basic component of a funeral or a part thereof which is not desired, then a credit thereof should be granted. (7-1-93)

05. Crematory Establishment. All crematory establishments shall be required to provide each of the following: (4-2-08)

- a.** Detailed information regarding each retort, specifically documenting that each retort and accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code or in the case of alkaline hydrolysis, a pressurized vessel heated to 150 C (330 F) for a minimum recommended period of thirty (30) minutes, thereby meeting or exceeding the United States Center for Disease Control (CDC) requirements for the complete destruction of human pathogens; and ~~(4-2-08)~~()
- b.** One (1) set of blueprints for the proposed new construction or remodeling where the retort is to be located. The blueprints must be approved by the local building department as being in compliance with applicable building codes and ordinances. (4-2-08)

451. (RESERVED)

452. MINIMUM STANDARDS (RULE 452).

01. Reasonable Sanitation and Safety Required. In the interest of the protection of the public welfare, no license will be issued on an application to operate a funeral establishment or crematory unless it is apparent that the establishment or crematory can and will be operated in a reasonably sanitary and safe manner and that all pertinent federal, state, and local permits have been obtained when operating an alkaline hydrolysis retort. ~~(4-11-06)~~()

02. Reduction of Cremated Remains. No crematory will be licensed or operated unless it is capable of reducing human remains to cremains containing not more than five percent (5%) of the weight of the body immediately after death. (3-16-04)

03. Delay Before Cremation. No dead human body, regardless of cause of death, is to be cremated, nor is actual cremation of such a body to be commenced, unless the county coroner in the county in which the death occurred gives his written authorization to cremate the body. (3-16-04)

04. Embalming. If a dead human body is to be held longer than twenty-four (24)

hours prior to burial, cremation, or other disposition, the body must be either embalmed or refrigerated at thirty-six degrees Fahrenheit (36F) or less until buried, cremated, or otherwise disposed of. (4-11-06)

05. Casket Not Necessary. It is not necessary for the body to be in a casket for cremation to take place. (3-16-04)

a. This is not to be construed to mean that the crematory must cremate without a casket; and (3-16-04)

b. It will not prevent the operators from developing their own internal requirements for aesthetic or sanitary reasons. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

455. RESPONSIBILITY, INSPECTION, AND CONFIDENTIALITY OF RECORDS (RULE 455).

01. Responsibility for Record. Records regarding the burial, cremation, and other disposition of human bodies must be made as soon as reasonably possible after the burial, cremation, or other disposition and must be dated and signed by the licensed mortician **or funeral director** who supervised or was otherwise directly responsible for the burial, cremation, or other disposition. (4-11-06)()

02. Inspection of Records. Records regarding the receipt, burial, cremation, and other disposition of human bodies must be maintained at the funeral establishment and crematory and be open for inspection at any reasonable time by the Board or its designated representatives. (4-11-06)

03. Confidentiality of Records. Any disclosure of information obtained by the Board in connection with licensure activities and records of funerals or cremations must comply with Idaho Public Records Act 9-337 et seq., Idaho Code. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

501. DISCIPLINE (RULE 501).

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed **de mortician** for each violation of Section 54-1116, Idaho Code. (3-18-99)()

02. Costs and Fees. The Board may order a licensed **de mortician** to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee **for if found in** violation of Section 54-1116, Idaho Code. (3-18-99)()

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD

DOCKET NO. 24-1801-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-4106, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 340 through 354](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at 208-334-3233.

DATED this 28th day of October, 2013.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W State St.
P O Box 83720
Boise, ID 83720-0063
Phone: 208-334-3233
Fax: 208-334-3945

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-4106, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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

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

The Board is amending its rules to comply with recent Appraiser Qualification Board (AQB) changes in federal law and regulation regarding state licensed or certified appraisers. These new changes must be effective by January 1, 2015. The Board is also adopting a rule to address appraisers' duties when testifying in a court proceeding.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the Board is amending its rules to comply with changes in federal law and regulation as mandated by the federal Appraiser Qualification Board (AQB). These rule changes have been discussed in multiple noticed open meetings since the spring of 2012.

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

The Board has adopted the Uniform Standards of Professional Practice (USPAP) and are updating to the 2014-2015 edition as published January 1, 2014.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at 208 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 21st day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1801-1301

004. INCORPORATION BY REFERENCE (RULE 4).

The document titled “Uniform Standards of Professional Appraisal Practice (USPAP),” 201~~24~~-201~~35~~ Edition published by the Appraisal Foundation and effective January 1, 201~~24~~ as referenced in Subsection 700, is herein incorporated by reference and is available for review at the Board’s office and may be purchased from the Appraisal Foundation, Distribution Center, P. O. Box 381, Annapolis Junction, MD 20701-0381. (3-21-12)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS (RULE 10).

The definitions numbered one through sixteen (1-16), appearing at Section 54-4104, Idaho Code are incorporated herein by reference as if set forth in full. (3-29-10)

01. Accredited. Accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education. ()

012. **Advisory Committee.** A committee of state certified or licensed real estate appraisers appointed by the board to provide technical assistance relating to real estate appraisal standards and real estate appraiser experience, education and examination requirements that are appropriate for each classification of state certified or licensed real estate appraiser. (7-1-93)

023. **Appraisal Foundation.** The Appraisal Foundation means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois. (7-1-97)

034. **Appraiser Qualifications Board.** Appraiser Qualifications Board of the Appraisal Foundation establishes the qualifications criteria for licensing, certification and recertification of appraisers. (7-1-97)

045. **Appraisal Standards Board.** The Appraisal Standards Board of the Appraisal Foundation develops, publishes, interprets and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. (7-1-97)

056. Bureau. The Bureau means the Bureau of Occupational Licenses, as prescribed in Sections 54-4106(2)(a) and 67-2601, Idaho Code. (3-13-02)

067. Chief. The Bureau Chief of the Bureau of Occupational Licenses as established by Section 67-2602, Idaho Code. (7-1-93)

078. Classroom Hour. Fifty (50) minutes out of each sixty (60) minute hour in a setting which may include a classroom, conference/seminar, on-line or a virtual classroom. (4-4-13)

089. Field Real Estate Appraisal Experience. Personal inspections of real property, assembly and analysis of relevant facts, and by the use of reason and the exercise of judgment, formation of objective opinions as to the market or other value of such properties or interests therein and preparation of written appraisal reports or other memoranda showing data, reasoning, and conclusion. Professional responsibility for the valuation function is essential. (4-6-05)

~~0910.~~ **FIRREA.** Title XI, Financial Institutions Reform, Recovery and Enforcement Act of 1989, **as amended**, was designed to ensure that more reliable appraisals are rendered in connection with federally related transactions. (7-1-93)()

~~10. **Nationally Recognized Appraisal Organization.** An appraisal organization which is a sponsor of The Appraisal Foundation.~~ (4-2-08)

11. Real Estate. In addition to the previous definition in Section 54-4104(11), Idaho Code, will also mean an identified parcel or tract of land, including improvements, if any. (3-29-10)

12. Real Property. In addition to the previous definition in Section 54-4104(11), Idaho Code, will also mean one or more defined interests, benefits, or rights inherent in the ownership of real estate. (3-29-10)

13. Residential Unit. Real estate with a current highest and best use of a residential nature. A residential unit includes a kitchen and a bathroom. (3-29-10)

14. Specialized Appraisal Services. Services which include situations in which an appraiser is employed or retained to provide appraisal services that do not fall within the defined term "appraisal assignments." Specialized appraisal services relate to the employer's or client's individual needs or investment objectives and commonly include specialized marketing and financing studies as well as analysis, opinions, and conclusions rendered in connection with activities such as real estate brokerage, mortgage banking, and real estate counseling, including real estate tax counseling. (7-1-97)

15. Uniform Standards of Professional Appraisal Practice or USPAP. Those uniform standards adopted by the Appraisal Foundation's Appraisal Standards Board. These standards may be altered, amended, interpreted, supplemented, or repealed by the Appraisal Standards Board (ASB) from time to time. (3-13-02)

16. USPAP Course. For the purposes of licensure and license renewal, any reference

to the approved USPAP course shall mean the National USPAP Course provided by Appraisal Qualifications Board Certified USPAP Instructors and Educational Providers. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

250. REQUIREMENTS FOR LICENSURE (RULE 250).

All applicants for licensure in any real estate appraiser classification must comply with the following education, experience and examination requirements in addition to meeting those requirements set forth in Sections 275, 300, 350, and 400 below. (4-11-06)

01. Education. ~~If an individual has completed the education requirements on or before December 31, 2007, the individual must submit a complete application to the board before January 1, 2011. If an individual has not completed their educational requirement on or before December 31, 2007, or submits an application on January 1, 2011 or later, the individual must complete the educational requirements which became effective January 1, 2008 and any subsequent requirements adopted prior to the individual's application date.~~ Classroom Hours will be credited only for courses with content that follows the Required Core Curriculum as outlined by the Appraisal Qualification Board. (4-2-08)()

a. Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours, and the individual successfully completes a closed-book examination pertinent to the educational offering. In addition, distance education courses intended for use as qualifying education must include a written, closed-book final examination - proctored by an official approved by the college or university or by the sponsoring organization. The term "written" as used herein refers to an exam that might be written on paper or administered electronically on a computer workstation or other device. Oral exams are not acceptable. The testing must be in compliance with the examination requirements of this section. (4-11-06)()

b. Credit for the classroom hour requirement may be obtained from the following: (7-1-97)

i. Colleges or Universities. (7-1-97)

ii. Community or Junior Colleges. (7-1-97)

iii. Courses approved by the Appraisal Qualifications Board. (4-2-08)

iv. State or Federal Agencies or Commissions. (7-1-97)

v. Other providers approved by the Board. (7-1-97)

c. Only those courses completed preceding the date of application will be accepted for meeting educational requirements. (3-18-99)

d. Course credits that are obtained from the course provider by challenge examination without attending the course will not be accepted. (4-11-06)

~~**e.** Prior to January 1, 2008, various appraisal courses may be credited toward the classroom hour education requirement. Applicants must demonstrate that their education involved coverage of those topics listed in Subsection 250.01.c. that are required for the license classification for which application is being made. Licensed Residential and Certified Residential must include emphasis in one (1) to four (4) unit residential properties; Certified General must include emphasis in nonresidential properties. Credit toward education requirements may be obtained through completion of a degree in Real Estate from: ()~~

~~**i.** An accredited degree-granting college or university that has been approved by the Association to Advance Collegiate Schools of Business; or ()~~

~~**ii.** A regional or national accreditation agency that is recognized by the U.S. Secretary of Education and whose curriculum has been reviewed and approved by the Appraiser Qualifications Board. (3-29-10)()~~

~~**i.** Basic appraisal principles. (4-11-06)~~

~~**ii.** Basic appraisal procedures. (4-11-06)~~

~~**iii.** The fifteen (15) hour national USPAP course. (4-11-06)~~

~~**iv.** Market analysis and highest and best use. (4-11-06)~~

~~**v.** Appraiser site valuation and cost approach. (4-11-06)~~

~~**vi.** Sales comparison approach. (4-11-06)~~

~~**vii.** Sales income approach. (4-11-06)~~

~~**viii.** Report writing and case studies. (4-11-06)~~

~~**ix.** Statistics, modeling and finance. (4-11-06)~~

~~**x.** Advanced applications and case studies. (4-11-06)~~

~~**xi.** Appraisal subject matter electives. (4-11-06)~~

~~**f.** Advanced courses will be those courses for which an introductory or basic course is required as a prerequisite. Typically classes titled "Introductory," "Basic," or "Principles" will not be accepted for advanced requirements. Applicants with a college degree from a foreign country may have their education evaluated for equivalency by one (1) of the following: (4-11-06)()~~

~~**i.** An accredited, degree-granting domestic college or university; ()~~

ii. The American Association of Collegiate Registrars and Admissions Officers (AACRAO); ()

iii. A foreign degree credential evaluation services company that is a member of the National Association of Credential Evaluation Services (NACES); or ()

iv. A foreign degree credential evaluation service company that provides equivalency evaluation reports accepted by an accredited degree-granting domestic college or university or by a state licensing board that issues credentials in another discipline. ()

02. Experience. (7-1-97)

a. The work product claimed for experience credit must be in conformity with USPAP. (3-21-12)

b. All appraisal experience must be obtained as a registered trainee or as a licensed appraiser. (4-11-06)

c. Only experience gained during the five (5) years immediately preceding application will be considered for evaluation. (4-11-06)

d. Acceptable non field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, ad valorem tax appraisal, condemnation appraisal, technical review appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, and feasibility analysis/study. (4-11-06)

e. Each applicant applying for licensure must verify completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board. (4-11-06)

i. The Board requires submission of a log that details hours claimed for experience credit. The log must include the following: (3-29-10)

(1) Type of property; (3-29-10)

(2) Address of the property; (3-29-10)

(3) Report date; (3-29-10)

(4) Description of work performed; (3-29-10)

(5) Number of work hours; (3-29-10)

(6) Complexity; (3-29-10)

(7) Approaches to value; (3-29-10)

(8) Appraised value; (3-29-10)

- (9) Scope of supervising appraiser's review; and (3-29-10)
- (10) Supervision. (3-29-10)
- ii. The Board reserves the right to contact an employer for confirmation of length and extent of experience claimed. This may require an employer to submit appraisal reports and/or an affidavit. (7-1-97)
- iii. The Board may request submission of written reports or file memoranda that substantiate an applicant's claim for experience credit. (4-11-06)
- f. Ad valorem tax appraisers must demonstrate the use of techniques to value properties similar to those used by appraisers and effectively use the process as defined in Subsection 010.089, Field Real Estate Appraisal Experience in order to receive experience credit. ~~(3-29-10)~~()

03. Examination. Successful completion of an examination appropriate to the license classification being applied for and approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. (4-11-06)

251. -- 274. (RESERVED)

275. REGISTERED TRAINEE REAL ESTATE APPRAISER (RULE 275).

01. Qualification. Each applicant for registration as an appraiser trainee must meet the following requirements: (4-11-06)

a. Education. ~~Beginning July 1, 2006,~~ Within the five-year period preceding application, all applicants for registration as a trainee must document completion of at least seventy-five (75) classroom hours of courses in subjects related to real estate appraisal as follows: ~~(4-11-06)~~()

i. Basic Appraisal Principles - not less than thirty (30) hours specifically including Real Property Concepts and Characteristics, Legal Considerations, Influences on Real Estate Values, Types of Value, Economic Principles, Overview of Real Estate Markets and Analysis, and Ethics and How They Apply in Appraisal Theory and Practice; and (4-11-06)

ii. Basic Appraisal Procedures - not less than thirty (30) hours specifically including Overview of Approaches to Value, Valuation Procedures, Property Description, and Residential Applications; and (4-11-06)

iii. National USPAP Course - not less than fifteen (15) hours. (4-11-06)

b. Experience. All applicants for registration as a trainee must retain and identify at least one (1) licensed real estate appraiser who agrees to provide the supervision required by law and rule. The supervising appraiser shall: (4-11-06)

- i. ~~Hold~~ **Have held** a current and unrestricted Idaho license as a Certified Residential Appraiser or a Certified General Appraiser **for at least three (3) years prior to providing supervision**; and ~~(4-11-06)~~()
 - ii. Submit evidence of completion of an approved four-hour continuing education course regarding the role of a supervising appraiser. (3-29-10)
 - iii. Not have been disciplined by the Board **or any other state or jurisdiction** within the previous four (4) years **that effects the supervisory appraiser's legal eligibility to engage in appraisal practice**; and ~~(3-21-12)~~()
 - iv. Not be registered to provide supervision responsibilities to more than three (3) appraiser trainees at any one (1) time; and (4-11-06)
 - v. Be responsible for the training and direct supervision of the appraiser trainee; and (4-11-06)
 - vi. Accept responsibility for all appraisal reports by signing and certifying that the report is in compliance with USPAP; and (4-11-06)
 - vii. Review **and sign** all appraiser trainee appraisal report(s); and ~~(4-11-06)~~()
 - viii. Personally inspect each appraised property with the appraiser trainee until the supervising appraiser determines the appraiser trainee is competent in accordance with the Competency Provision of USPAP for the property type. (4-11-06)
- c.** Examination. Each trainee applicant shall document successful passage of examinations in each of the prerequisite courses required for registration as a trainee. (4-11-06)
- d.** **Beginning January 1, 2015, prior to registration as an appraiser trainee, each trainee applicant must complete a trainee appraiser course that complies with the content requirements established by the Appraisal Qualifications Board. This course is in addition to the education requirements set forth in Section 275.** ()

02. Scope and Practice. An Appraiser Trainee shall not be involved in the appraisal of any property that exceeds the lawful scope of practice of the supervising appraiser. The appraiser trainee shall be subject to USPAP. (4-11-06)

a. Each appraiser trainee is permitted to have more than one (1) supervising appraiser provided a supervising appraiser is not registered to more than three (3) trainees at any one (1) time. (4-11-06)

b. An appraisal log shall be maintained for each supervising appraiser by the appraiser trainee and shall include no less than the following for each appraisal: (4-11-06)

i. Type of property. (4-11-06)

ii. Date of report. (4-11-06)

- iii. Address of subject property. (4-11-06)
- iv. Description of work performed by the trainee and the scope of review and supervision of the supervisor. (4-11-06)
- v. Number of actual work hours. ~~(4-11-06)~~()
- vi. Signature and license number of the supervising appraiser. (4-11-06)
- c. An appraiser trainee shall be entitled to obtain copies of all appraisal reports prepared by the trainee. (4-11-06)

03. Continuing Education. Prior to the second renewal and for each continuing education cycle thereafter as provided in Section 275 of this rule, an appraiser trainee shall be required to obtain: (3-21-12)

a. The equivalent of thirty (30) classroom hours of instruction in approved courses or seminars during the twenty-four (24) month period preceding the renewal. Once every twenty-four (24) months, registered appraiser trainees will be required to attend an approved seven-hour USPAP update course or the equivalent. The course must cover the most recent USPAP edition. (3-21-12)

b. All continuing education shall be in compliance with Subsections 401.01 through 401.05. If the licensee completes two (2) or more courses having substantially the same content during any one (1) continuing education cycle, the licensee only will receive continuing education credit for one (1) of the courses. ~~(3-29-10)~~()

c. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities that are determined to be equivalent to obtaining continuing education. Credit for educational processes and programs continuing education shall not exceed one-half (1/2) of the total continuing education credits required for a renewal period. ~~(4-11-06)~~()

d. The purpose of continuing education is to ensure that the appraiser trainee participates in a program that maintains and increases skill, knowledge and competence in real estate appraising. (4-11-06)

276. -- 299. (RESERVED)

300. LICENSED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (RULE 300).

The state licensed residential real estate appraiser classification applies to the appraisal of residential real property consisting of one (1) to four (4) noncomplex residential units having a transaction value less than one million dollars (\$1,000,000) and complex one (1) to four (4) residential units having a transaction value less than two hundred fifty thousand dollars (\$250,000). Applicants must meet the following education, experience and examination

requirements in addition to complying with Section 250. Subsequent to being licensed, every licensee must annually meet the continuing education requirement. (4-11-06)

01. Education. ~~Prior to January 1, 2008, as a prerequisite to taking the examination for licensure as an Idaho Licensed Real Estate Appraiser, each applicant shall present evidence satisfactory to the board of having successfully completed not less than ninety (90) classroom hours of courses in subjects related specifically to real estate appraisal that have been approved by the board. Each applicant must have successfully completed not less than seventy-five (75) classroom hours of study related to those topics outlined under Subsection 250.01.e., the basic principles of real estate appraising. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the USPAP, and Code of Ethics will be credited to the classroom hour requirement. Beginning on January 1, 2008,~~ **As a prerequisite to taking the examination for licensure as an Idaho Licensed Residential Real Estate Appraiser, each applicant shall:** (3-29-10)()

a. Document registration as an Appraiser Trainee; and (4-11-06)

b. Document the successful completion of not less than seventy-five (75) classroom hours of courses in subjects related to real estate appraisal as follows: (4-11-06)

i. Residential Market Analysis and Highest and Best Use - not less than fifteen (15) hours; and (4-11-06)

ii. Residential Appraiser Site Valuation and Cost Approach - not less than fifteen (15) hours; and (4-11-06)

iii. Residential Sales Comparison and Income Approaches - not less than thirty (30) hours specifically including Valuation Principles and Procedures - Sales Comparison Approach; Valuation Principles and Procedures - Income Approach; Finance and Cash Equivalency; Financial Calculator Introduction; Identification, Derivation and Measurement of Adjustments; Gross Rent Multipliers; Partial Interests; Reconciliation; and Case Studies; and (4-11-06)

iv. Residential Report Writing and Case Studies - not less than fifteen (15) hours specifically including Writing and Reasoning Skills; Common Writing Problems; Form Reports; Report Options and USPAP Compliance; Case Studies. (4-11-06)

c. Beginning January 1, 2015, hold an Associate's Degree or higher from an accredited college or university or document the successful completion of thirty (30) semester hours of college-level education. An applicant may receive semester hour credit for credits earned through the College-Level Examination Program (CLEP) provided that the accredited college or university accepts the CLEP and issues a transcript for the exam. ()

02. Experience. Prerequisite to sit for the examination: (7-1-97)

a. Document two thousand (2,000) hours of supervised appraisal experience as a registered Appraiser Trainee in no less than twelve (12) months. Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-06)

b. Of the required two thousand (2,000) hours, the applicant must accumulate a minimum of one thousand five hundred (1,500) hours from field real estate appraisal experience. The balance of five hundred (500) hours may include non field experience, refer to Subsection 250.02.d. (4-11-06)

03. Examination. Successful completion of the Licensed Residential Appraiser examination approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. (4-11-06)

301. -- 349. (RESERVED)

350. CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (RULE 350).

The State Certified Residential Real Estate Appraiser classification applies to the appraisal of residential properties of four (4) or less units without regard to transaction value or complexity. Applicants must meet the following education, experience and examination requirements in addition to complying with Section 250. Subsequent to being certified every licensee must annually meet the continuing education requirement. (4-11-06)

01. Education. ~~Prior to January 1, 2008, as a prerequisite to taking the examination for licensure as an Idaho Certified Residential Real Estate Appraiser, each applicant shall present evidence satisfactory to the board of having successfully completed not less than one hundred twenty (120) classroom hours of courses in subjects related specifically to real estate appraisal that have been approved by the board. Each applicant must have successfully completed not less than ninety (90) classroom hours of study related to those topics outlined under Subsection 250.01.e., the basic principles of real estate appraising and thirty (30) classroom hours of advanced residential or non-residential specialized courses relating to the topics specified at Subsection 250.01.e. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the USPAP, and Code of Ethics; will be credited to the classroom hour requirement. Beginning on January 1, 2008, a~~ prerequisite to taking the examination for licensure as an Idaho Certified Residential Real Estate Appraiser, each applicant shall: ~~(3-30-07)()~~

a. Hold an Associate Degree or higher from an accredited college or university or document successful completion of no less than twenty-one (21) college semester credit hours in English Composition, Principles of Economics (micro or macro), Finance, Algebra, Geometry or higher mathematics, Statistics, Computer Science, and Business or Real Estate Law; and (4-2-08)

b. Document registration as an Appraiser Trainee and completion of the education required for licensure as a Licensed Residential Real Estate Appraiser or hold a current license as a Licensed Residential Real Estate Appraiser; and (4-11-06)

c. Document the successful completion of not less than fifty (50) classroom hours of courses in subjects related to real estate appraisal as follows: (4-11-06)

i. Statistics, Modeling and Finance - not less than fifteen (15) hours specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance;

and (4-11-06)

ii. Advanced Residential Applications and Case Studies - not less than fifteen (15) hours specifically including Complex Property, Ownership and Market Conditions; Deriving and Supporting Adjustments; Residential Market Analysis; and Advanced Case Studies; and (4-11-06)

iii. Appraisal Subject Matter Electives - not less than twenty (20) hours and may include hours over the minimum shown in Subsection 350.01.c. (4-11-06)

d. On or after January 1, 2015, hold a Bachelor's Degree or higher from an accredited degree-granting college or university; and ()

e. Document registration as an Appraiser Trainee and completion of the education required for licensure as a Licensed Residential Real Estate Appraiser, or hold a current license as a Licensed Residential Real Estate Appraiser; and ()

f. Document the successful completion of not less than fifty (50) classroom hours of courses in subjects related to real estate appraisal as follows: ()

i. Statistics, Modeling and Finance - not less than fifteen (15) hours, specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; and ()

ii. Advanced Residential Applications and Case Studies - not less than fifteen (15) hours, specifically including Complex Property, Ownership and Market Conditions; Deriving and Supporting Adjustments; Residential Market Analysis; and Advanced Case Studies; and ()

iii. Appraisal Subject Matter Electives - not less than twenty (20) hours, and may include hours over the minimum shown in Subsection 350.01.c. of these rules. ()

02. Experience. Experience is a prerequisite to sit for the licensure examination: (4-11-06)

a. Document two thousand five hundred (2,500) hours of appraisal experience in no less than twenty-four (24) months (see Subsection 250.02). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-06)

b. Two thousand (2,000) hours of the experience shall be from residential field appraisal experience. The balance of five hundred (500) hours may include non field experience, refer to Subsection 250.02.d. (4-11-06)

c. Examination. Successful completion of the Certified Residential Appraiser examination approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. (3-21-12)

351. -- 399. (RESERVED)

400. CERTIFIED GENERAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (RULE 400).

The State Certified General Real Estate Appraiser classification applies to the appraisal of all types of real property. Applicants must meet the following examination, education, and experience requirements in addition to complying with Section 250. Subsequent to being certified, an individual must meet the continuing education requirement. (4-2-08)

01. Education. ~~Prior to January 1, 2008, as a prerequisite to taking the examination for licensure as an Idaho State Certified General Real Estate Appraiser, each applicant shall present evidence satisfactory to the board of having successfully completed not less than one hundred eighty (180) classroom hours of courses in subjects related specifically to real estate appraisal approved by the board. Each applicant must have successfully completed not less than one hundred sixty (160) classroom hours of study related to those topics outlined under Subsection 250.01.e. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the USPAP, and Code of Ethics; and one hundred (100) classroom hours of advanced non-residential specialized courses relating to the topics specified at Subsection 250.01.e. Beginning on January 1, 2008, a~~ prerequisite to taking the examination for licensure as an Idaho Certified General Real Estate Appraiser, each applicant shall: ~~(3-30-07)()~~

a. Hold a Bachelors Degree or higher from an accredited college or university or document successful completion of no less than thirty (30) college semester credit hours in English Composition, Micro Economics, Macro Economics, Finance, Algebra, Geometry or higher mathematics, Statistics, Computer Science, and Business or Real Estate Law, and two (2) elective courses in accounting, geography, ag economics, business management, or real estate; and (4-2-08)

b. Document registration as an Appraiser Trainee and document the successful completion of not less than two hundred twenty-five (225) classroom hours of courses in subjects related to real estate appraisal as follows: (3-29-10)

i. Statistics, Modeling and Finance: not less than fifteen (15) hours specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; (3-29-10)

ii. General Appraiser Market Analysis and Highest and Best Use: not less than thirty (30) hours; (3-29-10)

iii. General Appraiser Sales Comparison Approach: not less than thirty (30) hours specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; (3-29-10)

iv. General Appraiser Site Valuation and Cost Approach: not less than thirty (30) hours; (3-29-10)

v. General Appraiser Income Approach: not less than sixty (60) hours specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and

Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; (3-29-10)

vi. General Appraiser Report Writing and Case Studies: not less than thirty (30) hours specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies; and (3-29-10)

vii. Appraisal Subject Matter Electives: not less than thirty (30) hours and may include hours over the minimum shown in Subsection 400.01.b.; or (3-29-10)

c. Document licensure as a Licensed Residential Real Estate Appraiser and the successful completion of not less than one hundred fifty (150) classroom hours of courses in subjects related to real estate appraisal as follows: (3-29-10)

i. Statistics, Modeling and Finance: not less than fifteen (15) hours specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; and (4-11-06)

ii. General Appraiser Market Analysis and Highest and Best Use: not less than fifteen (15) hours; and (3-29-10)

iii. General Appraiser Sales Comparison Approach: not less than fifteen (15) hours specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; and (3-29-10)

iv. General Appraiser Site Valuation and Cost Approach: not less than fifteen (15) hours; and (3-29-10)

v. General Appraiser Income Approach: not less than forty-five (45) hours specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; and (3-29-10)

vi. General Appraiser Report Writing and Case Studies: not less than fifteen (15) hours specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies; and (3-29-10)

vii. Appraisal Subject Matter Electives: not less than thirty (30) hours and may include hours over the minimum shown in Subsection 400.01.c.; or (3-29-10)

d. Document licensure as a Certified Residential Real Estate Appraiser and the successful completion of not less than one hundred five (105) classroom hours of courses in subjects related to real estate appraisal as follows: (3-29-10)

i. General Appraiser Market Analysis and Highest and Best Use: not less than fifteen (15) hours; and (3-29-10)

ii. General Appraiser Sales Comparison Approach: not less than fifteen (15) hours specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; and (3-29-10)

iii. General Appraiser Site Valuation and Cost Approach: not less than fifteen (15) hours; and (3-29-10)

iv. General Appraiser Income Approach: not less than forty-five (45) hours specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; and (3-29-10)

v. General Appraiser Report Writing and Case Studies: not less than fifteen (15) hours specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies. (3-29-10)

e. On or after January 1, 2015, hold a Bachelor's Degree or higher from an accredited degree-granting college or university; and ()

f. Document registration as an Appraiser Trainee and document the successful completion of not less than two hundred twenty-five (225) classroom hours of courses in subjects related to real estate appraisal as follows: ()

i. Statistics, Modeling and Finance - not less than fifteen (15) hours, specifically including Statistics; Valuation Models (AVM's and Mass Appraisal), and Real Estate Finance; ()

ii. General Appraiser Market Analysis and Highest and Best Use - not less than thirty (30) hours; ()

iii. General Appraiser Sales Comparison Approach - not less than thirty (30) hours, specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; ()

iv. General Appraiser Site Valuation and Cost Approach - not less than thirty (30) hours; ()

v. General Appraiser Income Approach - not less than sixty (60) hours, specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; ()

vi. General Appraiser Report Writing and Case Studies - not less than thirty (30) hours, specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies; and ()

vii. Appraisal Subject Matter Electives - not less than thirty (30) hours, and may include hours over the minimum shown in Subsection 400.01.b. of these rules; or ()

g. Document licensure as a Licensed Residential Real Estate Appraiser and the successful completion of not less than one hundred fifty (150) classroom hours of courses in subjects related to real estate appraisal as follows: ()

i. Statistics, Modeling and Finance - not less than fifteen (15) hours, specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; and ()

ii. General Appraiser Market Analysis and Highest and Best Use - not less than fifteen (15) hours; and ()

iii. General Appraiser Sales Comparison Approach - not less than fifteen (15) hours, specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; and ()

iv. General Appraiser Site Valuation and Cost Approach - not less than fifteen (15) hours; and ()

v. General Appraiser Income Approach - not less than forty-five (45) hours, specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; and ()

vi. General Appraiser Report Writing and Case Studies - not less than fifteen (15) hours, specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies; and ()

vii. Appraisal Subject Matter Electives - not less than thirty (30) hours, and may include hours over the minimum shown in Subsection 400.01.c.; or ()

h. Document licensure as a Certified Residential Real Estate Appraiser and the successful completion of not less than one hundred five (105) classroom hours of courses in subjects related to real estate appraisal as follows: ()

i. General Appraiser Market Analysis and Highest and Best Use - not less than fifteen (15) hours; and ()

ii. General Appraiser Sales Comparison Approach - not less than fifteen (15) hours, specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; and ()

iii. General Appraiser Site Valuation and Cost Approach - not less than fifteen (15) hours; and ()

iv. General Appraiser Income Approach - not less than forty-five (45) hours, specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; and ()

v. General Appraiser Report Writing and Case Studies - not less than fifteen (15) hours, specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies. ()

02. Experience. Experience is a prerequisite to sit for the licensure examination: (4-11-06)

a. Document three thousand (3,000) hours of appraisal experience in no less than thirty (30) months (See Subsection 250.02). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-06)

b. One thousand five hundred (1,500) hours of the experience must be nonresidential appraisal experience. The balance of one thousand five hundred (1,500) hours may be solely residential experience or can include up to five hundred (500) hours of nonfield experience as outlined in Subsection 250.02.d. (4-11-06)

c. Examination. Successful completion of the Certified General Appraiser examination approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. (3-21-12)

401. CONTINUING EDUCATION (RULE 401).

All certified/licensed appraisers must comply with the following continuing education requirements: (7-1-97)

01. Purpose of Continuing Education. The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his skill, knowledge and competency in real estate appraising. (7-1-97)

02. Hours Required. The equivalent of thirty (30) classroom hours of instruction in courses or seminars during the twenty-four (24) months prior to renewal is required. If the licensee completes two (2) or more courses having substantially the same content during any one (1) continuing education cycle, the licensee only will receive continuing education credit for one (1) of the courses. (3-21-12)

a. A classroom hour is defined as fifty (50) minutes out of each sixty (60) minute segment. The educational setting may include a classroom, conference/seminar, on-line or a virtual classroom. (4-4-13)

b. If the educational offering is taken on-line or in a virtual classroom, the course must include successful completion of prescribed course mechanisms required to demonstrate knowledge of the subject matter. ()

bc. Credit toward the classroom hour requirement may be granted only where the length of the educational offering is at least two (2) hours. (7-1-97)

ed. Credit for the classroom hour requirement may be obtained by accredited courses which have been approved by the Appraisal Qualification Board and by courses approved by Real Estate Appraiser Boards of states with reciprocity with Idaho. All other courses must have approval of the Board, which shall require the continuing education provider to submit the educational course approval application and application fee as set forth in these rules along with the documentation including the instructors and their qualifications, course content, length of course, and its location. Courses shall be approved for a period of four (4) years. (4-4-13)

de. Once every twenty-four (24) months, Idaho State Certified/Licensed Real Estate Appraisers and registered trainees will be required to attend an approved seven (7) hour USPAP update course or the equivalent. The course must cover the most recent USPAP edition. (3-21-12)

03. Credit for Appraisal Educational Processes and Programs. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. Credit for educational processes and programs continuing education shall not exceed one-half (1/2) of the total continuing education credits required for a renewal period. (4-2-08)

04. Credit for Attending the Licensure Board Meetings. Continuing education credit may be granted for a maximum of two (2) hours each continuing education cycle for time spent attending one (1) Board meeting. Members of the board shall not be entitled to continuing education credit for board service. (3-21-12)

05. Requirement When a Certificate/License Is Cancelled. For each year (less than five (5)) in which a license is lapsed, canceled, or otherwise non-renewed, fifteen (15) hours of continuing education must be documented, including a seven (7) hour USPAP update course, prior to reinstatement. The course must cover the most recent USPAP edition. (3-21-12)

06. Special Exemption. The Board shall have authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or other good cause. The appraiser must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. (3-29-10)

402. -- 449. (RESERVED)

450. RECIPROCITY (RULE 450).

Applicant must comply with Section 54-4115, Idaho Code. (7-1-93)

01. File Application. File applications on forms provided by the Board. (7-1-93)

02. Submit Statement Verifying Certification/Licensure. Submit current notarized statement verifying certification/licensure in good standing in another state. (7-1-93)

~~03. **Reciprocal License Issued.** No reciprocal license will be issued where the applicant was originally licensed in a state other than that upon which the reciprocity application is based. (7-1-97)~~

(BREAK IN CONTINUITY OF SECTIONS)

526. -- 543. (RESERVED)

540. APPRAISALS IN LITIGATION (RULE 540).

Licensed or certified appraisers providing opinions of value in litigation shall comply with USPAP Standard 1 including maintaining a work file in support of the opinion of value in litigation. ()

541. -- 549. (RESERVED)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.25.01 - RULES OF THE IDAHO DRIVING BUSINESSES LICENSURE BOARD

DOCKET NO. 24-2501-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-5403, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 3, 2013 Idaho Administrative Bulletin, [Vol. 13-7, pages 73 through 78](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at 208-334-3233.

DATED this 28th day of October, 2013.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W State St.
P O Box 83720
Boise, ID 83720-0063
Phone: 208-334-3233
Fax: 208-334-3945

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **May 3, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-5403, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2013.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

House Bill 127 which passed in the 2013 legislative session allows the Bureau to collect and pay such fees as required for fingerprint based criminal history background checks. Idaho State Police will no longer collect fees from individuals. In order for applicants to meet the background check requirement the Bureau needs to be able to process the fee on behalf of the applicant.

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

House Bill 127 which passed in the 2013 legislative session allows the Bureau to collect and pay such fees as are required for fingerprint based criminal history background checks. The Rules of the Driving Businesses Licensure Board need to be amended to comply with the change in the statute regarding the collection and payment of the fees. The rule is also being amended to clarify the process for permitting apprentices in order to assure public protection.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because: The Rules of the Driving Businesses Licensure Board need to be amended to comply with the change in the statute regarding the collection and payment of the fees and to clarify the apprentice permit process.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the

following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at 208 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2013.

DATED this 3rd day of June, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-2501-1301

225. DRIVING BUSINESS LICENSE (RULE 225).

A driving business license enables a licensee to operate a driver education business at one (1), principal classroom location as designated in the application. The licensee may also utilize secondary locations for classroom instruction, so long as the business does not conduct driver education at any given secondary location for more than sixty (60) days in a one-year period. A driving business license is not transferable. The business licensee must conspicuously display the license at the business's principal classroom location. Each applicant must apply as required by Rule 150. (4-7-11)

01. Applicant Identity. The applicant must provide such identifying information as may be requested by the Board including, without limitation, the following: (4-7-11)

a. The applicant's legal name (i.e., the name of the natural person or business entity to be issued the license) and assumed business name(s), if any. (4-7-11)

b. The applicant's social security number, if the applicant has no employees and is a natural person (including a sole proprietor acting under an assumed business name). If the applicant has employees or is not a natural person (e.g., is a general or limited partnership, corporation, limited liability partnership, or limited liability company), then the applicant must provide its employer identification number. (4-7-11)

c. The names and addresses of the applicant's officers and shareholders having a twenty-five percent (25%) or greater ownership interest (if a corporation), members and managers (if a limited liability company), and partners (if a partnership). (4-7-11)

d. The applicant's contact information, including its mailing address, physical

address, and telephone number. (4-7-11)

02. Criminal History Background Check. The applicant, if a natural person, and all persons listed under Paragraph 225.01.c. and Subsection 225.05 of these rules, must submit to a current, fingerprint-based criminal history check conducted by an organization approved by the Board. Each applicant must ensure that such persons submit a full set of their fingerprints, and any relevant fees, ~~directly to the organization that conducts the criminal history check, and that the organization delivers the results directly~~ to the Bureau **which will forward the fingerprints and fees to the organization that conducts the fingerprint based criminal history background check.** The **Board application** will not **be processed** ~~the application~~ until the Bureau has received **all the completed fingerprint-based** criminal history **background** checks. (4-7-11)()

03. Classroom Locations and Certificates of Occupancy. Each applicant must list all principal and secondary classroom locations to be utilized by the business. The applicant must provide a certificate of occupancy issued to the building/room by the local fire marshal or the fire marshal's designated agent, for each classroom location other than a location in a public or private school building, government building, church, or synagogue. (4-7-11)

04. Certificate of Vehicle Insurance. The certificate of vehicle insurance for each vehicle utilized by the driving business for driver education must accompany the application. The minimum coverage will include: (4-7-11)

- a. Medical Payment for each person - five thousand dollars (\$5,000); and either (4-7-11)
- b. Limit of liability (Combined single limit) - five hundred thousand (\$500,000) to apply to bodily injury and/or property damage; or (4-7-11)
- c. Limit of liability (Split limit). Bodily injury - two hundred-fifty thousand (\$250,000) per person/ five hundred thousand (\$500,000) each accident; Property damage - two hundred-fifty thousand (\$250,000) each accident. (4-7-11)

05. List of Licensed Instructors. Before beginning to offer driver education, and at all times while offering driver education, a driving business must employ or have contracted with one (1) or more licensed driving instructors to teach the classroom instruction phase and behind-the-wheel training phase of the driver education to be provided by the business. The driving business must submit to the Bureau a current list of such licensed instructors with the application, and keep such list current after licensure. (4-7-11)

06. Vehicles. An applicant for a driving business license must submit to the Bureau a list of the vehicles that the business will utilize when offering driver education. A business licensee may not utilize vehicles that do not appear on the list. Each vehicle must have dual control brake pedals, safety restraints for all passengers, a side view mirror on each side of the vehicle, and an additional rear view mirror or compatible viewing device for the exclusive use of the instructor. A driving business must ensure that students are not allowed in a listed vehicle unless the vehicle is in a safe and proper operating condition. (4-7-11)

- a. Initial Inspection. An applicant may not include a vehicle on a business's vehicle

list unless the vehicle has passed a vehicle inspection performed by an ASE mechanic or vehicle technician within the two (2) month period preceding the application. The inspection must be documented on the Board-approved inspection form included at Appendix A to these rules, or on such other similar forms as may be approved by the Board. The person who inspected the vehicle must sign the form, certifying that the vehicle generally is in a safe and proper operating condition, and that each inspected item passed inspection or, if found to be in need of repair, was repaired on a given date. The application must be accompanied by a separate, signed form for each listed vehicle. (4-7-11)

b. Annual Inspection. A business licensee must ensure that each vehicle passes an inspection every twelve (12) months, and that the inspection is performed by an ASE mechanic or vehicle technician documented on the Board-approved form referenced in Paragraph 225.06.a. of these rules. If a vehicle fails an annual inspection, the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes a subsequent inspection and the business licensee has submitted to the Bureau the inspection form evidencing that the vehicle has passed. (4-7-11)

c. Incident Inspection. If a vehicle incident occurs that requires an investigation and report by law enforcement, or in which the damage exceeds one thousand five hundred dollars (\$1,500), the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes inspection by an ASE mechanic or vehicle technician and the business licensee has submitted to the Bureau the inspection form evidencing that the vehicle has passed. (4-7-11)

d. Signage. The business licensee must ensure that the outside of each vehicle is equipped with safely secured signs. Signs must include “Student Driver,” “Driver Education,” “Driver Training,” “Driving School,” or similar language that clearly designates the vehicle as a driver training vehicle. (4-7-11)

07. Course of Instruction. Each applicant, for an original business license, must provide with its application the course of instruction the applicant will use when instructing students. The applicant must demonstrate, to the Board’s satisfaction, that the course of instruction is designed to produce safe and effective drivers and is educationally sound. The course of instruction must be based on the minimum curriculum components outlined in Rule 226, and shall consist of: (4-7-11)

a. Not less than thirty (30) hours of classroom instruction; and (4-7-11)

b. Not less than six (6) hours of behind-the-wheel practice driving; and (4-7-11)

c. Not less than six (6) hours of student, in-vehicle observation of other persons (e.g., parents, other student drivers, etc.) driving the vehicle. (4-7-11)

08. On-line Instruction. In addition to, or in lieu of offering classroom instruction at a physical classroom location, a business licensee may offer classroom instruction to students via the internet if the instruction content meets the requirements of these rules and is approved by the Board. (4-7-11)

09. Instructor Apprenticeship Training Program. A driving business may offer a Board-approved instructor apprenticeship training program under the conditions specified in Rule 275. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

250. DRIVING INSTRUCTOR LICENSE (RULE 250).

01. Application. Each applicant for a driving instructor license must apply as required by Rule 150. Each applicant is required to provide his name, date of birth, and contact information, including mailing address and telephone number, on the Board-approved application form. (4-7-11)

02. Age. An applicant for a driving instructor license must be at least twenty-one (21) years old. (4-7-11)

03. Driving Record and Drivers License. Each applicant must submit a copy of a valid driver's license in good standing and a copy of a satisfactory driving record. An unsatisfactory record includes, but is not limited to, two (2) moving violations in the past twelve (12) months, or suspension or revocation of a driver's license in the last thirty-six (36) months, or a conviction involving alcohol or controlled substances within the last thirty-six (36) months. (4-7-11)

04. Criminal History Background Check. Each applicant must submit to a current, fingerprint-based criminal history check conducted by an organization approved by the Board. Each applicant must submit a full set of the applicant's fingerprints, and any relevant fees, ~~directly to the organization that conducts the criminal history check, and ensure that the organization delivers the results directly~~ to the Bureau which will forward the fingerprints and fees to the organization that conducts the fingerprint based criminal history background check. The ~~Board application~~ will not be processed ~~the application~~ until the completed fingerprint-based criminal history background check has been received. (4-7-11)()

05. Medical Certificate. A driving instructor licensee may not provide in-vehicle instruction to students if the instructor suffers from a medical condition that may impair the instructor's ability to safely instruct student drivers. Accordingly, each applicant for an instructor's license must obtain a medical examination conducted in accordance with the Federal Motor Carriers Safety Regulations (49 CFR 391.41-391.49). The examination must occur within the thirty (30) days preceding the application. The applicant must submit a medical affidavit or certificate, issued and signed by a licensed, qualified medical professional documenting that the examination occurred and that the applicant does not suffer from any physical or mental condition or disease that would impair the applicant's ability to safely instruct student drivers. If a medical condition exists, the applicant must re-certify as the medical professional requires and submit that information to the Board. (4-7-11)

06. Education. Each applicant must submit written evidence, satisfactory to the

Board, of having graduated from a high school or a regionally or nationally accredited college or university, or of having obtained a GED. (4-7-11)

07. Instructor Apprenticeship Training Program. Applicants for licensure must demonstrate to the Board's satisfaction that they have successfully completed all required classroom instruction and behind-the-wheel training hours from a Board-approved instructor apprenticeship training program. The applicant must have undertaken and completed the apprenticeship training program within the five (5) year period immediately preceding the application. (4-7-11)

a. Proof of successful completion must include written certificate from a Board-approved apprenticeship training program certifying that the applicant has satisfactorily completed the program. An applicant need not have completed all required classroom instruction and behind-the-wheel training hours through a single program so long as the last program attended by the applicant ensures itself, and its business licensee certifies to the Board that the applicant has satisfactorily completed all required hours through Board-approved apprenticeship training programs. (4-7-11)

b. A person may not enroll in an apprenticeship training program unless the person has applied for, paid for, and obtained an apprenticeship permit from the Board. The applicant must apply on Board-approved forms, which must identify the applicant and the business licensee in whose approved apprenticeship training program the applicant will be enrolled. The individual applicant must establish that they are at least twenty-one (21) years old, hold a valid driver's license and a satisfactory driver license record, have passed a fingerprint based criminal history background check, and have obtained a medical certificate consistent with the requirements of Subsections 250.02 through 250.05. An apprenticeship permit automatically expires one (1) year after issuance. The Board also may suspend or revoke an apprenticeship permit, and refuse to issue another permit, if the permittee engages in any act or omission that would subject the permittee to discipline if the permittee had an instructor's license. No one may be a permittee for more than three (3) years. (~~4-7-11~~)()

251. -- 274. (RESERVED)

275. INSTRUCTOR APPRENTICESHIP TRAINING PROGRAM (RULE 275).

01. Application for Approval. A business licensee may operate a Board-approved instructor apprenticeship training program. The business licensee must apply for program approval on forms provided by the Board, and submit with the application such documentation as the Board may require to enable the Board to assess whether the proposed program meets the Board's approval criteria, as specified in Subsections 275.03 through 275.08 of these rules. (4-7-11)

02. Suspension or Revocation of Approval and Discipline. If an approved program fails to consistently adhere to the approval criteria in Subsections 275.03 through 275.08 of these rules, the Board may suspend or revoke the approval. Further, if a business licensee that operates an approved program fails to cooperate with the Board in any inspection or audit of the program, the licensee may be disciplined. (4-7-11)

03. Apprentices. The business licensee must ensure that all persons who enroll in the licensee's program possess a valid instructor apprenticeship training permit from the Board, ~~are at least twenty-one (21) years old, hold a valid driver license and a satisfactory drivers record, have passed a criminal history background check, and have obtained a medical certificate consistent with the requirements of Subsections 250.02 through 250.05.~~ (4-7-11)()

04. Instruction and Training Hours. The Board must be satisfied that the program has designed its proposed instruction and training to produce safe and effective driving instructors. The business licensee must ensure that the program includes at least the following instruction and training components: (4-7-11)

a. Each apprentice must receive at least sixty (60) hours of classroom instruction covering the curriculum components for student classroom instruction specified in Subsections 226.01 through 226.10 of these rules. These hours must include both a didactic component, in which a program instructor provides in-class instruction to the apprentice, and a practical component in which the apprentice provides in-class instruction to students. A program instructor must be physically present in the classroom to supervise at least thirty (30) hours of the apprentice's in-class instruction to students. (4-7-11)

b. Each apprentice must receive at least one hundred eight (108) hours of behind-the-wheel-training covering the curriculum components for student in-car instruction specified in Subsections 226.11 through 226.14 of these rules. When an apprentice begins to provide behind-the-wheel driving instruction to students, a program instructor must supervise the apprentice by riding in the vehicle with the apprentice and students for the first six (6) hours. A program instructor also must ride in the vehicle with the apprentice and students to evaluate the apprentice during the final two (2) hours of the apprentice's behind-the-wheel training. (4-7-11)

05. Instructors. The business licensee must ensure that only licensed driving instructors with five (5) or more years of continuous driver education experience are allowed to teach in the program. A list of the instructors must accompany the application for approval. (4-7-11)

06. Recordkeeping. The business licensee must ensure that the program maintains progress records for each apprentice. A program instructor and the apprentice must sign and date the records each month, and copies of the records must be provided to the apprentice. The records must, at a minimum, identify each lesson completed, the number of hours of instruction involved in the lesson, the date the apprentice completed the lesson, the instructor who taught the lesson, and whether the apprentice passed. When an apprentice's course of instruction has been completed or terminated, the program business licensee must maintain the records of the apprentice's progress, and the total hours recorded and maintained by the program for a period of five (5) years from completion or termination date. These records are subject to inspection by the Board at any time. (4-7-11)

07. Certificate of Proficiency. The program must provide each apprentice with a certificate of proficiency evidencing all hours satisfactorily completed by the apprentice while in the program, and that the apprentice is proficient in all areas covered by the certificate. (4-7-11)

08. Discontinuance of Program. If the business licensee ceases to operate the

program, the business licensee must provide the program's current and prior apprentices with any progress or other records that the program is required to maintain under this Section. (4-7-11)

IDAPA 28 - DEPARTMENT OF COMMERCE

28.02.07 - RULES GOVERNING THE ADMINISTRATION OF THE IGEN GRANT PROGRAM

DOCKET NO. 28-0207-1301 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4702 and 67-4729, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013, Idaho Administrative Bulletin, [Vol. 13-10, pages 389 through 391](#).

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

There is no negative fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Megan Ronk at 208-334-2470.

DATED this 26th day of November 2013.

Megan Ronk
Division Administrator/Chief Administrative Officer
Idaho Department of Commerce
700 W State Street
Boise, ID 83702
Phone: 208-334-2470
Fax: 208-334-2631

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-4702 and 67-4729, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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

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

These rules establish procedures for the administration of the IGEM (Idaho Global Entrepreneurial Mission) Grant Program.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need to adopt a temporary rule which confers a benefit through the establishment and administration of this grant program.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule contact Megan Ronk, Chief Communications & Governmental Affairs Officer, Idaho Department of Commerce at (208) 334-2470.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 30th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 28-0207-1301

IDAPA 28
TITLE 02
CHAPTER 07

28.02.07 - RULES GOVERNING THE ADMINISTRATION OF THE IGEN GRANT PROGRAM

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Sections 67-4702 and 67-4729, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter shall be cited as IDAPA 28.02.07, Idaho Department of Commerce, "Rules Governing the Administration of the IGEN Grant Program." ()

02. Scope. These rules establish procedures for the administration of the IGEN Grant Program. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written interpretations of these rules are available from the Idaho Department of Commerce. ()

003. ADMINISTRATIVE APPEALS.

The award of grants under the IGEN Grant Program is a discretionary action to be performed by the Idaho Department of Commerce. There is no provision for administrative appeal under these rules. ()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into the rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The headquarters of the Idaho Department of Commerce is in Boise, Idaho. Office hours are from 8 a.m. to 5 p.m. except Saturdays, Sundays and legal holidays. The Department's mailing address

for information regarding the IGEM Grant Program is: Idaho Department of Commerce, P.O. Box 83720, Boise ID 83720-0093. The street address is 700 West State Street, Boise, Idaho. The telephone number is (208) 334-2470 and the FAX number is (208) 334-2631. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

All rules contained in this chapter are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

As used in this chapter: ()

01. Department. Idaho Department of Commerce. ()

02. Eligible Applicant. Idaho research universities: Boise State University, Idaho State University, and University of Idaho. ()

03. IGEM Council. Idaho Global Entrepreneurial Mission Council as defined in Section 67-4726, Idaho Code. ()

04. IGEM Executive Committee. The IGEM Executive Committee is made up of the IGEM Council chairman, the director of the Idaho Department of Commerce, and the Idaho State Board of Education member of the IGEM Council. ()

05. IGEM Grant Program. A grant program established by the IGEM Council for the purpose of funding projects intended to further the purpose as described in Section 100 of these rules. ()

06. University. As used in these rules, University means Boise State University, Idaho State University, and the University of Idaho. ()

011. ABBREVIATIONS.

As used in this chapter: ()

01. IGEM. Idaho Global Entrepreneurial Mission. ()

02. RFP. Request for Proposal. ()

012. -- 099. (RESERVED)

100. PURPOSE.

The IGEM Grant Program funds commercialization grants supporting University and industry research partnerships for the purpose of enhancing technology transfer and commercialization of research and technologies developed at the Universities to create high-quality jobs and new industries in the private sector in Idaho. ()

101. -- 199. (RESERVED)

200. REQUEST FOR PROPOSAL (RFP).

The IGEM Council will release a RFP outlining the process and requirements for Eligible Applicants to apply for IGEM Grant Program awards. The RFP shall include requirements for performance measures and reporting. Awarded programs that fail to meet the requirements set forth in the RFP may be terminated. ()

201. -- 299. (RESERVED)

300. SELECTION PREFERENCE.

In selecting IGEM proposals for award, the IGEM Council shall give greater weight to proposals that partner with Idaho based entities. ()

301. MATCHING REQUIREMENT.

All approved awards must contain a match requirement. The match may be monetary or in-kind as established in the RFP. ()

302. -- 399. (RESERVED)

400. TERMINATION OF FUNDING.

Funding for projects may be terminated by the Department at any time for failure to meet the program requirements set out in the RFP or for the misuse of IGEM funds. Upon receipt of a written notice of termination from the Department, the grantee must immediately stop all expenditures of IGEM funds and return all unspent IGEM funds to the Department. The Department will make a final payment to the grantee based on the work completed, allowable costs incurred, and the documentation provided by the grantee as required by these rules. ()

401. -- 499. (RESERVED)

500. COMMERCIALIZATION REVENUE.

Any commercialization revenue generated through the IGEM University research initiative and by IGEM funded research faculty will be distributed as outlined in Section 67-4731, Idaho Code. ()

501. -- 999. (RESERVED)

IDAPA 28 - DEPARTMENT OF COMMERCE

28.03.01 - RULES OF THE IDAHO OPPORTUNITY FUND

DOCKET NO. 28-0301-1301 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-4733, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2013, Idaho Administrative Bulletin, [Vol. 13-9, pages 189 through 193](#).

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

There is no negative fiscal impact on the state general fund. House Bill 100 formally established the Idaho Opportunity Fund in the Idaho State Treasury. In Fiscal Year 2014 the Idaho Opportunity Fund will be funded as follows:

- \$400,000 ongoing appropriation in Department of Commerce budget (General Fund); and
- \$3,000,000 in onetime funding in Department of Commerce budget (General Fund).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Megan Ronk at 208-334-2470.

DATED this 26th day of November 2013.

Megan Ronk
Division Administrator/Chief Administrative Officer
Idaho Department of Commerce
700 W State Street
Boise, ID 83702
Phone: 208-334-2470
Fax: 208-334-2631

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **August 1, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-4733, Idaho Code, and Sections 67-4732 through 67-4736, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These comprehensive rules will govern the Idaho Opportunity Fund as enacted in House Bill 100. House Bill 100 formally established the Idaho Opportunity Fund and added five new Sections to 67-4732 through 67-4736, Idaho Code. These rules are necessary to outline the specific parameters for the award and disbursement of Idaho Opportunity Fund grants to cities and counties.

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

This temporary rule is being adopted to bring the rule into compliance with the statutory changes made by House Bill 100. The temporary rule also confers a benefit to cities and counties that may be eligible for these funds.

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

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

House Bill 100 formally established the Idaho Opportunity Fund in the Idaho State Treasury.

In Fiscal Year 2014 the Idaho Opportunity Fund will be funded as follows:

\$400,000 ongoing appropriation in Department of Commerce budget (General Fund); and
\$3,000,000 in onetime funding in Department of Commerce budget (General Fund).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, it was not feasible to conduct negotiated rulemaking because of the need to adopt this rule as a temporary rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Megan Ronk, Chief Communications & Governmental Affairs Officer, Idaho Department of Commerce at (208) 334-2470.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 31st day of July, 2013

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 28-0301-1301

**IDAPA 28
TITLE 03
CHAPTER 01**

28.03.01 - RULES OF THE IDAHO OPPORTUNITY FUND

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Section 67-4733, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 28.03.01, “Rules of the Idaho Opportunity Fund.” ()

02. Scope. These rules implement House Bill H100, enacted by the First Regular Session of the Sixty-second Legislature and signed into law on March 21, 2013. These rules amend Chapter 47, Title 67, Idaho Code, by the addition of new sections 67-4732 through 67-4736, Idaho Code. The three (3) new sections provide a short title and legislative intent, provide rulemaking authority to the Director of the Department of Commerce create the Opportunity Fund in the State Treasury, provide for the makeup and use of the fund, provide that agreements are required for disbursement of funds and provide for annual reporting by the Director of the Department of Commerce. ()

002. WRITTEN INTERPRETATIONS.

The Department has no written interpretations of these rules. ()

003. ADMINISTRATIVE APPEALS.

The award of grants under the Opportunity Fund are made at the discretion of the Director of the Department of Commerce. In light of the discretionary nature of awarding these grants, there is no administrative appeal under these rules. ()

004. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The mailing address of the Department for information regarding the Opportunity Fund Act is: 700 West State Street, PO Box 83720, Boise, ID 83702-0093; the telephone number is (208) 334-2470; and the facsimile number is (208) 334-2631. Documents may be filed at the state office during regular business hours of 8am to 5pm, Monday through Friday, excluding holidays. ()

005. PUBLIC RECORDS ACT COMPLIANCE.

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (title 9, chapter 3, Idaho Code). ()

006. -- 009. (RESERVED)

013. DEFINITIONS.

01. Company Performance Agreement. An agreement between a local government and a Grantee Business, in addition to any requirements in rules adopted by the Department. ()

02. Department. Idaho Department of Commerce. ()

03. Grantee Business. A non-governmental company or organization that receives funding through a Company Performance Agreement. ()

04. Local Government Grant Agreement. An agreement between the Department and one (1) or more local governments. ()

06. Public Cost. Any cost incurred by the state of Idaho or local government of the state of Idaho for the purpose of promoting economic development to retain, expand, or attract

quality jobs in industries deemed vital to the health of the local and statewide economy. Public costs do not include impact fees or easements. ()

014. GRANT AWARDS.

01. Funding. The Director of the Department may, in his sole discretion, award Opportunity Fund grants to local government for public costs incurred with the purpose to retain, expand or attract jobs which shall include: ()

a. Construction of or improvements to new or existing water, sewer, gas or electric utility systems for new or existing buildings to be used for industrial or commercial operations; ()

b. Flood zone or environmental hazard mitigation; or ()

c. Construction, upgrade or renovation of other infrastructure related items including, but not limited to, railroads, broadband, parking lots, roads or other public costs that are directly related to specific job creation or expansion projects. ()

02. Local Match. The local government must provide allowable local match. Allowable match includes those costs which are allowable within the Opportunity Fund and must be provided by the local government as cash, in-kind services, fee waivers (such as development impact fees), donation of assets, the provision of infrastructure or a combination thereof. The match must represent a material commitment from the local government that is commensurate with the local government's financial condition. The Director of the Department has the authority to approve other forms of local match or waive the local match requirements. ()

03. Local Government Grant Agreements. Local Government Grant Agreements will be entered into between the Department and one (1) or more local governments, and shall contain the following provisions: ()

a. A commitment on the part of the local government to match, in whole or in part, the funds allocated by the Department; ()

b. A provision requiring the local government to recapture any funds to which the local government is entitled under the Company Performance Agreement; ()

c. A provision requiring repayment from the local government to the Department for any funds used for unapproved purposes or disbursed prior to compliance with the Company Performance Agreement or achievement of the job creation or other performance targets; ()

d. A provision allowing the Department access to records possessed by the local government necessary to ensure compliance with the Company Performance Agreement and with the requirements of the Opportunity Fund; ()

e. A provision establishing a schedule for the disbursement of funds from the Opportunity Fund to the local government that reflects the disbursement schedule established in the Company Performance Agreement; and ()

f. Any other lawful provision the Department deems necessary to ensure the proper use of state funds. ()

04. Company Performance Agreements. Company Performance Agreements will be entered into between one (1) or more local governments and a Grantee Business, and may contain the following provisions: ()

a. A commitment to create or retain a specified number of jobs within a specified salary range at a specific location; ()

b. A commitment regarding the time period in which the jobs will be created or retained and the minimum time period for which the jobs must be maintained; ()

c. A commitment to complete the construction related to the agreed upon capital expenditures; ()

d. A provision that a reasonable percentage of the total amount of the grant be withheld until specified performance targets are met; ()

e. A provision that a reasonable percentage of the total amount of the grant be withheld until the specified number of jobs are maintained for a specified period of time; ()

f. A commitment to provide proof satisfactory to the local government and the Department of new jobs created or existing jobs retained and the salary level of those jobs;()

g. A provision that funds received under the Company Performance Agreement may be used only for a purpose as authorized by the Opportunity Fund; ()

h. A provision allowing the Department or the local government to inspect the records of the Grantee Business as required to confirm compliance with the Company Performance Agreement or with the requirements of the Opportunity Fund. The provision shall limit the access of the Department and/or local government to only those records of the Grantee Business that are necessary to ensure compliance; ()

i. A provision establishing the method for determining compliance with the Company Performance Agreement; ()

j. A provision establishing a schedule for disbursement of funds under the Company Performance Agreement that allows disbursement of funds only in proportion to the amount of performance completed under the Company Performance Agreement; ()

k. A provision requiring repayment of grant funds and corresponding terms for repayment, if applicable, in the event a Grantee Business subsequently fails to comply with the terms of the Company Performance Agreement; ()

l. A provision that any repayments of grant funds required if the performance targets are not achieved may be prorated to reflect a partial attainment of job creation or other

performance targets; and ()

m. Any other lawful provision the Department or the local government finds necessary to ensure the proper use of state or local funds. ()

05. Disbursements. Funds will be disbursed from the Opportunity Fund to the local government as defined in the Local Government Grant Agreement and after the local government has demonstrated that the Grantee Business has complied with the terms of the Company Performance Agreement. ()

06. Award Amounts. The amount of each grant shall be determined by the Director, in his sole discretion. ()

016. REPORTING.

01. Quarterly. The Director of the Department shall report to the Economic Advisory Council quarterly on the grant activity and performance. ()

02. Annually. The Director of the Department shall publish an annual report regarding the state of the Opportunity Fund no later than September 30 each year. The report shall contain information on the commitment of funds, disbursement and use of the funds, the number of jobs committed and created, the total capital expenditures resulting from grant funds and the median wage of total jobs created. The annual report will be made available to the Governor, the Joint Finance-Appropriations Committee and the public. ()

017. -- 999. (RESERVED)

IDAPA 28 - DEPARTMENT OF COMMERCE

28.03.04 - RULES OF THE BUSINESS AND JOBS DEVELOPMENT GRANT FUND

DOCKET NO. 28-0304-1301 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-4733, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2013, Idaho Administrative Bulletin, [Vol. 13-9, pages 194 and 195](#).

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

There is no negative fiscal impact to the general fund. A \$400,000 ongoing appropriation in Department of Commerce budget (General Fund) that was available to the Department for Business & Jobs Development Fund grants is now available to the Department under the new Idaho Opportunity Fund per changes made to the department's budget for FY2014.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Megan Ronk at 208-334-2470.

DATED this 26th day of November 2013.

Megan Ronk
Division Administrator/Chief Administrative Officer
Idaho Department of Commerce
700 W State Street
Boise, ID 83702
Phone: 208-334-2470
Fax: 208-334-2631

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **August 1, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-4733, Idaho Code, and Sections 67-4732 through 67-4736, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The grants issued through the Business & Jobs Development Fund provide funding to Idaho cities and counties for infrastructure development to support the retention of existing businesses and recruitment of new businesses to the state. In compliance with House Bill 100, the Department has adopted a new temporary rule, which is promulgated under Docket No. 28-0301-1301 and published in this Bulletin, to replace this program. The new chapter, IDAPA 28.03.01, "Idaho Opportunity Fund," provides the same funding with new and additional parameters. Therefore, this chapter is repealed in its entirety.

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

In compliance with House Bill 100 this rule is being repealed in its entirety and replaced by a new temporary rule that is being promulgated in this Bulletin under Docket No. 28-0301-1301.

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

No fees or charges are being imposed as a result of this rulemaking.

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

There is no negative fiscal impact to the general fund. A \$400,000 ongoing appropriation in Department of Commerce budget (General Fund) that was available to the Department for Business & Jobs Development Fund grants is now available to the Department under the new Idaho Opportunity Fund per changes made to the department's budget for FY2014.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need to adopt a temporary rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Megan Ronk, Chief Communications & Governmental Affairs Officer, Idaho Department of Commerce at (208) 334-2470.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 31st day of July, 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 28-0301-1301

IDAPA 28.03.04 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 33 - REAL ESTATE COMMISSION

33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 33-0101-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2007 and 54-2036(3), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule expands the scope of courses for which the Commission may grant licensee education credit to include Professionalism and Business Success.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the August 7th, 2013 Idaho Administrative Bulletin, [Vol. 13-8, pages 296 through 298](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeanne Jackson-Heim, (208) 334-3285.

DATED this 9th day of October, 2013.

Jeanne Jackson-Heim
Executive Director
Agency: Idaho Real Estate Commission
Physical Address: 575 E. Parkcenter Blvd. Suite 180
Boise ID 83706
(208) 334-3285; (208) 334-2050 (fax)

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **June 13, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-2007 and 54-2036(3).

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

Tuesday, August 27, 2013 at 10:00 a.m. (MDT)

Idaho Real Estate Commission
575 E. Parkcenter Blvd., Suite 180
Boise ID 83706

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Expands the scope of courses for which the Commission may grant licensee education credit to include Professionalism and Business Success.

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

The temporary rule confers a benefit to licensees by expanding the topics for which licensee Continuing Education credit may be awarded. This will provide greater opportunity for enhanced professional development and consumer protection.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated

rulemaking was not conducted because the Commission has already consulted with industry representatives about the text of the proposed change and they are in agreement with the desirability and need for this rule change.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeanne Jackson-Heim, (208) 334-3285.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED this 3rd day of July, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 33-0101-1301

402. APPROVED TOPICS FOR CONTINUING EDUCATION.

The primary purpose of continuing education is to help assure that licensees possess the knowledge, skills, and competency necessary to function in the real estate business in a manner that protects and serves the public interest, or that promotes the professionalism and business proficiency of the licensee. The knowledge or skills taught in an elective course must enable licensees to better serve real estate consumers. (5-8-09)(____)

01. Topics Approved by the Commission. Approved topic areas for continuing education, as provided for in Sections 54-2023 and 54-2036, Idaho Code, include the following as they pertain to real estate brokerage practice and actual real estate knowledge: (5-8-09)

- a. Real estate ethics; (3-20-04)
- b. Legislative issues that influence real estate practice; (3-20-04)
- c. Real estate law; contract law; agency; real estate licensing law and administrative rules; (3-20-04)
- d. Fair housing; affirmative marketing; Americans with Disabilities Act; (3-20-04)

- e. Real estate financing, including mortgages and other financing techniques; (3-20-04)
- f. Real estate market measurement and evaluation; (3-20-04)
- g. Land use planning and zoning; land development; construction; energy conservation in building; (3-20-04)
- h. Real estate investment; (3-20-04)
- i. Accounting and taxation as applied to real property; (3-20-04)
- j. Real estate appraising; (3-20-04)
- k. Real estate marketing procedures; (5-8-09)
- l. Real estate inspections; (3-20-04)
- m. Property management; (3-20-04)
- n. Timeshares, condominiums and cooperatives; (3-20-04)
- o. Real estate environmental issues and hazards, including lead-based paint, underground storage tanks, radon, etc.; (5-8-09)
- p. Water rights; (3-20-04)
- q. Brokerage office management and supervision; (3-30-07)
- r. Use of technology; (5-8-09)
- s. Licensee safety; (3-30-07)
- t. Negotiation skills; (3-30-07)
- u. Business success. ()**

02. Other Topics. Upon written request, the Commission may also approve any other topic that directly relates to real estate brokerage practice and that directly contributes to the accomplishment of the primary purpose of continuing education. (5-8-09)

03. Topics Not Eligible for Continuing Education Credits. The following activities shall not be eligible for approval for compliance with the continuing education requirement: (3-20-04)

- a. Those which are specifically exam preparation in nature; (3-20-04)
- b. Real estate topics not directly related to real estate brokerage practice. (5-8-09)

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.06 - RETIREMENT RULES OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0106-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective **December 6, 2011**, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The proposed rule adds new Rule 174. As a qualified governmental plan under the Internal Revenue Code, PERSI is not subject to ERISA but is subject to the pre-ERISA (as of September 1, 1974) vesting requirements (26 IRC Section 411(e)(2)). This rule sets out PERSI's good faith interpretation of those requirements.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013, Idaho Administrative Bulletin, **Vol. 13-9, pages 234 and 235**.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, PERSI, 287-9271.

DATED this 1st day of October, 2013.

Don Drum
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720
Boise, ID 83720-0078
Phone: 208-287-9230

Fax: 208-334-3408

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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

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

Add new Rule 174. As a qualified governmental plan under the Internal Revenue Code, PERSI is not subject to ERISA but is subject to the pre-ERISA (as of September 1, 1974) vesting requirements (26 IRC Section 411(e)(2)). This rule sets out PERSI's good faith interpretation of those requirements.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, PERSI, 287-9271.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 12th day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0106-1301

163. -- 17~~4~~3. (RESERVED)

174. PRE-ERISA VESTING RULES (RULE 174).

01. Termination or Partial Termination. Upon the effective date of any termination or partial termination or upon a complete discontinuation of contributions: ()

a. No persons who were not theretofore members shall be eligible to become members: ()

b. No further benefits shall accrue; and ()

c. The accrued benefits of all members not theretofore vested and not theretofore forfeited shall immediately become fully vested. ()