

COMMERCE & HUMAN RESOURCES COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2011 Legislative Session

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IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.03 - RULES OF ELECTRICAL LICENSING AND REGISTRATION - GENERAL

DOCKET NO. 07-0103-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 Sections 54-1006(5), 54-1007, and 54-1013, 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 is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 89 through 91.](#)

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, (208) 332-8986.

DATED this 28th day of October, 2010.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Boise, ID 83720-0048
Phone: (208) 332-8986
Fax: (208) 855-2164

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **September 1, 2010**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-1006(5), 54-1007, and 54-1013, 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 20, 2010.

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:

In the 2009 legislative session, amendments were made to Sections 54-1007 and 54-1008, Idaho Code, whereby the duration of an electrical apprentice registration was extended from one (1) year to five (5) years. Amendments were also made that eliminated the requirement for an apprentice to annually verify his employment and instructional hours. The current rule requires amendment in order to come into alignment with these statutory changes. Additionally, apprentices who finish their schooling typically have to wait (often years) until completion of their work experience (8,000 hours) before taking the journeyman exam, thereby distancing the exam date from their participation in school which reduces the likelihood of passing and then requires continuation training. The proposed rule will require each apprentice to register for a period of five (5) years, and eliminate the requirement that such apprentices prove that they are employed and enrolled in an instructional program in order for the apprentice registration to be valid. Instead, the rule will provide that evidence of completion of the required number of employment and instructional hours must be provided to the Division of Building Safety in order for an apprentice to be eligible to take the journeyman exam. Additionally, it will permit an apprentice to take the journeyman examination upon the completion of three (3) years of work experience (6,000 hours) if they have completed their schooling. It also clarifies what a qualified apprenticeship program is for the purposes of the exemption to work experience categories.

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

The current state of the economy is impacting the ability of apprentices to complete their required on-the-job experience in the same time frame that they complete their required associated schooling. This resulting lag between the time the apprentice completes his schooling, and the time the apprentice is able to take their journeyman's exam negatively affects journeyman's exam results. The Electrical Board, the industry, and the educational providers feel that allowing apprentices to test upon completion of schooling will enhance the apprentices' ability to pass the exam, while preserving the integrity of the licensing process.

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 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: N/A

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

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 27, 2010.

DATED this 27th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0103-1001

012. APPRENTICE ELECTRICIAN.

01. Requirements for Apprentice Electrician. (5-3-03)

a. A person wishing to become an apprentice electrician shall register with the Division of Building Safety prior to going to work. Said person shall carry a current registration certificate on his person at all times and shall present it upon request to personnel of the Division

of Building Safety for examination. Each apprentice shall ~~re-register prior to each July 31, furnishing proof of completion of~~ **for a period of five (5) years and pay the applicable fee. During the period of registration an apprentice must annually complete** a minimum of one hundred forty-four (144) hours of an organized sequence of instruction in technical subjects related to the electrical trade as approved by the Idaho Electrical Board and the Idaho State Board for Professional and Technical Education ~~and until a certificate of achievement is earned from the vocational institution attended. Each apprentice shall obtain~~ work experience ~~performed during the previous year period of registration as described in Paragraph 012.01.b. of these rules and provide the Division with notarized letters from each employer and a certificate of achievement from the vocational institution attended evidencing such work to be maintained in the apprentice's file with the Division. This requirement shall continue each year until the minimum requirements of Title 54, Chapter 10, Idaho Code, have been fulfilled. Any apprentice failing to register by August 1 of each year shall pay an additional fee of ten dollars (\$10) to revive his registration certificate.~~ Time **toward the work requirements detailed in Paragraph 012.01.b. of these rules** shall not be credited while the apprentice is inactive or not registered, ~~nor shall time be allowed for any year which is not accompanied by proof of required instruction for that year of apprenticeship.~~ (5-3-03)()

b. In order to qualify to take the journeyman electrician examination an apprentice electrician shall **furnish proof of completion of four (4) years of related instruction for electrical apprentices as approved by the Idaho Electrical Board and the Idaho State Board for Professional-Technical Education, and** be required to work **at least four three (43)** years, defined as a minimum of ~~eight six~~ **thousand (86,000)** hours of work experience, under the constant on-the-job supervision of a journeyman electrician. ~~That~~ **Such** work **experience** shall include three (3) categories: (5-3-03)()

- i. Residential; (5-3-03)
- ii. Commercial; and (5-3-03)
- iii. Industrial installations. (5-3-03)

c. **Successful completion of the journeyman examination does not eliminate the requirement to complete four (4) years of work experience, defined as eight thousand (8,000) hours, under the constant on-the-job supervision of a journeyman electrician in order to be issued a journeyman license. Successful completion of the Idaho state journeyman examination notwithstanding, no journeyman license shall be issued until proof of satisfaction of the requirements contained in Section 013 of these rules is furnished to the Division.** ()

ed. Experience shall not exceed seventy-five percent (75%) of the work time in any one (1) category. The **work** requirements of Paragraph 012.01.b. of these rules shall not apply to ~~an registered~~ apprentice ~~enrolled~~ **registered** in an apprenticeship program ~~accredited~~ **approved** by the ~~Electrical Bureau~~ **U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship.** (5-3-03)()

de. An apprentice who has completed the required number of instructional hours and has not passed the journeyman's examination within two (2) years of completion of the required instructional training hours shall provide proof of continuation training in order to re-register as

an apprentice. For the purposes of Section 012 of these rules, continuation training is defined as registration in a Board-approved fourth year apprenticeship class. (4-6-05)

ef. An apprentice who has not advanced in apprenticeship training for a period of two (2) years shall provide proof of successful completion of continuation training in order to re-register as an apprentice. For purposes of Section 012 of these rules, continuation training is registration in a Board-approved year of apprenticeship class for which the apprentice is eligible or a repeat of the most recent apprenticeship class attended. (4-6-05)

02. Direct Supervision. It shall be the responsibility of the employing electrical contractor to insure that the apprentice performs electrical work only under the constant on-the-job supervision of a journeyman electrician. Any contractor who employs more than two (2) apprentice electricians for each licensed journeyman electrician employed is presumed to be in violation of the direct supervision requirements of Section 54-1010, Idaho Code, and of the constant on-the-job supervision requirement of Section 54-1003A, Idaho Code. This presumption may be rebutted by a showing by the contractor that special circumstances exist which are peculiar to the work done by that contractor which allows for effective supervision by each journeyman electrician of more than two (2) apprentice electricians. Prior to employing more than two (2) apprentice electricians for each journeyman electrician, a contractor must obtain permission from the Electrical Bureau to do so. Failure to comply with this requirement will be grounds for suspension or revocation of the electrical contractor's license. (4-1-91)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING

DOCKET NO. 07-0104-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 Sections 54-1006, 54-1007, and 54-1013, 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 is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 92 through 95.](#)

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, (208) 332-8986.

DATED this 28th day of October, 2010.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Boise, ID 83720-0048
Phone: (208) 332-8986
Fax: (208) 855-2164

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **September 1, 2010**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-1006, 54-1007, and 54-1013, 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 20, 2010.

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 proliferation of wind farms is creating a need for qualified individuals to install, maintain, and repair the supporting electrical installations. The proposed rules establish a specialty license category for outside wiremen.

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:

Many wind farms are currently being constructed or nearing construction in southern Idaho. Currently, licensed electricians must be utilized to perform all facets of the electrical installations. The Electrical Board has accepted the industry's arguments that properly trained outside wiremen are qualified to safely perform significant portions of the work, which will result in more efficient production and lower the costs of installation to the owners and ultimately consumers. Compliance with the current rule is a significant problem, and the Board and industry feel this rule will have a positive impact on bringing contractors into compliance with the electrical licensing provisions affecting the construction and operation of wind generation in Idaho.

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: None.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986. 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 27, 2010.

DATED this 27th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0104-1001

013. SPECIALTY EXPERIENCE REQUIREMENT.

01. Specialty Journeyman Electrician. An applicant for a specialty journeyman electrician license must have at least two (2) years experience, or more as specified for the individual specialty, with the type of installation for which the license is being applied for, in compliance with the requirements of the state in which the experience was received, or as a specialty electrical trainee making electrical installations in accordance with the requirements as stated herein. ~~(4-5-00)~~()

02. Specialty Electrical Trainee. A specialty electrical trainee shall be required to work not less than two (2) years, defined as a minimum of four thousand (4,000) hours of work experience, under the constant on-the-job supervision of a specialty journeyman electrician of the same specialty category to qualify for testing as a specialty journeyman electrician. A person wishing to become a specialty electrical trainee shall register with the Division of Building Safety prior to going to work. Said person shall carry a current registration certificate on his person at all times and shall present it upon request to personnel of the Division of Building Safety for examination. Each specialty electrical trainee shall re-register prior to each July 1, furnishing proof of work experience performed during the previous year and notarized letters from each employer. This requirement shall continue each year until the minimum requirements of Title 54, Chapter 10, Idaho Code, have been fulfilled. Any specialty electrical trainee failing to re-register by August 1 of each year, shall pay an additional fee of ten dollars (\$10) to receive his registration certificate. Time shall not be credited while the trainee is inactive or not registered. ~~(4-5-00)~~()

014. ELECTRICAL SPECIALTIES REQUIRING A SPECIAL LICENSE.

The following shall be considered as electrical specialties, the practice of which shall require a special license: (4-9-79)

01. Elevator, Dumbwaiter, Escalator, or Moving-Walk Electrical. Any person qualifying for and having in his possession a current elevator electrical license may install, maintain, repair, and replace equipment, controls, and wiring beyond the disconnect switch in the machine room of the elevator and pertaining directly to the operation and control thereof when located in the elevator shaft and machine room. He shall be employed by a licensed elevator electrical contractor and his installation shall be limited to this category. The holder of such specialty license may not countersign a contractor's license application as supervising journeyman except for work within his specialty. (4-9-79)

02. Sign Electrical. Any person qualifying for and having in his possession a current sign electrical license may install, maintain, repair, and replace equipment, controls, and wiring on the secondary side of sign disconnecting means; providing the disconnecting means is located on the sign or within sight therefrom. He shall be employed by a licensed sign electrical contractor whose installations shall be limited to this category. The holder of such specialty license may not countersign a contractor's license application as supervising journeyman except for work within his specialty. (3-15-02)

03. Manufacturing or Assembling Equipment. (4-5-00)

a. A licensed specialty manufacturing or assembling equipment electrician must be employed by a licensed specialty manufacturing or assembling equipment contractor in order to work in this category. The holder of a specialty license in this category may not countersign a contractor's license application as supervising journeyman except for work within this specialty. (4-5-00)

b. Any person licensed pursuant to Paragraph 014.03.a. of these rules may install, maintain, repair, and replace equipment, controls, and accessory wiring, integral to the specific equipment, on the load side of the equipment disconnecting means. Electrical service and feeder are to be installed by others. The licensee may also install circuitry in modules or fabricated enclosures for the purpose of connecting the necessary components which individually bear a label from a nationally recognized testing laboratory when such equipment is designed and manufactured for a specific job installation. All wiring completed shall meet all requirements of Title 54, Chapter 10, Idaho Code, all rules promulgated pursuant thereto, and the most current edition of the National Electrical Code. (7-1-94)

c. Subsection 014.03 of these rules does not apply to a manufacturing or assembling equipment electrician installing electrical wiring, equipment, and apparatus in modular buildings as that term is defined in Section 39-4105, Idaho Code. Only journeyman electricians and electrical apprentices, employed by an electrical contractor, may perform such installations. (3-30-07)

04. Limited Energy Electrical License. (9-17-85)

a. Limited energy systems are defined as fire and security alarm systems, class 2 and class 3 signaling circuits, key card operators, nurse call systems, motor and electrical apparatus controls and other limited energy applications covered by the NEC. (7-1-99)

b. Limited energy systems do not include, and no license of any type is required for, the installation of landscape sprinkler controls or communication circuits, wires and apparatus that include telephone systems, telegraph facilities, outside wiring for fire and security alarm systems which are used for communication purposes, and central station systems of a similar nature, PBX systems, audio-visual and sound systems, public address and intercom systems, data communication systems, radio and television systems, antenna systems and other similar systems. (7-1-99)

c. Unless exempted by Section 54-1016, Idaho Code, any person who installs, maintains, replaces or repairs electrical wiring and equipment for limited energy systems in facilities other than one (1) or two (2) family dwellings shall be required to have a valid limited energy electrical license and must be employed by a licensed limited energy specialty electrical contractor or electrical contractor. The holder of a specialty license may only countersign a contractor's application as a supervising journeyman for work within his specialty. (7-1-98)

05. Irrigation Sprinkler Electrical. Any person qualifying for and having in his possession, an irrigation system electrical license may install, maintain, repair and replace equipment, controls and wiring beyond the disconnect switch supplying power to the electric irrigation machine. The irrigation machine is considered to include the hardware, motors and controls of the irrigation machine and underground conductors connecting the control centers on the irrigation machine to the load side of the disconnecting device. Disconnect device to be installed by others. All such installations performed by individuals under this subsection shall be done in accordance with the applicable provisions of the National Electrical Code. He shall be employed by a licensed electrical contractor whose license is contingent upon the granting of a specialty electrical license to an employee and whose installations shall be limited to this category. The holder of a specialty license may not countersign a contractor's license application as supervising specialty journeyman except for work in his specialty. (1-1-92)

06. Well Driller and Water Pump Installer Electrical Licenses. All such installations performed by individuals under this subsection shall be done in accordance with the applicable provisions of the approved National Electrical Code. He shall be employed by a licensed well driller and water pump installer electrical contractor whose installations shall be limited to this category. The holder of such specialty license may not countersign a contractor's license application as supervising specialty journeyman except for work in his specialty. Any person currently licensed in this category may perform the following types of installations: (1-14-87)

a. Single or three (3) phase water pumps: install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (4-6-05)

b. Domestic water pumps, one hundred twenty/two hundred forty (120/240) volt, single phase, sixty (60) amps or less: Install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to and including the disconnecting device. (7-1-98)

c. Temporarily connect into a power source to test the installations, provided that all test wiring is removed before the installer leaves the site. (1-14-87)

d. Individual residential wastewater pumping units. Install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to and including the disconnecting device for systems that serve one-family, two-family, or three-family residential installations. (4-11-06)

07. Refrigeration, Heating, and Air-Conditioning Electrical Installer. All such installation, maintenance, and repair performed by individuals under this subsection shall be done in accordance with applicable provisions of the National Electrical Code. He shall be employed by a licensed electrical contractor whose license shall be covered by this category. The holder of such specialty license may not countersign a contractor's license application as a supervising specialty journeyman except for work in his specialty. Any person currently licensed in this category may perform the following types of installations, which installations shall be limited to factory-assembled, packaged units: (9-17-85)

a. Heating Units (single phase): install, repair, and maintain all electrical equipment, wires, and accessories from the unit up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (9-17-85)

b. Refrigeration, Air-Conditioning Equipment and Heat Pumps (single phase): install, repair, and maintain all electrical equipment, wires, and accessories from the unit up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (9-17-85)

c. Refrigeration, Air-Conditioning and Heating Systems (three (3) phase): install, maintain, and repair all electrical equipment and accessories up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (9-17-85)

08. Outside Wireman. All such installation, maintenance, and repair not exempt under the provisions of Section 54-1016, Idaho Code, performed by individuals under this subsection shall be done in accordance with the applicable provisions of the National Electrical Code. The licensee shall be employed by a licensed electrical contractor whose license shall be covered by this category. The holder of such specialty license may not countersign a contractor's license application as a supervising specialty journeyman except for work in his specialty. Applicants for this license class shall provide documentation of having completed an electrical lineman apprenticeship program or similar program approved by the U.S. Department of Labor, Office of Apprenticeship. Any person currently licensed in this category may perform the following types of installations: ()

a. Overhead distribution and transmission lines in excess of six hundred (600) volts. ()

b. Underground distribution and transmission lines in excess of six hundred (600) volts. ()

c. Substation and switchyard construction in excess of six hundred (600) volts.()

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.07 - RULES GOVERNING CONTINUING EDUCATION REQUIREMENTS

DOCKET NO. 07-0107-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 Sections 54-1006(5) and 54-1013, 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 is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 96 and 97.](#)

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, (208) 332-8986.

DATED this 28th day of October, 2010.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Boise, ID 83720-0048
Phone: (208) 332-8986
Fax: (208) 855-2164

THE FOLLOWING NOTICE 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 54-1006(5) and 54-1013, 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 20, 2010.

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:

Journeyman and master electricians are currently required to receive twenty-four (24) hours of continuing education unit (CEU) training in each three (3)-year license cycle. However, training related to general industry matters is not required as part of the CEU hours they must receive. Instead, they are required only to participate in a minimum of sixteen (16) hours of training related to National Electrical Code (NEC) updates. Consequently, such licensees are not required to receive training in potentially important industry-related matters beyond the code updates. The proposed changes will require each journeyman and master electrician to continue to receive a total of twenty-four (24) hours of continuing education training every three (3) years; however, it will specify that sixteen (16) hours of it shall be in code updates covering changes to the NEC, and eight (8) hours of it in industry-related training.

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 simple nature of the changes being made to the 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: 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, (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 27, 2010.

DATED this 27th day of August 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0107-1001

011. CONTINUING EDUCATION REQUIREMENTS.

Journeyman and master electricians must complete at least twenty-four (24) hours of continuing education instruction in every three (3) year period between updates of the National Electrical Code. The twenty-four (24) hours of instruction *will shall* consist *of a minimum* of sixteen (16) hours of code update covering changes included in the latest edition of the National Electrical Code, *and eight (8) hours of industry-related training*. The Idaho Electrical Board will establish criteria for approval of instruction and instructors, and courses and instructors will be approved by the Electrical Bureau. Proof of completion of these continuing education requirements must be submitted to the Bureau prior to or with the application for license renewal by any such licensee in order to renew a journeyman or master electrician license for the code change year.

(7-1-02)()

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING
DOCKET NO. 07-0205-1001
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 54-2605, 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 is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 98 and 99.](#)

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, (208) 332-8986.

DATED this 28th day of October, 2010.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Boise, ID 83720-0048
Phone: (208) 332-8986
Fax: (208) 855-2164

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **September 1, 2010**.

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 54-2605, 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 20, 2010.

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 current rule relating to the plumbing journeyman exam requires that practical work be performed on an actual job in-progress and does not permit examination in a laboratory setting. Given current economic conditions, there is a significant decrease in availability of jobs at which a journeyman applicant may take the practical exam. Additionally, laboratory settings have been established by several schools at which exams may be administered. Creating an additional option for applicants to take the practical exam in a laboratory, as well as creating an option of performing work in a residential or commercial application will provide more flexibility and make it easier for qualified apprentices to become a journeyman. The proposed rule will eliminate the requirement that the practical portion of the exam be performed exclusively on an actual job in-progress, and instead allows the exam to be performed in either a laboratory setting or on a job in-progress. The rule also clarifies that the practical portion of the exam shall consist of work performed in either a residential or commercial application on plumbing installations as determined by the Division of Building Safety.

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 lack of sufficient work in-progress within the industry given the current state of the economy, along with the availability of laboratory facilities in which to conduct the practical portion of the journeyman examinations provides journeyman applicants more flexibility in taking the exam.

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 of the simple nature of the changes being made to the 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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986. 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 27, 2010.

DATED this 27th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0205-1001

012. JOURNEYMAN.

01. Qualifications for Journeyman Plumber. An applicant for a journeyman plumber's license must have at least four (4) years experience as an apprentice making plumbing installations under the constant on-the-job supervision of a qualified journeyman plumber, as provided by Section 54-2611, Idaho Code. Pipe fitting will not be accepted as qualifications for a journeyman plumber's license. The first step in obtaining a journeyman certificate of competency is to submit an application for examination and license. The application must be accompanied by proof the applicant has completed the minimum of four (4) years experience in the trade as provided in Section 011 of these rules. Exhibition of a current license or photostatic copy of it from another jurisdiction may be accepted as proof of experience. The examination fee shall be as prescribed by Section 54-2614, Idaho Code, and must accompany the application. (8-25-88)

02. Examination. The journeyman examination grade is based on answers to written questions and practical work performed on a job in progress plumbing installations as determined by the Division after successful completion of the written work. Time allowed for the written examination is four (4) hours. A passing grade is required on the written examination. The practical work portion of the exam may be performed on a job in-progress or in a laboratory setting and shall consist of work performed in either a residential or commercial application. The practical portion of the exam must pass with no violations. (8-25-88)(____)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2011. The pending rule has been adopted by the agency and is now pending review by the 2011 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 Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending and is also adopting this rule as a temporary rule. The action is authorized pursuant to Section 39-4109, 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:

Section 39-4109, Idaho Code, provides the Building Code Board with the authority to adopt and amend specified building codes via administrative rule pursuant to the negotiated rule process. The 2009 editions of the International Residential Code (IRC) and the International Energy Conservation Code (IECC) were adopted by the Board and Legislature in 2010. Amendments to the IRC and IECC have been proposed by the public and adopted by the Board. Amendments to the IECC that address log homes are necessary in order for such homes to comply with the requirements of the 2009 edition. Without such amendment, log homes would not be able to comply with the IECC without significant modifications. The rule would amend the 2009 IRC by eliminating a provision which addresses live/work units in order to clarify that such do not require fire sprinkling; as well as amend provisions to address local jurisdictions' concerns as they relate to fences and prefabricated swimming pools. The rule would also amend the IECC by adding provisions which address the thermal envelope of log homes.

In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin following this notice. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 100 through 103.](#)

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 reason(s):

Amendments to the International Energy Conservation Code (IECC) which address log homes are necessary in order for such homes to comply with the requirements of the 2009 edition. Without such amendment, log homes would not be able to comply with the IECC without significant modifications. The 2009 edition of the IECC has already been adopted in

Idaho; and in accordance with Section 39-4109, Idaho Code, will take effect on January 1, 2011. This temporary rule merely places the log home industry in an equal position with the rest of the building industry by establishing an effective date for the energy code provisions related to log homes that is in alignment with that of the code itself.

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 rule or temporary rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 28th day of October, 2010.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Boise, ID 83720-0048
Phone: (208) 332-8986
Fax: (208) 855-2164

THE FOLLOWING NOTICE 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 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 October 20, 2010.

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:

Section 39-4109, Idaho Code, provides the Building Code Board with the authority to adopt and amend specified building codes via administrative rule pursuant to the negotiated rule process. The 2009 editions of the International Residential Code (IRC) and the International Energy Conservation Code (IECC) were adopted by the Board and Legislature in 2010. Amendments to the IRC and IECC have been proposed by the public and adopted by the Board. Amendments to the IECC that address log homes are necessary in order for such homes to comply with the requirements of the 2009 edition. Without such amendment, log homes would not be able to comply with the IECC without significant modifications. The rule would amend the 2009 IRC by eliminating a provision which addresses live/work units in order to clarify that such do not require fire sprinkling; as well as amend provisions to address local jurisdictions' concerns as they relate to fences and prefabricated swimming pools. The rule would also amend the IECC by adding provisions which address the thermal envelope of log homes.

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 [March 3, 2010 Idaho Administrative Bulletin, Vol. 10-3, page 11.](#)

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 2009 International Energy Conservation Code (IECC) has been adopted by the Idaho Building Code Board and the Idaho Legislature.

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

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 27, 2010.

DATED this 27th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0301-1001

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 <http://www.iccsafe.org>. (3-29-10)

01. International Building Code. 2009 Edition. (3-29-10)

02. International Residential Code. 2009 Edition. (3-29-10)

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

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. ()

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. ()

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

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

(3-29-10)

ef. 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)

dg. 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)

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

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

gi. 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)

03. International Existing Building Code. 2009 Edition. (3-29-10)

04. International Energy Conservation Code. 2009 Edition with the following amendments. ~~(3-29-10)~~()

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. ()

b. 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: ()

i. Sections 402.2 through 402.3, 403.2.1, 404.1 and Table 402.6; ()

ii. Section 405 Simulated Performance Alternative (Performance); or ()

iii. REScheck (U.S. Department of Energy Building Codes Program). ()

c. 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.

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

- 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.

()

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. 07-0311-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 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:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 110 and 111.](#)

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, (208) 332-8986.

DATED this 28th day of October, 2010.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Boise, ID 83720-0048
Phone: (208) 332-8986
Fax: (208) 855-2164

THE FOLLOWING NOTICE 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 October 20, 2010.

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:

Initial and continuing education requirements were removed from the rules in 2010 because such requirements proved to be unnecessarily burdensome given the shortage of education providers as well as the impact the current economy has had on the industry. The manufactured housing industry instead wanted to formulate more appropriate education requirements given those realities, and have done so by requiring only installers (vice manufacturers, retailers and others) to receive initial and continuing education. This also is required to ensure that the federal HUD Department continues to allow Idaho to administer its own manufactured housing program. This rule would establish eight (8) hours of initial education and four (4) hours of continuing education requirements as a condition for original and renewal licensure respectively for those who install manufactured/mobile homes.

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 simple nature of the 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: 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, (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 27, 2010.

DATED this 27th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0311-1001

014. ~~(RESERVED)~~ 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: ()

a. Installers, and dealers who are installers: eight (8) hours. ()

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. ()

02. Satisfactory Proof for License Renewal. The Division shall not renew any installer license, or dealer 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. ()

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

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: ()

b. The construction, including components and accessories, rebuilding, servicing, installation, or sale of manufactured/mobile homes: ()

c. Legislative issues concerning manufactured/mobile home housing and manufactured/mobile home parks, including pending and recently enacted state or federal legislation: and ()

d. These rules, Title 44, Chapters 21 or 22, Idaho Code, and the Manufactured Housing Safety Standards Act of 1974. ()

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.04.02 - SAFETY RULES FOR ELEVATORS, ESCALATORS, AND MOVING WALKS

DOCKET NO. 07-0402-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 39-8605, 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 is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 112 and 113.](#)

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, (208) 332-8986.

DATED this 28th day of October, 2010.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Boise, ID 83720-0048
Phone: (208) 332-8986
Fax: (208) 855-2164

THE FOLLOWING NOTICE 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 39-8605, 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 20, 2010.

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 will clarify that equipment, components, or systems installed on an elevator, which are not expressly required by the currently adopted code, must function properly or be removed. This will avoid giving the false impression, particularly to emergency personnel, that certain devices or safety equipment are operational when they are not. Currently, when a non-functioning component is identified as a discrepancy, property owners are unwilling to address the matter because they feel it is not something required by code anyway. The Division of Building Safety wants to make it clear to the owners that they must remove such components or make them work properly. This rule will clarify that equipment, components, or systems installed on an elevator, which are not required by the currently adopted code, must function properly or be removed.

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 simple nature of the changes being made to the 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: 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, (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 27, 2010.

DATED this 27th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0402-1001

011. INSPECTION REQUIREMENTS.

In order that a required inspection may take place: (4-9-09)

01. Access. All machine rooms and spaces shall be free of dirt and debris and any obstacles to access must be removed. (4-6-05)

02. Technician on Site. An elevator technician and fire alarm technician must be present on site to restore elevator and fire alarm systems. (4-6-05)

03. Installation. The elevator installation must be complete and safe for inspection. Equipment, components, or systems installed on the conveyance must function in accordance with design and code requirements. If equipment, components, or systems are installed that are not required by the currently adopted code, they must function properly or be removed. (4-6-05)()

04. Inspection Fees. Inspection fees for elevators shall be assessed and collected according to the schedule listed in Section 39-8616, Idaho Code, except that reinspection fees for all types of conveyances shall be one hundred dollars (\$100) for the first hour of inspection, or portion thereof, and one hundred dollars (\$100) for each hour of inspection thereafter. (4-9-09)

IDAPA 07 - DIVISION OF BUILDING SAFETY

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

DOCKET NO. 07-0701-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 Sections 54-5001 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:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 114 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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 28th day of October, 2010.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Boise, ID 83720-0048
Phone: (208) 332-8986
Fax: (208) 855-2164

THE FOLLOWING NOTICE 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 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 20, 2010.

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 applicable codes to which all heating, ventilation, and air conditioning installations must comply have been updated as of 2009. Currently, the state is still using an older edition of the HVAC codes. The proposed rules would adopt the 2009 editions with amendments of the International Mechanical Code (IMC), International Fuel Gas Code (IFGC), and International Residential Code (IRC), and would retain the previously adopted amendments thereto.

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 simple nature of the changes being made to the 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:

The rules adopt and incorporate by reference updated editions of the following codes and amendments:

- 1. International Mechanical Code, 2009 Edition, and amendments;**
- 2. International Fuel Gas Code, 2009 Edition, and amendments; and**

3. International Residential Code for One (1)- and Two (2)-Family Dwellings, 2009 Edition, Part V (Mechanical) and Part VI (Fuel Gas), and amendments.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, (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 27, 2010.

DATED this 27th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0701-1001

004. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL MECHANICAL CODE, 2003~~9~~ EDITION.

01. International Mechanical Code. The 2003~~9~~ Edition, including appendix "A," (herein IMC) is adopted and incorporated by reference with the following amendments:

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

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 Plumbing Code (UPC) 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 101.2. Delete the Exception. The International Mechanical Code shall apply to detached one- and two-family dwellings and multiple single family dwellings (townhouses). (7-1-10)~~

~~**ed.** Section 109. Delete. (7-1-10)~~

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

f. 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. ()

02. Availability of the International Mechanical Code. The 2003⁹ Edition is available at the Division of Building Safety offices located at 1090 E. Watertower St., Meridian, Idaho 83642, and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814, and 2055 Garrett Way, Ste. 7, Pocatello, Idaho 83201. (4-11-06)()

005. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL FUEL GAS CODE, 2003⁹ EDITION.

01. International Fuel Gas Code. The 2003⁹ Edition, including appendixes "A, B, C, and D," (herein IFGC) is adopted and incorporated by reference with the following amendments: (4-11-06)()

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 Plumbing Code (UPC) 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 101.2. Delete the Exception. The International Fuel Gas Code shall apply to detached one and two family dwellings and multiple single family dwellings (townhouses).~~ (7-1-10)

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

fe. 405.1. Installation in Areas of Heavy Snowfall. In areas where heavy snowfall is anticipated, piping, regulators, meters, and other equipment installed in the piping system shall be protected from physical damage, including falling, moving, or migrating snow and ice. If an added structure is used for protection, it must provide access for service and comply with local building codes. (7-1-10)

gf. 405.2. Point of Termination. Gas piping stubbed out for a meter or regulator connection shall be a minimum of three (3) feet horizontally from any building opening, and not less than five (5) feet horizontally from any source of ignition, opening to direct-vent (sealed combustion system) appliance, or mechanical ventilation air intakes. (7-1-10)

hg. 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)

ih. 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)

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

i. 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. ()

k. 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 2003⁹ Edition, is available at the Division of Building Safety offices located at 1090 E. Watertower St., Meridian, Idaho 83642, and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814, and 2055 Garrett Way, Ste. 7, Pocatello, Idaho 83201. (4-11-06)()

006. (RESERVED) 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 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 Edition, including appendixes "A, B, C, and D," (herein IRC) is adopted and incorporated by reference with the following amendments: ()

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. ()

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

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. ()

d. Section M1401.3. Sizing requirements shall be as established by the authority having jurisdiction. ()

e. 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.

()

f. 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.

()

g. Section G2417.4.2 (406.4.2). The test duration shall not be less than twenty (20) minutes.

()

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

()

IDAPA 09 - DEPARTMENT OF LABOR

09.01.04 - UNEMPLOYMENT INSURANCE BENEFIT FRAUD AND OVERPAYMENT RULES

DOCKET NO. 09-0104-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2010, 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:

There is no change to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the [August 4, 2010 Idaho Administrative Bulletin, Vol. 10-8, pages 34 through 36.](#)

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 impact on the general fund as a result of this rule change.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael Johnson, Bureau Chief, 334-3570 ext. 3082.

DATED this 28th day of October, 2010.

Michael Johnson
Bureau Chief
Department of Labor
317 W. Main St.
Boise, ID 83735
Phone 332-3570 ex. 3082
Fax 334-6125

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2010**.

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 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 August 18, 2010.

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:

This rulemaking allows a waiver of repayment request to be made within fourteen days of the electronic transmission date of a Determination of Overpayment and allows a Determination of Overpayment to become final fourteen days after its electronic transmission; provides recourse for errors in electronic transmissions; adds required subsections for incorporation by reference, office hours, and public records act compliance; and makes technical corrections.

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:

Compliance with deadlines in amendments to governing law or federal programs.

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:

There will be no fiscal impact to the General Fund as a result of this rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes simply bring the rule into compliance with amendments made to 72-1368(5), Idaho Code, that were passed during 2010 Legislative Session.

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 documents being incorporated by reference into this rule.

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

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 August 25, 2010.

DATED this 1st day of July, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0104-1001

004. INCORPORATED BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The principle place of business of the Department of Labor is in Boise, Idaho. ()

01. Street Address and Hours. The office is located at 317 W. Main St., Boise, Idaho 83735 and is open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. ()

02. Mailing Address. The mailing address is: Department of Labor, 317 W. Main St., Boise, Idaho 83735. ()

03. Telephone. The telephone number of the office is (208) 332-3570. The facsimile number of the office is (208) 334-6455. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

007. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

011. (RESERVED).

012. MATERIALITY, FRAUD DETERMINATIONS.

For purposes of Idaho Code Section 72-1366(12), a fact is material if it is relevant to a determination of a claimant's right to benefits. To be considered material, the fact need not actually affect the outcome of an eligibility determination. Ref. Section 72-1366, Idaho Code.

(3-19-99)

0123. -- 039. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

050. WAIVER OF REPAYMENT.

A Determination of Waiver will be made upon the written request of any interested party; except that an appeals examiner or the Industrial Commission may consider the issue of waiver of repayment on their own motion. A request for a Determination of Waiver must be made within fourteen (14) days of the date of mailing of the Determination of Overpayment or Revised Determination of Overpayment, or within fourteen (14) days of the date of electronic transmission to an electronic-mail address approved by the Department of the Determination of Overpayment or Revised Determination of Overpayment. If a party establishes by a preponderance of the evidence that notice of a Determination of Overpayment or Revised Determination of Overpayment was not delivered to the party's last known address within fourteen (14) days of mailing because of delay or error by the U.S. Postal Service, or that notice of a Determination of Overpayment or Revised Determination of Overpayment was not transmitted to an electronic-mail address approved by the Department within fourteen (14) days of the date of transmission because of error on the part of the Department, the period for filing a timely request for Determination of Waiver shall be deemed to have been fourteen (14) days from the date of actual notice. Ref. Section 72-1369, Idaho Code. (3-19-99)()

01. Waiver Determination. A Determination of Waiver shall become final unless, within fourteen (14) days after the date of mailing or of electronic transmission to an electronic-mail address approved by the Department, an appeal is filed with the Department of Labor. If a party establishes by a preponderance of the evidence that notice of a Determination of Waiver was not delivered to the party's last known address within fourteen (14) days of mailing because of delay or error by the U.S. Postal Service, or that notice of a Determination of Waiver was not transmitted to an electronic-mail address approved by the Department within fourteen (14) days of the date of transmission because of error on the part of the Department, the period for filing a timely request for an appeal shall be deemed to have been fourteen (14) days from the date of actual notice. Ref. Section 72-1369, Idaho Code. (3-19-99)()

IDAPA 09 - DEPARTMENT OF LABOR

09.01.06 - RULES OF THE APPEALS BUREAU

DOCKET NO. 09-0106-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2010, 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:

There is no change to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the [August 4, 2010 Idaho Administrative Bulletin, Vol. 10-8, pages 37 through 40.](#)

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 impact on the general fund as a result of this rule change.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Josh McKenna, Benefits Bureau Chief, 334-3570 ext. 3919.

DATED this 28th day of October, 2010.

Josh McKenna
Benefits Bureau Chief
Department of Labor
317 W. Main St.
Boise, ID 83735
Phone 332-3570 ex. 3919
Fax 334-6125

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2010**.

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 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 August 18, 2010.

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:

This rulemaking provides recourse for errors in the electronic transmission of determinations or decisions; adds that notice of decisions may be served on interested parties by electronic transmission as allowed by Section 72-1368(5), Idaho Code; adds required subsections for incorporation by reference, office hours and public records act compliance; and to make technical corrections.

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:

Compliance with deadlines in amendments to governing law or federal programs.

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:

There will be no fiscal impact to the General Fund as a result of this rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes simply bring the rule into compliance with amendments made to 72-1368(5), Idaho Code, that were passed during 2010 Legislative Session.

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 Josh McKenna at 334-3570 ext. 3919.

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 August 25, 2010.

DATED this 1st day of July, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0106-1001

~~004. -- 005. (RESERVED).~~

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The principle place of business of the Department of Labor is in Boise, Idaho. ()

01. Street Address and Hours. The office is located at 317 W. Main St., Boise, Idaho 83735 and is open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday, and legal holidays. ()

02. Mailing Address. The mailing address is: Department of Labor, 317 W. Main St., Boise, Idaho 83735. ()

03. Telephone. The telephone number of the office is (208) 332-3570. The facsimile number of the office is (208) 334-6455. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code and are public records. ()

007. GENERAL PROVISIONS.

Department hearing officers shall be called appeals examiners. Ref. Section 72-1368(6) and Section 45-617(7), Idaho Code. (4-5-00)

0078. EXEMPTION FROM ATTORNEY GENERAL ADMINISTRATIVE PROCEDURE RULES FOR CONTESTED CASES.

Pursuant to the provisions of Section 67-5206(5), Idaho Code, the procedures contained in Subchapter B, "Contested Cases," of the rules of administrative procedure promulgated by the Attorney General as IDAPA 04.11.01.100 through 799 do not apply to appeals within the Department. All appeals within the Department are governed solely by the provisions of the Employment Security Law, the Claims for Wages Act, these rules, and by the applicable federal law governing the Job Service Complaint System, the Job Training Partnership Act (JTPA) program, or other programs administered by the Department. (4-5-00)

0089. REASONS FOR EXEMPTION FROM ATTORNEY GENERAL'S ADMINISTRATIVE PROCEDURE RULES.

01. Proceedings to Determine the Rights to Unemployment Insurance Benefits and Tax Contribution. All proceedings to determine the rights to unemployment insurance benefits and tax contribution coverage are exempt from the contested case and judicial review provisions of the Idaho Administrative Procedure Act, pursuant Sections 72-1361 and 72-1368, Idaho Code. Appeals of complaint determinations and other decisions arising within the complaint system or other programs administered by the Department must be determined by the requirements of applicable federal law. The Department has promulgated its own rules of procedure for its appeals proceedings contained in IDAPA 09.01.06.001 et seq. All procedures affecting the rights to benefits and unemployment insurance coverage must be determined solely by the requirements of Employment Security Law. Such proceedings must be speedy and simple as required by the Federal Unemployment Tax Act and the Social Security Act. The Department determines that it can more adequately meet these requirements through promulgating its own rules rather than relying upon the rules applicable to other state agencies. (4-5-00)

02. Claims for Wages Are Exempt. All proceedings to determine claims for wages are exempt from the contested case provisions of the Idaho Administrative Procedure Act pursuant to Section 45-617(2), Idaho Code. (4-5-00)

~~009~~10. -- 011. (RESERVED).

012. FILING OF AN APPEAL.

01. Filing of an Appeal Pursuant to the Employment Security Law. 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, redetermination or decision of the Department. The appeal may be filed by delivering it, or faxing it, to any Job Service office or to the Appeals Bureau of the Department, 317 W. Main Street, Boise, Idaho 83735-0720. 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 a Job Service office or the Appeals 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 a Job Service office or the Appeals 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 Job Service office or to the Appeals Bureau, Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735-0720. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark on the envelope

containing the appeal, unless a party establishes by a preponderance of the evidence that but for error by the U.S. Postal Service, the envelope would have been postmarked within the period for timely appeal. If such a postal error is established, the appeal shall be deemed to be timely filed. Ref. Section 72-1368(6), Idaho Code. (5-3-03)

02. Filing of an Appeal Pursuant to the Claims for Wages Act. An appeal shall be in writing, signed by the appellant or the appellant's representative, and shall contain words that, by fair interpretation, request the appeal process for a specific determination or revised determination of the Department. The appeal may be filed by personal delivery, by mail, or by fax to the Wage and Hour Section of the Department at the address indicated on the Wage Claim Determination. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark. A faxed appeal that is received by the Wage and Hour Section by 5 p.m. on a business day shall be deemed filed on that date. A faxed appeal that is received by the Wage and Hour Section on a weekend, holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. Ref. Section 45-617(6), Idaho Code. (4-5-00)

03. Date of Mailing. ~~The "Date of Mailing" or "Date Mailed."~~ The date indicated on Department determinations, revised determinations, redeterminations and decisions **as the "Date of Mailing" or "Date Mailed"** shall be presumed to be the date the document was deposited in the United States mail, **or the date the document was electronically transmitted to an electronic-mail address approved by the Department pursuant to Section 72-1368(5), Idaho Code,** unless shown otherwise by a preponderance of competent evidence. (4-5-00)()

013. -- 016. (RESERVED).

017. EFFECT OF POSTAL SERVICE DELAY OR ERROR.

01. Department Determinations. ()

a. If a party establishes by a preponderance of the evidence that notice of a Department determination was not delivered to the party's last known address within fourteen (14) days of mailing, as provided by the Employment Security Law in Sections 72-1368(3) and (5), Idaho Code, and by the Claims for Wages Act in Sections 45-617(4) and (5), Idaho Code, because of delay or error by the U.S. Postal Service, the period for filing a timely appeal shall be deemed to have been fourteen (14) days from the date of actual notice. (4-5-00)

b. If a party establishes by a preponderance of the evidence that notice of a Department determination was not transmitted electronically to an electronic-mail address approved by the Department as provided by the Employment Security Law in Sections 72-1368(3) and (5), Idaho Code, because of error on the part of the Department, the period for filing a timely appeal shall be deemed to have been fourteen (14) days from the date of actual notice. ()

02. Decisions of the Appeals Examiner. ()

a. If a party establishes by a preponderance of the evidence that notice of a decision by an appeals examiner was not delivered to the party's last known address within ten (10) days of

mailing, as provided by the Employment Security Law in Sections 72-1368(5) and (6), Idaho Code, and by the Claims for Wages Act in Sections 45-617(5) and (7), Idaho Code, because of delay or error by the U.S. Postal Service, the period for filing a timely application for rehearing shall be deemed to have been ten (10) days from the date of actual notice. If it is established by a preponderance of the evidence that notice of a decision was not delivered to the party's last known address within fourteen (14) days of mailing because of delay or error by the U.S. Postal Service, the period for filing a timely claim for review with the Industrial Commission under the Employment Security Law shall be deemed to have been fourteen (14) days from the date of actual notice. Ref. Section 72-1368 (5) and (6) and Section 45-617(7), Idaho Code. (4-5-00)

b. If a party establishes by a preponderance of the evidence that notice of a decision by an appeals examiner was not transmitted electronically to an electronic-mail address approved by the Department as provided by the Employment Security Law in Sections 72-1368(5) and (6), Idaho Code, because of error on the part of the Department, the period for filing a timely application for rehearing shall be deemed to have been ten (10) days from the date of actual notice. If it is established by a preponderance of the evidence that notice of a decision by an appeals examiner was not transmitted electronically to an electronic-mail address approved by the Department because of error on the part of the Department, the period for filing a timely claim for review with the Industrial Commission under the Employment Security Law shall be deemed to have been fourteen (14) days from the date of actual notice. ()

(BREAK IN CONTINUITY OF SECTIONS)

090. DISMISSAL IF FILING IS LATE.

Where it appears that any appeal (request for hearing) to the appeals examiner, or claim, or any other request or application, may not have been filed within the period of time prescribed for filing, the appellant, claimant, petitioner, or applicant (as the case may be) shall be notified and be given an opportunity to show that such appeal, claim for review, petition, or other request was timely. In computing any period of time prescribed or allowed by the Employment Security Law or the Claims for Wages Act, the day of the act, event, or default is not to be included. Saturdays, Sundays, and holidays shall be counted during the period unless the last day of the period is a Saturday, Sunday, or legal holiday in which event the period shall not expire until the next business day following the Saturday, Sunday, or legal holiday. If it is found that such appeal, claim for review, petition or other request or application was not filed within the applicable time limit, it shall be dismissed on such grounds. If it is found that such appeal, claim for review, petition, or other request or application was timely, the matter shall be decided on the merits. Copies of a decision under this section shall either be given, ~~or~~ mailed, or electronically transmitted to an electronic-mail address approved by the Department pursuant to Section 72-1368(5), Idaho Code, to all interested parties, together with a clear statement of right of appeal or review. Ref. Section 72-1368 and Section 45-617, Idaho Code. (4-5-00)()

IDAPA 09 - DEPARTMENT OF LABOR

09.01.30 - UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES

DOCKET NO. 09-0130-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2010, 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:

There is no change to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the [August 4, 2010 Idaho Administrative Bulletin, Vol. 10-8, pages 41 through 43.](#)

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 impact on the general fund as a result of this rule change.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Josh McKenna, Benefits Bureau Chief, 334-3570 ext. 3919.

DATED this 28th day of October, 2010.

Josh McKenna
Benefits Bureau Chief
Department of Labor
317 W. Main St
Boise, ID 83735
Phone 332-3570 ex. 3919
Fax 334-6125

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2010**.

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 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 August 18, 2010.

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:

This rulemaking provides for the reissuing of benefit payment checks that are lost, stolen, destroyed, or forged by means other than paper checks; and reduces the amount of unemployment insurance benefits paid in a compensable week by an amount equal to the temporary disability benefits a claimant received under any worker's compensation law.

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:

Compliance with deadlines in amendments to governing law or federal programs.

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: There will be no fiscal impact to the General Fund as a result of this rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes simply bring the rule into compliance with amendments made to 72-1312(4)(b) and 72-1346(3), Idaho Code, that were passed during 2010 Legislative Session.

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 Josh McKenna 334-3570 ext. 3919.

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 August 25, 2010.

DATED this 1st day of July, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-1001

500. REISSUING CHECKS BENEFIT PAYMENTS.

Whenever a benefit check payment is lost, stolen, destroyed, or forged, the claimant shall be issued a new check benefit payment upon his proper presentation of the facts and submission of an affidavit, in a form prescribed by the Department, for the issuance of a new check benefit payment. Ref. Section 72-1368(1), Idaho Code. (3-19-99)()

01. Affidavit for Issuance of New Check Benefit Payment. A claimant's affidavit filed for the issuance of a new check benefit payment must be signed before a notary public or an authorized representative of the Department. ~~If a claimant completes an affidavit and submits the remaining portions of a partially destroyed or mutilated check, the Department will waive any waiting period for reissuance of the check.~~ (3-19-99)()

02. Reissuance of Stolen Checks Benefit Payments. If a claimant knows who took a check benefit payment, he must provide evidence that he has taken all reasonably available legal steps and been unsuccessful in recovering the check benefit payment before the Department will consider reissuing the check benefit payment. (3-19-99)()

501. -- 524. (RESERVED).

525. REPORTABLE INCOME.

Ref. Sections 72-1312, 72-1328, Idaho Code. (3-19-99)

01. Back Pay or Disputed Wages. Amounts received as a result of labor relations awards or judgments for back pay, or for disputed wages, constitute wages for the weeks in which the claimant would have earned them, or are assignable to the weeks stipulated in the award or judgment. If the claimant received waiting week credit for a week in which the award or judgment is reported or assigned, the waiting week will be denied if the amount of the award or judgment for the week renders the claimant ineligible for such credit. If the claimant received benefits for the weeks in which the award or judgment is reported or assigned, such benefits are overpaid to the extent that the weekly amount of the award or judgment affects the claimant's eligibility.

(3-19-99)

02. Disability/Injury Compensation. Injury or disability compensation payments are not considered wages and are not reportable income for unemployment insurance purposes.

(3-19-99)

03. Disability Retirement Payments. Retirement payments as a result of disability shall be treated the same as other types of retirement payments. Ref. Section 72-1312(4), Idaho Code.

(3-19-99)

04. Gratuities or Tips. Gratuities or tips must be reported by a claimant for the week in which each gratuity or tip is earned.

(3-19-99)

05. Holiday Pay. Holiday pay must be reported as though earned in the week in which the holiday occurs.

(4-6-05)

06. Non-Periodic Remuneration. All non-periodic remuneration such as one-time severance pay, profit sharing, and bonus pay is reportable for the week in which paid.

(3-19-99)

07. Penalty or Damage Awards. Amounts awarded to a claimant as a penalty or damages against an employer, other than for lost wages, do not constitute wages.

(3-19-99)

08. Pension, Retirement, or Annuity Payments. The pension deduction provision of Section 72-1312(4), Idaho Code, only applies if the pension, retirement pay, annuity, or other similar periodic payment is made under a plan maintained or contributed to by a base period employer. The dollar amount of the weekly pension shall be deducted from the claimant's weekly benefit amount unless the claimant has made contributions toward the pension. If the claimant has made contributions toward the pension plan, the pension offset shall be reduced one hundred percent (100%), and no deduction for the pension shall be made from the claimant's weekly benefit amount. Ref. Section 72-1312(4), Idaho Code.

(3-19-99)

a. Pension Contributions. The burden shall be on the claimant to establish by substantial, competent evidence that he has made contributions toward the pension, retirement pay, annuity or other similar payment plan.

(3-19-99)

b. Pension Payment Changes. Any change in the amount of the pension, retirement, or annuity payments which affects the deduction from the claimant's weekly benefit amount shall be applied in the first full week after the effective date of the change.

(3-19-99)

09. Relief Work or Public Assistance. (3-19-99)

a. Remuneration received for relief work or public service work will be considered wages on the same basis as any other employment. (3-19-99)

b. Eligibility When Public Assistance Received. A person receiving public assistance shall be eligible for benefits if no work is involved and the claimant is otherwise eligible.

(3-19-99)

10. Self-Employment Earnings. When reporting earnings, a claimant must report gross earnings from self-employment unless the claimant can prove that certain expenditures, which are not commonly associated with working for wages, were necessary in order to accomplish the work. Such expenditures may include, but are not limited to, buying products wholesale for resale and renting equipment to accomplish a task. Expenditures which are not deductible include, but are not limited to, transportation costs, uniforms, and depreciation of equipment. (3-19-99)

11. Severance Pay. An equal portion of a periodic severance payment must be reported in each week of the period covered by the payment. However, severance pay received in a lump sum payment at the time of severance of the employment relationship must be reported when paid. (3-19-99)

12. Vacation Pay. Vacation pay allocable to a certain period of time in accordance with an employment agreement must be reported in the week to which it is allocable. However, vacation pay received in a lump-sum payment at the time of severance of the employment relationship must be reported when paid. (3-19-99)

13. Verification of Earnings on Claim Reports. The Department may verify the earnings and/or reasons for separation reported by claimants on claim reports filed for benefit payments. Ref. Section 72-1368(1), Idaho Code. (3-19-99)

14. Wages for Contract Services. A person who is bound by a contract which does not prevent him from accepting other employment but who receives pay for a period of not working, is required to report the contract payments as earnings in equal portions in each week of the period covered by the contract. This rule does not apply to employees of educational institutions. (3-19-99)

15. Wages for Services Performed Prior to Separation. Wages for services performed prior to a claimant's separation are reportable for the week in which earned. (3-19-99)

16. Temporary Disability Benefits. For any week with respect to which a claimant is receiving or has received temporary disability benefits under a worker's compensation law of any state or under a similar law of the United States, such payments shall be reported in an amount attributable to such week. If a claimant receives an award of temporary disability benefits which is attributable to any week in which the claimant had already received unemployment insurance benefits, the unemployment insurance benefits are overpaid to the extent the weekly amount of temporary disability benefits affects the claimant's eligibility for unemployment benefits. ()

IDAPA 09 - DEPARTMENT OF LABOR

09.01.35 - UNEMPLOYMENT INSURANCE TAX ADMINISTRATION RULES

DOCKET NO. 09-0135-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2010, 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:

There is no change to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the [August 4, 2010 Idaho Administrative Bulletin, Vol. 10-8, pages 44 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:

There will be no impact on the general fund as a result of this rule change.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael Johnson, Bureau Chief, 334-3570 ext. 3082.

DATED this 28th day of October, 2010.

Michael Johnson, Bureau Chief
Department of Labor
317 W. Main St., Boise, ID 83735
Phone 332-3570 ex. 3082 / Fax 334-6125

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2010**.

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 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 August 18, 2010.

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:

This rulemaking adds that notice of determinations may be served on interested parties by electronic transmission as allowed by Section 72-1368(5), Idaho Code; requires employers to maintain unemployment insurance tax records for five years allowing the Department to implement the new five (5) year enforcement limitation period of Section 72-1349(8), Idaho Code; provides a five-year statute of limitations for audits and inspections of employer records as required by Section 72-1349(8), Idaho Code; and makes technical corrections.

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:

Compliance with deadlines in amendments to governing law or federal programs.

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: There will be no fiscal impact to the General Fund as a result of this rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes simply bring the rule into compliance with amendments made to Sections 72-1349(8) and 72-1368(5), Idaho Code, that were passed during 2010 Legislative Session.

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 Michael Johnson 332-3570 ext. 3082. 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 August 25, 2010.

DATED this 1st day of July, 2010

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-1001

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. ~~(3-30-01)~~()

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 in a form or medium prescribed and furnished or approved for such purpose, 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 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)

081. EMPLOYER RECORDS.

Each person hiring one (1) or more individuals, whether or not such employment is sufficient to create the status of a covered employer, shall establish and maintain records to show the information hereinafter indicated. Such records shall be kept for a period of ~~three~~ **five (35)** years after the calendar year in which the remuneration was due. Ref. Section 72- 1337, Idaho Code. ~~(3-19-99)~~()

01. Required Information. Such records shall show with respect to each employee unless the Department has ruled that the services do not constitute covered employment: (4-11-06)

- a.** Full name and home address of worker; (3-19-99)
- b.** Social Security account number; (3-19-99)
- c.** The place of work within this State; (4-11-06)
- d.** Date on which employee was hired, rehired, or returned to work after temporary or partial layoff; (3-19-99)
- e.** Date employment was terminated; whether the termination occurred by voluntary action of the individual and the reason given, or by discharge or death, and the reason for discharge; (3-19-99)
- f.** Wages paid for employment in each pay period and total wages for all pay periods

ending in each quarter of the year, showing separately: (3-19-99)

- i. Money wages; (3-19-99)
- ii. The cash value of other remuneration; and (3-19-99)
- iii. The amount of all bonuses or special commissions. (3-19-99)

02. Special Remuneration. Any special remuneration paid for services performed in more than one-quarter (1/4) of the year, such as annual commissions or bonuses, gifts and prizes, showing separately: (3-19-99)

- a. Money payments; and (3-19-99)
- b. The cash value of other remuneration and the nature thereof. (3-19-99)

03. Travel or Employee Business Expenses. Amounts paid to employees as allowances or reimbursement for travel and employee business expenses and the amounts of such expenditures actually incurred and accounted for by them. (3-19-99)

04. Records to Be Made Available. The records to be made available to the director or his authorized representative, in accordance with the provisions of Section 72-1337, Idaho Code, shall include all of the business records, such as journals, ledgers, time books, minute books, or any other records or information which would tend to establish the existence of and/or amounts paid for services performed, whether or not in covered employment, and for information necessary to assist in or enable collection efforts or any other investigations conducted by the department. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

166. FIELD OPERATIONS CONTROL.

When circumstances dictate, and as a result of nonpayment of liabilities, the employer shall be notified by mail to the last known address of lien proceedings against the employer's interests, with an explanation of the amounts due, and the accrual of interest at the proper rate until the lien is satisfied. Ref. Section 72-1360, Idaho Code. (4-11-06)

01. Statute of Limitations for Audits and Inspections of Employer Records. ~~In the absence of fraudulent practices, the~~ The Department shall not audit an employer's records for a period greater than ~~three~~ **five (35)** years for purposes of establishing a tax liability. The ~~three~~ **five (35)** year period shall be determined by, and extend ~~three~~ **five (35)** years back from; the ~~due~~ **due** date ~~that the employer is notified, orally of a quarterly report or in writing by any representative of the Department, of an intent to perform an audit of the records, and shall be deemed to include every quarter which, in whole or in part, falls within the three (3) year period. This statute of limitations shall not apply in any case in which an employer has engaged in fraudulent practices~~ **the date a quarterly report is filed, whichever is later.** ~~(3-30-01)()~~ **()**

~~02a.~~ Tolling of Statute of Limitations. The ~~three~~ **five** (~~35~~) year statute of limitations is tolled for any period in which the employer ~~does not reside within the state~~ **absconds from the state, during any period of the employer's concealment, or during any period when the department's ability to commence administrative proceedings to enforce Chapter 72, Section 1349 of the Idaho Code is stayed by legal proceedings.** (~~3-30-01~~)()

~~03b.~~ Notification of Audits. Employers shall be notified as soon as practicable of an impending payroll records audit for tax liability purposes. This shall allow time in which to agree as to a convenient time and place for audit. Ref. Section 72-1337, Idaho Code. (3-19-99)

~~04c.~~ Frequency of Audits. The frequency of audits or inspections of an employer's records to ensure compliance with the law and Department rules shall be based on the following criteria: (3-30-01)

~~a.i.~~ On the basis of random selection and other selection criteria in accordance with federal requirements; (3-30-01)

~~b.ii.~~ As a result of information received from any source, provided that the information received is of such a nature that it would be reasonable to conduct an audit or inspection of records as a result of that information; or (3-30-01)

~~c.iii.~~ As a result of a previous audit, if the business practices or records of the employer are of such a nature that it would be reasonable for a Department employee to re-inspect or re-audit the records to ensure future compliance with the law. Ref. Section 72-1337, Idaho Code. (3-30-01)

~~05. Statute of Limitations for Collections of Contributions, Penalty and Interest. Administrative proceedings for collection of taxes from subject employers shall be instituted within five (5) years from the date of a final determination, decision or order establishing the employer's liability.~~ (~~3-30-01~~)

~~a. The time limits contained in Subsection 166.05 shall not apply once a tax liability is recorded as a lien against the property of an employer.~~ (~~3-30-01~~)

~~b. If the employer or his representative acknowledges the indebtedness or makes a partial payment thereon, the statute of limitations for collection shall be extended an additional three (3) years from the date of such payment or acknowledgement.~~ (~~3-30-01~~)

062. Execution Against Assets. The Department of Labor, when the situation warrants, shall levy upon or execute against any real or personal property, both tangible and intangible, in which an indebted person has an interest, including any offsets as allowed by Section 67-1026, Idaho Code. Ref. Section 72-1360, Idaho Code. (3-30-01)

073. Relief of Indebtedness. Neither the full running of the statute of limitations nor the writing off of the account as uncollectible relieves an employer of tax indebtedness. Ref. Section 72-1364, Idaho Code. (3-30-01)

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

10.01.01 - RULES OF PROCEDURE

DOCKET NO. 10-0101-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 changes between the text of the proposed rule and the text of the pending rule clarify that the Board may disclose the details of the investigation or the adjudication to law enforcement agencies and to clarify that the Board may only disclose the details of the investigation or adjudication to other licensing entities following final disposition of the matter.

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 [August 4, 2010 Idaho Administrative Bulletin, Vol. 10-8, pages 49 through 53.](#)

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 not be any negative fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact David L. Curtis, P.E., Executive Director at dave.curtis@ipels.idaho.gov or at (208) 373-7210.

DATED this 20th day of September, 2010.

David L. Curtis, P.E.
Executive Director
Board of Professional Engineers and Professional Land Surveyors
1510 E. Watertower St., Suite 110
Meridian, ID 83642-7993
(208) 373-7210 (Voice)
(208) 373-7213 (Fax)

THE FOLLOWING NOTICE 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: A public hearing concerning this rulemaking will be held as follows:

Thursday, August 12, 2010 at 9:00 a.m.

**Conference Room 302
Len B. Jordan Building
650 W. State St.
Boise, ID 83720**

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed changes would: (1) allow initial licensing as a professional engineer through use of the Structural Engineer examination without having to first be licensed as a professional engineer in another discipline, and without requiring an additional 2 years of experience; and (2) allow the details of investigations to be released to law enforcement agencies and licensing entities in other jurisdictions.

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

No fee is being imposed or increased by 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 as a result of this rulemaking:

There will not be any negative fiscal impact on the state 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 June 2, 2010 Idaho Administrative Bulletin, Vol. 10-6 page 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 David L. Curtis, P.E., Executive Director at dave.curtis@ipels.idaho.gov or at (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 August 25, 2010.

DATED this 24th day of June, 2010.

THE FOLLOWING IS THE PENDING TEXT FOR DOCKET NO. 10-0101-1001

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 a minimum of fifteen (15) semester credits of Engineering Science at a Sophomore and Junior level, six (6) semester credits of Engineering Design related courses at a Senior level, twelve (12) semester credits of Advanced Mathematics including Calculus and Differential Equations, and twelve (12) semester credits of basic science courses including Chemistry, calculus-based Physics and other appropriate basic science courses 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. (5-8-09)

i. 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)

ii. 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, 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; (3-30-07)
- ii. Three (3) credits in Route Surveying; (3-30-07)
- iii. Three (3) credits in Public Land Surveying; (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)

~~id.~~ *In addition to the minimum requirements set forth in Section 54-1212, Idaho Code, a person who desires to be qualified by examination in the field of structural engineering shall meet the following requirements:* (4-22-94)

~~i.~~ *Be licensed as a professional engineer in Idaho especially qualified in a discipline other than structural engineering.* (3-29-10)

~~ii.~~ *Have two (2) years of work experience in the field of structural engineering after being licensed as a professional engineer. The Principles and Practice of Engineering examination for Structural Engineering will cover the practice of structural engineering to test the applicant's fitness to assume responsibility for engineering work affecting the public health, safety and welfare. The duration of the examination shall be as determined by the Board.* (3-29-10)

ed. 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)

021. RIGHT TO PUBLISH DISCIPLINARY ACTIONS.

The Board office may disclose the filing and the nature of a complaint, but may not disclose the details of an investigation or the adjudication except to law enforcement agencies. Details of the investigation and the adjudication may be disclosed to licensing entities in other jurisdictions following final disposition of the matter. Final, formal enforcement shall be public information. Following a hearing or the entry of a consent agreement, the Board may publish a summary of any order issued by it, in a newsletter or newspaper of general circulation or, for a period of up to ten (10) years, may post it on the Internet. ~~(3-29-10)~~(____)

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

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY

DOCKET NO. 10-0102-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 pending changes would require that licensees be prompt in statements and written responses to the Board. The changes between the text of the proposed rule and the text of the pending rule are to eliminate the proposed changes to IDAPA 10.01.02.005.04 which the Board has chosen not to pursue at this time.

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 [August 4, 2010 Idaho Administrative Bulletin, Vol. 10-8, pages 54 through 56.](#)

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 not be any negative fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact David L. Curtis, P.E., Executive Director at dave.curtis@ipels.idaho.gov or at (208) 373-7210.

DATED this 20th day of September, 2010.

David L. Curtis, P.E.
Executive Director
Board of Professional Engineers and Professional Land Surveyors
1510 E. Watertower St., Suite 110
Meridian, ID 83642-7993
(208) 373-7210 (Voice)
(208) 373-7213 (Fax)

THE FOLLOWING NOTICE 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: A public hearing concerning this rulemaking will be held as follows:

Thursday, August 12, 2010 at 9:00 a.m.

**Conference Room 302
Len B. Jordan Building
650 W. State St.
Boise, ID 83720**

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed changes would: (1) exempt licensees from the requirement to notify another licensee of the discovery of an error if the discoverer is retained by an attorney, in which case the Idaho Rules of Civil Procedure would apply; and (2) require that licensees be prompt in statements and written responses to the Board.

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

No fee is being imposed or increased by 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 as a result of this rulemaking:

There will not be any negative fiscal impact on the state 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 June 2, 2010 Idaho Administrative Bulletin, Vol. 10-6 page 38.

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 David L. Curtis, P.E., Executive Director at dave.curtis@ipels.idaho.gov or at (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 August 25, 2010.

DATED this 24th day of June, 2010.

THE FOLLOWING IS THE PENDING TEXT FOR DOCKET NO. 10-0102-1001

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.02, “Rules of Professional Responsibility.” (5-8-09)

02. Scope. In order to establish and maintain a high standard of integrity, skills and practice in the professions of engineering and land surveying, and to safeguard the life, health, property and welfare of the public, the following Rules of Professional Responsibility, hereinafter referred to as Rules, have been promulgated in accordance with Section 54-1208, Idaho Code, and shall be binding in the state of Idaho upon every person holding a license as a Professional Engineer or Professional Land Surveyor, on all entities authorized to offer or perform engineering or land surveying services through a business entity or other legal entity and on every person holding a certificate as an engineer intern or a certificate as a land surveyor intern. Each Licensee and Certificate Holder under the laws of the state of Idaho is charged with being familiar with these Rules and knowledgeable in their application to the practice of engineering and land surveying. Such application shall include the recognition that the practice of engineering or the practice of land surveying is a privilege and the Licensee or Certificate Holder shall be forthright, *and* candid, *and* timely in statements or written responses to the Board, or its representatives, on matters pertaining to these Rules. All Licensees or Certificate Holders in their original application, and for renewals thereof, shall certify that they have read and agree to abide by the Rules which are in force at the time of application or renewal. These Rules shall not be a basis for

action involving civil liability, however, failure to obey these Rules may subject a Licensee or Certificate Holder to Board action pursuant to Chapter 12, Title 54, Idaho Code. ~~(5-8-09)~~()

(BREAK IN CONTINUITY OF SECTIONS)

004. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below: (7-1-93)

01. Board. The Board of Licensure of Professional Engineers and Professional Land Surveyors. (5-8-09)

02. Certificate Holder. Any person holding a current certificate as an Engineer Intern or a Land Surveyor Intern or a business entity (which is also herein referred to as a “person”) holding a current certificate of authorization, which has been duly issued by the Board. (5-8-09)

03. Deceit. To intentionally misrepresent a material matter, or intentionally omit to disclose a known material matter. (3-29-10)

04. Incompetence. Failure to meet the standard of care. (3-29-10)

05. Licensee. Any person holding a current license as a Professional Engineer, a Professional Land Surveyor, or a combination thereof, which has been duly issued by the Board. (5-8-09)

06. Misconduct. A violation or attempt to violate these rules of professional responsibility or to knowingly assist or induce another to do so, or do so through the acts of another; a finding of guilt of commitment of a felony or a plea of guilty to a felony; commit fraud or deceit; failure to respond within twenty (20) days of an inquiry from the Board or its representative, unless such time is extended by the Board for justifiable cause; state or imply an ability to influence improperly a government agency or official. ~~(3-29-10)~~()

**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. 15-0401-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 the Division of Human Resources has adopted a pending rule. The action is authorized pursuant to Section(s) 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 pending rule is being adopted as proposed. The complete text of the temporary/proposed rule was published in the [August 4, 2010, Idaho Administrative Bulletin, Vol. 10-8, pages 57 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: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donna Weast at (208) 854-3079 or at donna.weast@dhr.idaho.gov.

DATED this 22nd day of November, 2010.

Vicki Tokita
Deputy Administrator
Division of Human Resources
304 N. 8th Street
PO Box 83720, Boise, ID 83720-0066
Main: 208-334-3900 / Fax: 208-334-2438

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2010**.

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 67-5309, 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 August 18, 2010.

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:

During the 2010 legislative session, Section 67-5309, Idaho Code, was amended to increase the number of names on a hiring list (register). This rule change will reflect the change made to Idaho Code.

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:

The temporary rule is necessary in order to comply with deadlines in amendments to governing law or federal programs.

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: No fiscal impact.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule change is to align existing rules with Idaho Code.

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 Lee McCormick, 208-854-3069.

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 August 25, 2010.

DATED this 1st day of July, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0401-1001

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. 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)

02. Agency Classification. A classification of positions unique to an agency. (5-8-09)

03. Allocation. The assignment of a classification to a pay grade in the compensation schedule. (3-16-04)

04. 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)

05. Appellant. An employee, appointing authority, or applicant filing an appeal or a petition for review with the Commission. (3-16-04)

06. 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)

07. 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)

08. 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)

09. 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)

10. 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)

11. 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)

12. 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)

13. 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)

14. 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)

15. Base Pay. The rate paid for performing a job, excluding bonuses, shift differentials, overtime or other compensation premiums. (5-8-09)

16. Certifiable Range. An examination score and a rank on an eligibility register sufficiently high to be among the top ~~ten~~ **twenty-five (25)** available names, plus names of all individuals with scores identical to the ~~tenth~~ **twenty-fifth** ranking eligible, for certification to fill a position in the classification for which the register was established. (~~3-16-04~~)()

17. 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)

18. Commission. As utilized in these rules, refers to the Idaho Personnel Commission as established in Section 67-5307, Idaho Code. (5-8-09)

19. 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)

20. 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)

21. Consultant. An independent contractor who provides professional or technical advice, counsel, or service. (Ref. Rule Section 050) (5-8-09)

22. 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)

23. 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)

24. 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)

25. 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)

011. DEFINITIONS -- F THROUGH J.

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. General Classification. A classification of positions that is common to more than one (1) participating agency. (5-8-09)

02. Good Cause. The conduct of a reasonable person in the same or similar circumstances. (7-1-87)

03. Hay Method. A methodology for establishing the relative value of jobs and used as a dimension of the pay system. (5-8-09)

04. Hiring List. A hiring list is a subset of a register consisting of the top ~~ten~~ twenty-five (~~10~~25) individuals on the register, plus all individuals tied for the ~~tenth~~ twenty-fifth position, certified as eligible for a specific recruitment. Candidates for reinstatement or transfer may be considered and are provided in addition to the top ~~ten~~ twenty-five (25). (~~5-8-09~~)()

05. Incumbent. Any person holding a classified or non-classified position in state service. (7-1-87)

06. Independent Contractor. Any person, firm, or corporation meeting the Internal Revenue Service's test for an independent contractor or a self-employed person. (Ref. Rule

Section 050)

(5-8-09)

07. Involuntary Transfer. A significant change in work location, shift and/or organizational unit made as a result of a management decision as opposed to an employee's request or agreement to transfer. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

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 ~~ten~~ **twenty-five (1025)** eligible candidates *successively* for each position to be filled. ~~If an appointment is to be made to one (1) position only, the top ten (10) available eligible candidates shall be certified.~~ 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 ~~ten~~ **twenty-five (1025)** names to consider for each vacancy. The names of all eligible candidates with scores identical to the ~~tenth~~ **twenty-fifth** ranking eligible candidate on the register shall be provided to appointing authorities for selection purposes. (3-16-04)()

IDAPA 15 - DIVISION OF HUMAN RESOURCES

15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

DOCKET NO. 15-0401-1002

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 the Division of Human Resources has adopted a pending rule. The action is authorized pursuant to Section(s) 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.

Subsection 241.02 has been amended based on comments received from interested parties.

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 [October 6, 2010, Idaho Administrative Bulletin, Vol. 10-10, pages 237 through 244.](#)

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 state general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donna Weast at (208) 854-3079 or at donna.weast@dhr.idaho.gov.

DATED this 18th day of November, 2010.

Vicki Tokita
Deputy Administrator
Division of Human Resources
304 N. 8th Street
PO Box 83720

Boise, ID 83720-0066
Main: 208-334-3900
Fax: 208-334-2438

THE FOLLOWING NOTICE 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) 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 October 27, 2010.

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 is mostly housekeeping in nature and removes redundant phrases and definitions, removes references to deleted rules/areas, and clarifies or removes language that conflicts with other current rules and practices.

More specifically, this proposed rulemaking removes the definition in 013.10 and the references to “Traded Time”; removes phrases that conflict with rule 144; removes the word “entrance” in 150.05 because acting appointments require permanent status; in 169.04 removes “more responsibility” because that translates into having greater points; in 220.04 removes the words “current agencies” because entitlement is not limited to current information; in 241.02 changes the order of words to clarify the application of absences of less than 2 weeks as it applies to the 12-week period.

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 a copy of the proposed rule changes was sent out to all state agencies for their review and comments. We gave them a two week period in which they could respond to our proposed changes.

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 Donna Weast, 208-854-3079.

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 Friday, October 27, 2010.

DATED this 26th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0401-1002

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. 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)

09. 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)

~~**10. Traded Time.** Those hours an employee agrees to substitute for another employee during scheduled hours of work, where both work in the same capacity, the agreement to substitute is solely at the employees' option, and the agreement is approved by the agency by whatever manner is customary. (7-1-87)~~

110. 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)

121. 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. (3-16-04)

132. 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)

143. 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)

073. CALCULATION OF PAY.

01. Standard Calculation of Pay. For other than police, correctional officers, or fire employees, pay is calculated in the following order: (5-8-09)

a. Holiday pay; (12-10-90)

b. All hours worked on a holiday as overtime; (12-10-90)

c. All hours worked over forty (40) in the workweek as overtime, excluding occasional or sporadic work ~~and traded time;~~ ~~(12-10-90)~~ ()

- d. Vacation, sick and other paid or unpaid leaves; and (12-10-90)
- e. All remaining hours worked at the employee's regular rate of pay. (5-8-09)

02. Shift Differential. Additional compensation paid to employees (including temporary or part-time employees) who work specific, designated hours. Shift differential is paid in addition to any other compensation. (Ref. Sections 67-5302(20) and 67-5328, Idaho Code; Shift differential may be awarded in amounts up to and including twenty-five percent (25%) of hourly rates, based on local market practice for similar jobs. (Ref. Section 67-5309(u), Idaho Code. (5-8-09)

03. Calculation of Pay for Police, Correctional Officers, and Fire Employees. Police, correctional officers, and fire employees on a twenty-eight (28) day work schedule will be compensated as described in Subsections 073.01 and 073.02 of these rules, except that overtime will be calculated based on one hundred sixty (160) hours in a twenty eight (28) day period instead of forty (40) hours in a workweek. (5-8-09)

04. Holiday Pay Calculation. (7-1-87)

a. Paid time off for holidays is a benefit and must be allocated in a substantially similar manner to all employees in the same classification. (5-8-09)

b. A full-time employee will receive holiday pay in accordance with the number of hours the employee works on a regular workday. If the employee's schedule is so irregular that a regular workday cannot be determined, the employee will receive eight (8) hours of holiday pay. An employee must receive some paid leave, wages or salary for the pay period in which the holiday occurs to receive the holiday benefit. (3-16-04)

c. A part-time employee who has a regular work schedule shall be paid for a holiday in the same ratio as eight (8) hours is to a forty (40) hour work week, which for calculation purposes converts to two tenths (.20) x hours normally worked. (3-16-04)

d. To avoid inequities with regard to the Family Medical Leave Act (FMLA) during holiday weeks, if an employee is recording all hours for the week as Family Medical "Leave Without Pay," no hours will be coded on the holiday. Therefore, the holiday will not be counted toward the twelve (12) weeks of family medical leave. (5-8-09)

e. If a part-time employee's hourly schedule is so irregular that a normal workweek cannot be determined, the holiday benefit is in the same proportion that the hours the employee works during a week in which a holiday occurs relate to forty (40). (3-16-04)

f. Schedules resulting in holiday time off in excess of eight (8) hours may be approved by the appointing authority if included in the agency compensation plan. Appointing authorities may also suspend flex schedules during holiday weeks or otherwise adjust work schedules to ensure internal consistency. (5-8-09)

05. Reduction of Salary. The salary of an employee receiving more than the lowest rate of the pay grade for his classification may be reduced to a lower rate within the pay grade by

the appointing authority for disciplinary reasons enumerated in Section 190 of these rules. (5-8-09)

06. Salary Administration. Each agency must develop a compensation plan. Each agency compensation plan must be designed to consider recruitment and retention and ensure pay equity within the organization. (Ref. Section 67-5309B, Idaho Code) (5-8-09)

07. Salaries for Temporary Appointments. Except as provided for in these rules, salaries for employees hired under temporary and project-exempt appointments will be governed by Section 59-1603, Idaho Code. (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 ~~or notified of a pending layoff~~ except limited service appointments. (See Sections 140 ~~and 146~~ of these rules). ~~(5-8-09)~~()

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)

(BREAK IN CONTINUITY OF SECTIONS)

119. APPOINTMENTS, REINSTATEMENTS, TRANSFERS, AND RESIGNATIONS.

01. Reemployment Preference Register. New appointments to a classification within an agency are not permissible if there is an agency reemployment preference register (Ref. Rule Subsection 101.01) for that classification with names of eligibles who are willing to accept employment. (5-8-09)

~~02. **Credited State Service.** Except as provided by Section 040 and Subsection 250.02 of these rules, no classified credited state service accrues to employees for any service under temporary, project exempt, or nonclassified appointments. (5-8-09)~~

032. Probationary Period Required. All appointments to positions in the state classified service whenever adequate eligibility registers exist for the classification are probationary appointments except as otherwise provided in Sections 040 and 150 of these rules. (5-8-09)

043. Provisional Appointment. (7-1-93)

a. A provisional appointment may be authorized in the absence of an adequate register. (Ref. Section 67-5309(k), Idaho Code) (5-8-09)

b. In nominating a person for provisional appointment, the appointing authority will transmit to the administrator an application for employment of the nominee. If the applicant meets the minimum qualifications established for the classification, the nominee may be provisionally appointed to fill an existing vacancy in a position for no longer than thirty (30) calendar days after establishment of an adequate register. Successive provisional appointments of the same individual or successive provisional appointments to the same position will not be permitted unless specifically authorized by the administrator. (3-16-04)

c. Provisional incumbents will be given opportunity to take the examination for the classification of position. Any provisional employee who fails to pass such an examination within certifiable range or who has an opportunity to take such an examination and has not done so will be separated no later than thirty (30) calendar days after the establishment of an adequate register of eligibles. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

145. USE OF REGISTERS WITH REEMPLOYMENT PREFERENCE.

01. Priority for Reemployment by Agency that Conducted the Layoff. (3-16-04)

a. The employee who has been laid off, ~~or given official, written notice of a pending layoff date (Ref. Rule Subsection 143.05)~~ will be offered reemployment to a position in the classification from which laid off ~~or layoff is pending~~, before any person outside that agency may be promoted to, transferred to, reinstated or appointed to that classification by an appointing authority of that agency. Appointing authorities may reassign or transfer individuals who are in the same classification within their agency but may not demote, promote, reclassify, or make acting appointments to that classification. If that agency determines a need to fill that classification, the employee ~~scheduled for lay off or~~ who was laid off has first priority for that position. (Ref. Rule Subsections 125.04 and 125.08) Extenuating circumstances due to short term budget, workload, location, or other complexities may be used by the appointing authority to

request a temporary waiver of this rule by the administrator.

~~(5-8-09)~~()

b. When attempting to fill vacancies for a classification where a lay off occurred, the agency will provide an opportunity to interview and will make their hiring selection from the individuals their agency laid off from the classification, including those separated from state service under Subsection 241.02 of these rules and those that took a voluntary demotion in lieu of layoff. (5-8-09)

c. Individuals being returned to the classification from which they were laid off will be reinstated with the same salary, permanent status and their sick leave balance restored. If the pay minimum has increased, see Subsection 072.03 of these rules. (5-8-09)

02. Consideration for Hire by Other Agencies. For promotional opportunities, internal agency candidates are normally considered before outside recruitment occurs, including other agencies' laid off candidates. However, individuals who have been laid off must be offered the opportunity to interview before other agencies consider candidates from statewide promotional or open-competitive recruitments. (3-16-04)

03. Employment by Other Agency. Individuals may be reappointed or reinstated if eligible. The salary of an employee re-hired after a layoff is negotiable between the employee and new appointing authority in the current pay grade for the classification in which the employee is appointed. (3-16-04)

04. Return to Register. If an individual finds another agency's position unsatisfactory or does not satisfactorily complete a voluntary probation period, he may be placed back on a register for the remainder of their twelve (12) month time frame. Individuals appointed to a position, other than the classification from which laid off, will remain on preference register status for the remainder of the twelve (12) month period if otherwise eligible. (5-8-09)

146. ~~INTERVIEWS FOR PROSPECTIVE LAYOFFS (RESERVED).~~

~~Any employee who has been notified or identified as likely to be affected by a layoff may request to be placed on a register for the classification from which the layoff will occur. (Ref. Rule 145.01.a.) All agencies shall offer an interview to these individuals when attempting to fill such vacancies through statewide promotion or open competitive recruitments. (Ref. Rule 145.02)~~

~~(3-16-04)~~

(BREAK IN CONTINUITY OF SECTIONS)

169. PROMOTIONS.

01. Use of Promotional Registers. (7-1-93)

a. Preference for Promotion. Whenever practical, a vacancy in a classified position must be filled by the promotion of an employee in the agency in which the vacancy occurs. (Ref. Section 67-5309(g), Idaho Code) (5-8-09)

b. Exception. An appointing authority may request that a position be filled from a statewide promotional register (Ref. Rule Subsection 101.03) or an open competitive register (Ref. Rule Subsection 101.04) whenever he determines that such an appointment will best serve the interests of the agency. (5-8-09)

c. Agency Registers with Reemployment Preference Status. Promotions to a classification are not permissible as long as there is an agency register with reemployment preference status (Ref. Rule Subsection 101.01) for the classification with names of eligible candidates who are willing to accept reemployment. (5-8-09)

02. Interagency Promotions. All interagency promotions must be made using statewide promotional registers (Ref. Rule Subsection 101.03) (5-8-09)

03. Eligibility for Promotion. Promotional appointees must have permanent status (Ref. Rule Section 159) and must meet the minimum qualifications of the promotional classification. (5-8-09)

04. Promotion, In-Grade. To reflect unique agency organization design, an agency may choose to request an internal competitive process to recognize the advancement of an employee with permanent status from a position occupied in one classification to a position in another classification having greater points, ~~more responsibility~~, or a unique specialty area, but within the same pay grade. With the approval of the administrator, an in-grade promotion will be treated in all regards as a promotion. (5-8-09)()
169.04 Promotions-Promotion, in grade

(BREAK IN CONTINUITY OF SECTIONS)

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)

c. 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 ~~current agencies~~ performance information before the hiring decision is made. (Ref. Section 67-5309(o), Idaho Code) ~~(5-8-09)~~()

(BREAK IN CONTINUITY OF SECTIONS)

241. WORKERS COMPENSATION ~~AND~~ OR DISABILITY.

01. Use of Leave in a Workers Compensation Claim. In the event of a disability incurred on the job covered by workers compensation, the employee will be given the choice of either: (5-8-09)

a. Leave of absence without pay while receiving workers compensation; or (5-8-09)

b. Utilizing a portion of accrued sick leave to supplement workers compensation to maintain his regular salary; however, no appointing authority may require an employee to accept sick leave, vacation leave, or compensatory time off for overtime in lieu of workers compensation provided by law. Additionally, an employee may not waive his rights to workers compensation and cannot accept earned leave or other benefits in lieu thereof. (5-8-09)

02. Layoff After Twelve Weeks' Disability. If the employee becomes disabled, whether or not due to a workers compensation injury, and is unable to fully return to work after twelve (12) weeks' absence during any consecutive fifty-two (52) week period or when accrued sick leave has been exhausted, whichever is longer, the employee's position may be declared vacant unless otherwise prohibited by state or federal law. The twelve (12) weeks' period of absence need not occur consecutively. The employee's name is certified to a reemployment preference register when the administrator has been notified by the physician that the employee is able to return to work. (Ref. Rule Subsection 101.01) ~~(5-8-09)~~

~~**α:** If an employee is not eligible for the protections of the Family and Medical Leave Act (FMLA), the employee may only take a maximum of twelve (12) weeks absence due to their disability every twelve (12) month period. The period of absence for such an employee is not interrupted by the employee's full return to work for less than two (2) consecutive work weeks and return to work as part of a rehabilitation program does not interrupt the calculation of the period~~

~~of absence.~~

~~(5-8-09)~~

~~b.~~ Conditional releases will be considered in accordance with the Americans with Disabilities Act. ~~(3-16-04)~~()

(BREAK IN CONTINUITY OF SECTIONS)

262. OVERTIME.

01. Employing Agencies. The state is considered as one (1) employer for determining the number of hours an employee works. If an employee works for more than one (1) agency, the agency employing the employee when the overtime occurs is liable for compensatory time off or cash compensation as provided by law. (5-8-09)

02. Compensation for Overtime. Overtime accrual and compensation for classified employees is covered by Sections 67-5328 and 59-1607, Idaho Code, for nonclassified employees. Overtime is defined in Section 67-5302(20), Idaho Code. Overtime does not include any time, such as ~~traded time, or~~ occasional or sporadic work, which ~~are~~ **is** excluded from the overtime calculation by federal law. ~~(5-8-09)~~()

03. Modification of Workweek or Schedule. No agency will alter a previously established work week for the purpose of avoiding overtime compensation. An agency may modify the employee's regular schedule of work to avoid or minimize overtime. (5-8-09)

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.03 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW - SECURITY FOR COMPENSATION

DOCKET NO. 17-0203-1001 (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 2011 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(s) 72-508, 72-520, 72,721, 72-722, and 72-723, 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 is being adopted as proposed. This is a Chapter Repeal. The notice of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, page 290](#).

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 Jane McClaran at 208-334-6042.

DATED this November 18, 2010.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
PO Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6059
Fax: 208-334-5145

THE FOLLOWING NOTICE 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, 72-520, 72-721, 72-722, and 72-723, 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 20, 2010.

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 chapter, IDAPA 17.02.03 (Security for Compensation), is being repealed in its entirety and two new chapters are being adopted to clarify each entity's rules. The new chapter, IDAPA 17.02.10 (Insurance Carriers), adopts rules governing insurance carriers that clarify terms and implements more comprehensive reporting requirements. The new chapter, IDAPA 17.02.11 (Self-Insured Employers), adopts rules governing self insured employers that clarify terms, provide a more detailed application process and outline continuing reporting and security deposit requirements necessary to maintain self insured status.

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 a subcommittee of the Commission's Advisory Committee, including insurance carrier representatives and self-insured employers, has been providing input to the Industrial Commission on the drafting of these rule revisions.

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, 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 27, 2010.

DATED this September 1, 2010.

IDAPA 17.02.03 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.05 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- INDUSTRIAL COMMISSION

DOCKET NO. 17-0205-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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(s) 72-508, 72-520, 72,721, 72-722, and 72-723, 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 is being adopted as proposed. The notice of the temporary and proposed rule was published in the July 7, 2010, Idaho Administrative Bulletin, Vol. 10-7, pages 82 through 85.

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 Scott McDougall at 208-334-6063.

DATED this November 18, 2010.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
PO Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6059
Fax: 208-334-5145

THIS NOTICE PULISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2010**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 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 July 21, 2010.

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:

To coincide with statute changes enacted by the 2010 legislature in Section 72-528, Idaho Code, to reduce the redundancy of reporting information to the Industrial Commission of costs and fees associated with attorneys hired by injured workers. The attorney's costs and fees are already required on all proposed lump sum settlements and on the accompanying Attorney Fee Memorandum. Forms 1022 and 1023 sent out by the Commission require identical information.

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:

To conform to the language changes to Section 72-528, Idaho Code, approved by the 2010 legislature that become effective July 1, 2010.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: 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: No fiscal impact with these changes.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes are not controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Scott McDougall, 208-334-6063.

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 28, 2010.

DATED this 17th day of May 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0205-1001

281. RULE GOVERNING REPORTING OF ATTORNEY FEES.

01. Requirements for Reporting by Employer/Surety Attorney. When requested by the Commission, ~~7~~the following information shall be reported to the Commission, on a form furnished by the Commission (see IC Form 1023 below) by all sureties, self-insurers, the State Insurance Fund, the Industrial Special Indemnity Fund, and non-insured employers, relative to each case litigated before the Industrial Commission within thirty (30) days of the request of the Commission, following the entry of a final award by the Industrial Commission, or, in the event of an appeal to a higher court, not later than thirty (30) days following a final ruling by the court. The information reported shall break down the litigation expenses incurred in each case by the reporting party into the following categories, and, if the case is appealed, shall include such costs incurred on appeal: ~~(7-15-88)~~()

- a. All fees paid to attorneys; (7-15-88)
- b. All expenses charged by attorneys; (7-15-88)
- c. Charges for reports or testimony of witnesses; (7-15-88)
- d. Cost of any depositions taken; (7-15-88)
- e. Cost for investigation made before or during hearing; (7-15-88)
- f. Costs of research or legal briefs (if separate from attorney fees). (7-15-88)

IC Form 1023:

INDUSTRIAL COMMISSION, P.O. BOX 83720, BOISE, ID 83720-0041

I.C. CASE NO. _____

I.C. CASE NAME _____

REPORT OF LITIGATION EXPENSES
(EMPLOYER/SURETY/ISIF/SELF INSURERS)

In accordance with the requirements of Section 72-528, Idaho Code, this form shall be filled out and returned to the Industrial Commission within thirty (30) days of the request by the Commission, following the time of entry of a final award by the Industrial Commission in the above case, or, in the event of an appeal to a final court, within 30 days following a final ruling by the court. If there is an appeal, the totals specified below shall include the expenses, costs, or fees incurred in the appeal.

1. Attorneys fees paid in case:
2. Expenses charged by attorneys:
3. Charges for reports or testimony of witnesses:
4. Cost of any depositions taken:
5. Cost of investigations made before or during hearing:
6. Costs of research or legal briefs (if separate from attorneys fees):
7. Filing fees paid on account of the litigation

TOTAL

Dated this _____ day of _____, 20 ____.

FIRM NAME _____

BY _____

Check Applicable Box:

Self Insured Uninsured Employer Surety

State Insurance Fund Industrial Special Indemnity Fund

Receipt of this form from the Commission shall be deemed a request for the information.

Sample copies of IC Form 1023 are available from the Industrial Commission, Judicial Division or Compensation Consultants, ~~317 Main Street~~, P. O. Box 83720 Boise, Idaho 83720-0041, telephone (208) 334-6000.

02. Information to Be Reported by Claimant Attorney. When requested, ~~7~~the following information shall be reported to the Commission, on a form furnished by the Commission (see IC Form 1022 below) by all attorneys engaged in representing any claimant in a litigated workers' compensation insurance claim before the Commission, relative to each case

litigated, within thirty (30) days of request of the Commission following the entry of a final award by the Industrial Commission, or in the event of an appeal to a higher court, not later than thirty (30) days following a final decision by the court. The information reported shall break down into the following categories the litigation expenses incurred in each case, and, if the case is appealed, shall include such expenses or costs incurred on appeal: ~~(7-15-88)~~()

- a. Attorneys fees incurred in litigation and charged to claimant; (7-15-88)
- b. Expenses incurred in litigation and charged to claimant. (7-15-88)

IC Form 1022:

INDUSTRIAL COMMISSION, P. O. BOX 83720, BOISE, ID 83720-0041

I.C. CASE NO. _____

I.C. CASE NAME _____

REPORT OF LITIGATION EXPENSES (CLAIMANT'S ATTORNEY)

In accordance with the requirements of Section 72-528, Idaho Code, this form shall be filled out and returned to the Industrial Commission within thirty (30) days of request of the Commission following the time of entry of a final award by the Industrial Commission in the above case, or, in the event of an appeal to a final court, within thirty (30) days following a final ruling by the court. If there is an appeal, the totals specified below shall include the expenses, costs, or fees incurred in the appeal.

- 1. Attorneys fees incurred in litigation and charged to claimant:
- 2. Expenses incurred in litigation and charged to claimant:

TOTAL

Dated this _____ day of _____, 20____.

FIRM NAME _____

BY _____

Receipt of this form from the Commission shall be deemed a request for the information.

Sample copies of IC Form 1022 are available from Industrial Commission, 317 Main Street, P.O. Box 83720 Boise, Idaho 83720-0041, telephone (208) 334-6000.

03. Definition of Litigated Case. For purposes of Section 72-528, Idaho Code, and this rule, a "case litigated before the Industrial Commission" shall mean a case in which a Complaint (formerly an application for hearing) has been filed. (7-15-88)

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-1001 (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 2011 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(s) 72-508, 72-520, 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.

The pending rule is being adopted as proposed. This is a Chapter Repeal. The notice of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, page 291](#).

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 Patti Vaughn at 208-334-6084.

DATED this November 18, 2010.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
PO Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6059
Fax: 208-334-5145

THE FOLLOWING NOTICE 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) 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 held as follows:

OCTOBER 7, 2010 4:00 p.m. – 6:00 p.m.	OCTOBER 12, 2010 4:00 p.m. - 6:00 p.m	OCTOBER 19, 2010 2:00 p.m. - 5:00 p.m.
Shilo Inn 702 W. Appleway Coeur d'Alene, ID	Holiday Inn Express 2270 Channing Way Idaho Falls, ID	Industrial Commission 700 South Clearwater Lane Boise, ID

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:

IDAPA 17.02.08 is being repealed and rewritten and separated into 2 chapters. A new chapter, IDAPA 17.02.09, Medical Fees, moves the conversion factors into a separate chapter for clarity. This new chapter adjusts conversion factors used to calculate physician fees in workers' compensation cases to reflect changes in current market conditions, pricing and other factors. IDAPA 17.02.08 contains the balance of the rule without substantive change and is being published in this Bulletin under Docket No. 17-0208-1002.

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

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

NEGOTIATED RULEMAKING: Although negotiated rulemaking was not done, the data was submitted to several affected parties (hospitals and ambulatory surgery centers) for analyzation and comment. Those comments were included in the final analysis that resulted in the proposed 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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Patti Vaughn, Medical Fee Schedule Analyst, 208-334-6000.

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 27, 2010.

DATED this 26th day of August, 2010.

IDAPA 17.02.08 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-1002 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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(s) 72-508, 72-520, 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.

The pending rule is being adopted as proposed. This is a Chapter Rewrite. The notice of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 292 through 297.](#)

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 Patti Vaughn at 208-334-6084.

DATED this November 18, 2010.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
PO Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6059
Fax: 208-334-5145

THE FOLLOWING NOTICE 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) 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 held as follows:

OCTOBER 7, 2010 4:00 p.m. – 6:00 p.m.	OCTOBER 12, 2010 4:00 p.m. - 6:00 p.m	OCTOBER 19, 2010 2:00 p.m. - 5:00 p.m.
Shilo Inn 702 W. Appleway Coeur d'Alene, ID	Holiday Inn Express 2270 Channing Way Idaho Falls, ID	Industrial Commission 700 South Clearwater Lane Boise, ID

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 new **IDAPA 17.02.09, Medical Fees**, which is being published in this Bulletin, adjusts conversion factors used to calculate physician fees in workers' compensation cases to reflect changes in current market conditions, pricing and other factors. **IDAPA 17.02.09** also provides a new workers' compensation fee schedule for hospitals and ambulatory surgery centers. Since these adjustments may occur annually, they were split from **IDAPA 17.02.08, Miscellaneous Provisions**, which is being rewritten in this docket with the balance of the former **IDAPA 17.02.08** without substantive changes.

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 as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Although negotiated rulemaking was not done, the data was submitted to several affected parties (hospitals and ambulatory surgery centers) for analyzation and comment. Those comments were included in the final analysis that resulted in the proposed 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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Patti Vaughn, Medical Fee Schedule Analyst, 208-334-6000.

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 27, 2010.

DATED this 26th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0208-1002

IDAPA 17, TITLE 02, CHAPTER 08

17.02.08 - MISCELLANEOUS PROVISION

000. LEGAL AUTHORITY.

These rules are adopted and promulgated by the Industrial Commission pursuant to the provision of Section 72-508, Idaho Code. ()

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 17.02.08, "Miscellaneous Provisions." ()

002. WRITTEN INTERPRETATIONS.

No written interpretations of these rules exist. ()

003. ADMINISTRATIVE APPEALS.

There is no administrative appeal from decisions of the Industrial Commission in workers' compensation matters, as the Commission is exempted from contested-cases provisions of the Administrative Procedure Act. ()

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

This office is open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday, and legal holidays. The department's mailing address is: P.O. Box 83720, Boise, ID 83720-0041. The principal place of

business is 700 S. Clearwater Lane, Boise, ID 83712. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act Title 9, Chapter 3, and Title 41, Idaho Code. ()

007. -- 032. (RESERVED).

033. RULE GOVERNING APPROVAL OF ATTORNEY FEES IN WORKERS' COMPENSATION CASES.

01. Authority and Definitions. Pursuant to Sections 72-404, 72-508, 72-707, 72-735 and 72-803, Idaho Code, the Commission promulgates this rule to govern the approval of attorney fees. ()

a. “Available funds” means a sum of money to which a charging lien may attach. It shall not include any compensation paid or not disputed to be owed prior to claimant’s agreement to retain the attorney. ()

b. “Approval by Commission” means the Commission has approved the attorney fees in conjunction with an award of compensation or a lump sum settlement or otherwise in accordance with this rule upon a proper showing by the attorney seeking to have the fees approved. ()

c. “Charging lien” means a lien, against a claimant’s right to any compensation under the Workers’ Compensation laws, which may be asserted by an attorney who is able to demonstrate that: ()

i. There are compensation benefits available for distribution on equitable principles; ()

ii. The services of the attorney operated primarily or substantially to secure the fund out of which the attorney seeks to be paid; ()

iii. It was agreed that counsel anticipated payment from compensation funds rather than from the client; ()

iv. The claim is limited to costs, fees, or other disbursements incurred in the case through which the fund was raised; and ()

v. There are equitable considerations that necessitate the recognition and application of the charging lien. ()

d. “Fee agreement” means a written document evidencing an agreement between a claimant and counsel, in conformity with Rule 1.5, Idaho Rules of Professional Conduct (IRPC). ()

e. “Reasonable” means that an attorney’s fees are consistent with the fee agreement

and are to be satisfied from available funds, subject to the element of reasonableness contained in IRPC 1.5. ()

i. In a case in which no hearing on the merits has been held, twenty-five percent (25%) of available funds shall be presumed reasonable; or ()

ii. In a case in which a hearing has been held and briefs submitted (or waived) under Judicial Rules of Practice and Procedure (JRP), Rules X and XI, thirty percent (30%) of available funds shall be presumed reasonable; or ()

iii. In any case in which compensation is paid for total permanent disability, fifteen percent (15%) of such disability compensation after ten (10) years from date such total permanent disability payments commenced. ()

02. Statement of Charging Lien. ()

a. All requests for approval of fees shall be deemed requests for approval of a charging lien. ()

b. An attorney representing a claimant in a Workers' Compensation matter shall in any proposed lump sum settlement, or upon request of the Commission, file with the Commission, and serve the claimant with a copy of the fee agreement, and an affidavit or memorandum containing: ()

i. The date upon which the attorney became involved in the matter; ()

ii. Any issues which were undisputed at the time the attorney became involved; ()

iii. The total dollar value of all compensation paid or admitted as owed by employer immediately prior to the attorney's involvement; ()

iv. Disputed issues that arose subsequent to the date the attorney was hired; ()

v. Counsel's itemization of compensation that constitutes available funds; ()

vi. Counsel's itemization of costs and calculation of fees; and ()

vii. Counsel's itemization of medical bills for which claim was made in the underlying action, but which remain unpaid by employer/surety at the time of lump sum settlement, along with counsel's explanation of the treatment to be given such bills/claims following approval of the lump sum settlement. ()

viii. The statement of the attorney identifying with reasonable detail his or her fulfillment of each element of the charging lien. ()

c. Upon receipt and a determination of compliance with this Rule by the Commission by reference to its staff, the Commission may issue an Order Approving Fees without a hearing.

()

03. Procedure if Fees Are Determined Not to Be Reasonable. ()

a. Upon receipt of the affidavit or memorandum, the Commission will designate staff members to determine reasonableness of the fee. The Commission staff will notify counsel in writing of the staff's informal determination, which shall state the reasons for the determination that the requested fee is not reasonable. Omission of any information required by Subsection 033.02 may constitute grounds for an informal determination that the fee requested is not reasonable. ()

b. If counsel disagrees with the Commission staff's informal determination, counsel may file, within fourteen (14) days of the date of the determination, a Request for Hearing for the purpose of presenting evidence and argument on the matter. Upon receipt of the Request for Hearing, the Commission shall schedule a hearing on the matter. A Request for Hearing shall be treated as a motion under Rule III(e), JRP. ()

c. The Commission shall order an employer to release any available funds in excess of those subject to the requested charging lien and may order payment of fees subject to the charging lien which have been determined to be reasonable. ()

d. The proponent of a fee which is greater than the percentage of recovery stated in Subsections 033.01.e.i., 033.01.e.ii., or 033.01.e.iii. shall have the burden of establishing by clear and convincing evidence entitlement to the greater fee. The attorney shall always bear the burden of proving by a preponderance of the evidence his or her assertion of a charging lien and reasonableness of his or her fee. ()

04. Disclosure. Upon retention, the attorney shall provide to claimant a copy of a disclosure statement. No fee may be taken from a claimant by an attorney on a contingency fee basis unless the claimant acknowledges receipt of the disclosure by signing it. Upon request by the Commission, an attorney shall provide a copy of the signed disclosure statement to the Commission. The terms of the disclosure may be contained in the fee agreement, so long as it contains the text of the numbered paragraphs one (1) and two (2) of the disclosure. A copy of the agreement must be given to the client. The disclosure statement shall be in a format substantially similar to the following:

State of Idaho
Industrial Commission

Client's name printed or typed _____

Attorney's name and address _____
printed or typed

DISCLOSURE STATEMENT

1. In workers' compensation matters, attorney's fees normally do not exceed twenty-five percent (25%) of the benefits your attorney obtains for you in a case in which no hearing on the merits has been completed. In a case in which a hearing on the merits has been completed, attorney's fees normally do not exceed thirty percent (30%) of the benefits your attorney obtains for you.

2. Depending upon the circumstances of your case, you and your attorney may agree to a higher or lower percentage which would be subject to Commission approval. Further, if you and your attorney have a dispute regarding attorney fees, either of you may petition the Commission to resolve the dispute.

I certify that I have read and understand this disclosure statement.

Client's Signature Date _____

Attorney's Signature Date _____

()

034. -- 060. (RESERVED).

061. RULE GOVERNING NOTICE TO CLAIMANTS OF STATUS CHANGE PURSUANT TO SECTION 72-806, IDAHO CODE.

01. Notice of Change of Status. As required and defined by Idaho Code, Section 72-806, a worker shall receive written notice within fifteen (15) days of any change of status or condition. ()

02. By Whom Given. Any notice to a worker required by Idaho Code, Section 72-806 shall be given by: the surety if the employer has secured Workers' Compensation Insurance; or the employer if the employer is self-insured; or the employer if the employer carries no Workers' Compensation Insurance. ()

03. Form of Notice. Any notice to a worker required by Idaho Code, Section 72-806 shall be mailed within ten (10) days by regular United States Mail to the last known address of the worker, as shown in the records of the party required to give notice as set forth above. The Notice shall be given on IC Form 8, as prescribed by the Commission for this purpose, as substantially set forth below:

IC Form 8:	
NOTICE OF CLAIM STATUS	
Injured Worker	SSN

Date of Injury	

Employer	

Insurance Company	

IC Form 8:
NOTICE OF CLAIM STATUS

Address	State	Zip
This is to notify you of the denial or change of status of your workers' compensation claim as indicated in the statement checked below.		
Your claim is denied.		
Reason		
Your benefit payments will be	Reduced	Increased
Effective date		
Reason		
Your benefit payments will be stopped.	Effective date	
Reason		
Your claim is being investigated.		
A decision should be made by		
Other	Effective date	
Explanation		
See attached medical reports		
Signature of insurance company adjuster/examiner	Date	
Name (typed or printed)		

A sample copy of IC Form 8 is available from the;
Industrial Commission
700 S. Clearwater Lane
P. O. Box 83720,
Boise, Idaho 83720-0041
Telephone (208) 334-6000.

()

04. Medical Reports. As required by Idaho Code, Section 72-806, if the change is based on a medical report, the party giving notice shall attach a copy of the report to the notice.

()

05. Copies of Notice. The party giving notice pursuant to Idaho Code, Section 72-806 shall send a copy of any such notice to the Industrial Commission, the employer, and the worker's attorney, if the worker is represented, at the same time notice is sent to the worker.

()

062. -- 999. (RESERVED).

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.09 - MEDICAL FEES

DOCKET NO. 17-0209-1001 (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 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session with the exception of Section 032, which becomes effective on January 1, 2012, 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(s) 72-508, 72-520, 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.

The pending rule is being adopted as amended as a result of public hearings conducted and written comments received from sureties, hospitals, and Ambulatory Surgery Centers (APC). The definition of Critical Access Hospitals was redefined for better clarity. Changes were made to clarify which APC weight schedule is to be used and the annual effective date of the APC weight schedule. A slight increase in the base rate was made for both the hospital outpatient and ASC services. Also, invoice costs for reimbursement of implantable hardware was changed to aggregate invoice costs with a cap of \$3,000 for inpatient services and \$1,000 for outpatient and ASC services.

The notice of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 298 through 305.](#)

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 Patti Vaughn at 208-334-6084.

DATED this November 18, 2010.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
PO Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6059
Fax: 208-334-5145

THE FOLLOWING NOTICE 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) 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 held as follows:

OCTOBER 7, 2010 4:00 p.m. – 6:00 p.m.	OCTOBER 12, 2010 4:00 p.m. - 6:00 p.m	OCTOBER 19, 2010 2:00 p.m. - 5:00 p.m.
Shilo Inn 702 W. Appleway Coeur d'Alene, ID	Holiday Inn Express 2270 Channing Way Idaho Falls, ID	Industrial Commission 700 South Clearwater Lane Boise, ID

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 new Chapter 9, Medical Fees, adjusts conversion factors used to calculate physician fees in workers' compensation cases to reflect changes in current market conditions, pricing and other factors. This new Chapter 9 also provides a new workers' compensation fee schedule for hospitals and ambulatory surgery centers. Since these adjustments may occur annually, they were split from the current Chapter 8, Miscellaneous Provisions.

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 as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Although negotiated rulemaking was not done, the data was submitted to several affected parties (hospitals and ambulatory surgery centers) for analyzation and comment. Those comments were included in the final analysis that resulted in the proposed 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:

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, 208-334-6000.

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 27, 2010.

DATED this 26th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0209-1001

IDAPA 17, TITLE 02, CHAPTER 09

17.02.09 - MEDICAL FEES

000. LEGAL AUTHORITY.

These rules are adopted and promulgated by the Industrial Commission pursuant to the provision of Sections 72-508, and 72-803, Idaho Code. ()

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 17.02.09, "Medical Fees." ()

002. WRITTEN INTERPRETATIONS.

No written interpretations of these rules exist. ()

003. ADMINISTRATIVE APPEALS.

There is no administrative appeal from decisions of the Industrial Commission in workers' compensation matters, as the Commission is exempted from contested-cases provisions of the

Administrative Procedure Act. ()

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

This office is open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday, and legal holidays. The department's mailing address is: P.O. Box 83720, Boise, ID 83720-0041. The principal place of business is 700 S. Clearwater Lane, Boise, ID 83712. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act Title 9, Chapter 3, and Title 41, Idaho Code. ()

007. -- 029. (RESERVED).

030. DEFINITIONS.

Words and terms used in this rule are defined in the subsections which follow. ()

01. Charge. Expense or cost. For hospitals and ASCs, “charge” shall mean the total charge. ()

a. “Acceptable charge.” The charge for medical services calculated in accordance with this rule or as billed by the provider, whichever is lower, or the charge agreed to pursuant to a written contract. ()

b. “Customary charge.” A charge which shall have an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. ()

c. “Reasonable charge.” A charge that does not exceed the Provider’s “usual” charge and does not exceed the “customary” charge, as defined in this rule. ()

d. “Usual charge.” The most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. ()

02. Ambulatory Payment Classification (APC). A payment system adopted by the Center for Medicare and Medicaid Services (CMS) for outpatient services. ()

03. Ambulatory Surgery Center (ASC). A facility providing medical services on an outpatient basis only. ()

04. Critical Access Hospital. A hospital *currently designated as a critical access hospital by* the Centers for Medicare and Medicaid Services (CMS). ()

05. Hospital. An acute care facility providing medical services on an inpatient and outpatient basis. ()

06. Implantable Hardware. Objects or devices that are made to support, replace or act as a missing anatomical structure or to support or manage proper biological functions or disease processes and where surgical or medical procedures are needed to insert or apply such devices and surgical or medical procedures are required to remove such devices. The term also includes equipment necessary for the proper operation of the implantable hardware, even if not implanted in the body. ()

07. Medical Service. Medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicine, apparatus, appliance, prostheses, and related service, facility, equipment and supply, as set forth in Section 72-102, Idaho Code. ()

08. Medicare Severity - Diagnosis Related Group (MS-DRG). A system adopted by the Centers for Medicare and Medicaid Services (CMS) that groups hospital admissions based on diagnosis codes, surgical procedures and patient demographics. ()

09. Payor. The legal entity responsible for paying medical benefits under Idaho's Workers' Compensation Law. ()

10. Physician. A member of any healing profession licensed or authorized to provide medical services by the statutes of this state, as set forth in Section 72-102, Idaho Code. ()

11. Provider. Any person, firm, corporation, partnership, association, agency, institution or other legal entity providing any kind of medical service related to the treatment of an industrially injured patient which is compensable under the Idaho's Workers' Compensation Law, as set forth in Section 72-102, Idaho Code. ()

12. Rehabilitation Hospital. A facility operated for the primary purpose of assisting with the rehabilitation of disabled persons through an integrated program of medical, psychological, social, and vocational evaluation and services under competent professional supervision. ()

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. ()

01. Acceptable Charge. Payors shall pay providers the acceptable charge for medical services provided by physicians. ()

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. ()

03. Conversion Factors. The following conversion factors shall be applied to the

fully-implemented 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	\$60.05
Surgery - Group One	22000 - 22999 23000 - 24999 25000 - 27299 27300 - 27999 29800 - 29999 61000 - 61999 62000 - 62259 63000 - 63999	Spine Shoulder, Upper Arm, & Elbow Forearm, Wrist, Hand, Pelvis & Hip Leg, Knee, & Ankle Endoscopy & Arthroscopy Skull, Meninges & Brain Repair, Neuroendoscopy & Shunts Spine & Spinal Cord	\$140.00
Surgery - Group Two	28000 - 28999 64550 - 64999	Foot & Toes Nerves & Nervous System	\$129.00
Surgery - Group Three	13000 - 19999 20650 - 21999	Integumentary System Musculoskeletal System	\$113.52
Surgery - Group Four	10000 - 12999 20000 - 20615 29000 - 29799 30000 - 39999 40000 - 49999 50000 - 59999 60000 - 60999 62260 - 62999 64000 - 64549 65000 - 69999	Integumentary System Musculoskeletal System Casts & Strapping Respiratory & Cardiovascular Digestive System Urinary System Endocrine System Spine & Spinal Cord Nerves & Nervous System Eye & Ear	\$87.72
Radiology	70000 - 79999	Radiology	\$87.72
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	\$47.00
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	\$68.50

()

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. ()

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, using the methodology set forth in Section 56-136, Idaho Code; pursuant to Section 72-803, Idaho Code. ()

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 034, below. ()

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: ()

a. Modifier 50: Additional fifty percent (50%) for bilateral procedure. ()

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. ()

c. Modifier 80: Twenty-five percent (25%) of coded procedure. ()

d. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. ()

032. ACCEPTABLE CHARGES FOR MEDICAL SERVICES PROVIDED BY HOSPITALS AND AMBULATORY SURGERY CENTERS UNDER THE IDAHO WORKERS' COMPENSATION LAW.

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Commission hereby adopts the following rule for determining acceptable charges for medical services provided by hospitals and ambulatory surgery centers under the Idaho Workers' Compensation Law. ()

01. Acceptable Charge. Payors shall pay providers the acceptable charge for medical services provided by hospitals and ambulatory surgery centers. ()

02. Adoption of Standards for Hospitals and ASCs. The following standards shall be used to determine the acceptable charge for hospitals and ambulatory surgery centers. ()

a. Critical Access and Rehabilitation Hospitals. The standard for determining the acceptable charge for inpatient and outpatient services provided by a critical access or rehabilitation hospital is ninety percent (90%) of the reasonable charge. Implantable hardware charges shall be reimbursed at the rate of the actual cost plus fifty percent (50%). ()

b. Hospital Inpatient Services. The standard for determining the acceptable charge for inpatient services provided by hospitals, other than critical access and rehabilitation hospitals, is calculated by multiplying the base rate by the current MS-DRG weight for that service. The base rate for inpatient services is ten thousand dollars (\$10,000). Inpatient services that do not have a relative weight shall be paid at eighty-five percent (85%) of the reasonable charge; however, implantable hardware charges billed for services without an MS-DRG weight shall be reimbursed at the rate of actual cost plus fifty percent (50%). ()

c. Hospital Outpatient and Ambulatory Surgical Center (ASC) Services. The standard for determining the acceptable charge for outpatient services provided by hospitals (other than critical access and rehabilitation hospitals) and for services provided by ambulatory surgical centers is calculated by multiplying the base rate by the *Medicare Hospital Outpatient Prospective Payment System (OPPS)* APC weight *in effect on the first day of January of the current calendar year*. The base rate for hospital outpatient services is one hundred and thirty-eight dollars (\$138). The base rate for ASC services is *ninety* dollars (\$90). ()

i. If there is no weight listed for APC status codes A, B, C, D, E, F, G, H, K, L, M, Q, S, T, V, X, or Y, then reimbursement shall be seventy-five percent (75%) of the reasonable charge. ()

ii. Status code N items (other than implantable hardware) or items with no CPT or Healthcare Common Procedure Coding System (HCPCS) code shall receive no payment. ()

iii. Two or more medical procedures with a status code T on the same claim shall be reimbursed with the highest weighted code paid at one hundred percent (100%) of the APC calculated amount and all other status code T items paid at fifty percent (50%). ()

iv. Status code Q items *with an assigned APC weight* will not be discounted. ()

d. Hospitals Outside of Idaho. Reimbursement for services provided by hospitals outside the state of Idaho may be based upon the agreement of the parties. If there is no agreement, services shall be paid in accordance with the workers' compensation fee schedule in effect in the state in which services are rendered. If there is no *hospital* fee schedule in effect in such state, or if the fee schedule in that state does not allow reimbursement for the services rendered, reimbursement shall be paid in accordance with these rules. ()

e. Additional Hospital Payments. When the charge for a medical service provided by a hospital (other than a critical access or rehabilitation hospital) meets the following standards, additional payment shall be made for that service, as indicated. ()

i. Inpatient Threshold Exceeded. When the charge for a hospital inpatient MS-DRG coded service exceeds the sum of thirty thousand dollars (\$30,000) plus the payment calculated under the provisions of Subparagraph 032.02.b. of this rule, then the total payment for that service shall be the sum of the MS-DRG payment and the amount charged above that threshold multiplied by seventy-five percent (75%). Implantable charges shall be excluded from the calculation for an additional inpatient payment under this Subparagraph. ()

ii. Inpatient Implantable Hardware. Hospitals may seek additional reimbursement beyond the MS-DRG payment for invoiced implantable hardware where the *aggregate* invoice cost is greater than ten thousand dollars (\$10,000). Additional reimbursement shall be the invoice cost plus *an amount which is equal to* ten percent (10%) *of the invoice cost, but which does not exceed three thousand dollars (\$3,000)*. Handling and freight charges shall be included in invoice cost. ()

iii. Outpatient Implantable Hardware. Hospitals and ASCs may seek additional reimbursement beyond the APC payment for invoiced implantable hardware where the *aggregate* invoice cost is greater than five hundred dollars (\$500). Additional reimbursement shall be the invoice cost plus *an amount which is equal to* ten percent (10%) *of the invoice cost, but which does not exceed one thousand dollars (\$1,000)*. Handling and freight charges shall be included in invoice cost. ()

03. Disputes. The Commission shall determine the acceptable charge for hospital and ASC services that are disputed based on all relevant evidence in accordance with the procedures set out in Section 034 of this rule. ()

04. Adjustment of Hospital and ASC Base Rates. The Commission may periodically adjust the base rates set out in Subparagraphs 032.02.b. and 032.02.c. of this rule to reflect changes in inflation or market conditions. ()

033. ACCEPTABLE CHARGES FOR MEDICAL SERVICES PROVIDED BY OTHER PROVIDERS UNDER THE IDAHO WORKERS' COMPENSATION LAW.

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Commission hereby adopts the following rule for determining acceptable charges for medical services provided by providers other than physicians, hospitals or ASCs under the Idaho Workers' Compensation Law. ()

01. Acceptable Charge. Payors shall pay providers the acceptable charge for medical services provided by providers other than physicians, hospitals or ASCs. ()

02. Adoption of Standard. The standard for determining the acceptable charge for providers other than physicians, hospitals or ambulatory surgery centers (ASCs) shall be the reasonable charge. ()

03. Disputes. The Commission shall determine the acceptable charge for medical services provided by providers other than physicians, hospitals and ASCs that are disputed based on all relevant evidence in accordance with the procedures set out in Section 034 of this rule. ()

034. BILLING AND PAYMENT REQUIREMENTS FOR MEDICAL SERVICES AND PROCEDURES PRELIMINARY TO DISPUTE RESOLUTION.

01. Authority. Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission hereby promulgates this rule governing billing and payment requirements for medical services provided under the Workers' Compensation Law and the procedures for resolving disputes between payors and providers over those bills or payments. ()

02. Time Periods. None of the periods herein shall begin to run before the Notice of Injury/Claim for Benefits has been filed with the Employer as required by law. ()

03. Provider to Furnish Information. A Provider, when submitting a bill to a Payor, shall inform the Payor of the nature and extent of medical services furnished and for which the bill is submitted. This information shall include, but is not limited to, the patient's name, the employer's name, the date the medical service was provided, the diagnosis, if any, and the amount of the charge or charges. Failure to submit a bill complying with this Subsection 034.03 to the Payor within one hundred twenty (120) days of the date of service will result in the ineligibility of the Provider to utilize the dispute resolution procedures of the Commission set out in Subsection 034.10 for that service. ()

a. A Provider's bill shall, whenever possible, describe the Medical Service provided, using the American Medical Association's appropriate Current Procedural Terminology (CPT) coding, including modifiers, for the year in which the service was performed and using current International Classification of Diseases (ICD) diagnostic coding, as well. ()

b. The bill shall also contain the name, address and telephone number of the individual the Payor may contact in the event the Payor seeks additional information regarding the Provider's bill. ()

c. If requested by the Payor, the bill shall be accompanied by a written report as defined by IDAPA 17.02.04, "Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Benefits." Subsection 322.01.f. Where a bill is not accompanied by such Report, the periods expressed in Subsections 034.04 and 034.06, below, shall not begin to run until the Payor receives the Report. ()

04. Prompt Payment. Unless the Payor denies liability for the claim or, pursuant to Subsection 034.06, below, sends a Preliminary Objection, a Request for Clarification, or both, as to any charge, the Payor shall pay the charge within thirty (30) calendar days of receipt of the bill. ()

05. Partial Payment. If the Payor acknowledges liability for the claim and, pursuant to Subsection 034.06, below, sends a Preliminary Objection, a Request for Clarification, or both, as to only part of a Provider's bill, the Payor must pay the charge or charges, or portion thereof, as to which no Preliminary Objection or Request for Clarification has been made, within thirty (30) calendar days of receipt of the bill. ()

06. Preliminary Objections and Requests for Clarification. ()

a. Whenever a Payor objects to all or any part of a Provider's bill on the ground that such bill contains a charge or charges that do not comport with the applicable administrative rule, the Payor shall send a written Preliminary Objection to the Provider within thirty (30) calendar days of the Payor's receipt of the bill explaining the basis for each of the Payor's objections. ()

b. Where the Payor requires additional information, the Payor shall send a written Request for Clarification to the Provider within thirty (30) calendar days of the Payor's receipt of the bill, and shall specifically describe the information sought. ()

c. Each Preliminary Objection and Request for Clarification shall contain the name, address and phone number of the individual located within the state of Idaho that the Provider may contact regarding the Preliminary Objection or Request for Clarification. ()

d. Where a Payor does not send a Preliminary Objection to a charge set forth in a bill or a Request for Clarification within thirty (30) calendar days of receipt of the bill, or provide an in-state contact in accord with Subsection 034.06.c., it shall be precluded from objecting to such charge as failing to comport with the applicable administrative rule. ()

07. Provider Reply to Preliminary Objection or Request for Clarification. ()

a. Where a Payor has timely sent a Preliminary Objection, Request for Clarification, or both, the Provider shall send to the Payor a written Reply, if any it has, within thirty (30) calendar days of the Provider's receipt of each Preliminary Objection or Request for Clarification. ()

b. If a Provider fails to timely reply to a Preliminary Objection, the Provider shall be deemed to have acquiesced in the Payor's objection. ()

c. If a Provider fails to timely reply to a Request for Clarification, the period in which the Payor shall pay or issue a Final Objection shall not begin to run until such clarification is received. ()

08. Payor Shall Pay or Issue Final Objection. The Payor shall pay the Provider's bill in whole or in part or shall send to the Provider a written Final Objection, if any it has, to all or part of the bill within thirty (30) calendar days of the Payor's receipt of the Reply. ()

09. Failure of Payor to Finally Object. Where the Payor does not timely send a Final Objection to any charge or portion thereof to which it continues to have an objection, it shall be precluded from further objecting to such charge as unacceptable. ()

10. Dispute Resolution Process. If, after completing the applicable steps set forth above, a Payor and Provider are unable to agree on the appropriate charge for any Medical Service, a Provider which has complied with the applicable requirements of this rule may move the Commission to resolve the dispute as provided in the Judicial Rule Re: Disputes Between Providers and Payors, as referenced in Sections 031, 032 and 033 of this rule. If Provider's motion disputing CPT or MS-DRG coded items prevails, Payor shall pay the amount found by the Commission to be owed, plus an additional thirty percent (30%) of that amount to compensate

Provider for costs and expenses associated with using the dispute resolution process. For motions filed by a Provider disputing items without CPT or MS-DRG codes, the additional thirty percent (30%) shall be due only if the Payor does not pay the amount found due within thirty (30) days of the administrative order. ()

035. -- 999. (RESERVED).

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. 17-0210-1001 (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 2011 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(s) 72-508, 72-520, 72-721, 72-722, and 72-723, 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 is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 306 through 316.](#)

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 Jane McClaran at 208-334-6042.

DATED this November 18, 2010.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
PO Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6059
Fax: 208-334-5145

THE FOLLOWING NOTICE 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) 72-508, 72-520, 72-721, 72-722, and 72-723, 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 20, 2010.

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 chapter, IDAPA 17.02.03 (Security for Compensation), is being repealed and two new chapters are being adopted to clarify each entity's rules. This new chapter, IDAPA 17.02.10 (Insurance Carriers), adopts rules governing insurance carriers which clarify terms and implement more comprehensive reporting requirements.

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 a subcommittee of the Commission's Advisory Committee, including insurance carrier representatives and self-insured employers, has been providing input to the Industrial Commission on the drafting of these rule revisions.

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, 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 27,

2010.

DATED this 10th day of September, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0210-1001

IDAPA 17, TITLE 02, CHAPTER 10

**17.02.10 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION
UNDER THE WORKERS' COMPENSATION LAW -- SECURITY
FOR COMPENSATION -- INSURANCE CARRIERS**

000. LEGAL AUTHORITY.

These rules are adopted and promulgated by the Industrial Commission pursuant to the provisions of Sections 72-508, 72-301 and 72-304, Idaho Code. ()

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 17.02.10, "Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Insurance Carriers." These rules shall apply to all insurance companies securing compensation under the Workers' Compensation Law. ()

002. WRITTEN INTERPRETATIONS.

No written interpretations of these rules exist. ()

003. ADMINISTRATIVE APPEALS.

There is no administrative appeal from decisions of the Industrial Commission in workers' compensation matters, as the Commission is exempted from contested-cases provisions of the Administrative Procedure Act. ()

004. -- 009. (RESERVED).

010. DEFINITIONS.

For the purposes of this chapter, the following definitions are applicable: ()

01. 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. ()

02. Indemnity Claim. Any claim made for the payment of indemnity benefits. ()

011. RULE 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. ()

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: ()

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; ()

b. The latest audited financial statement of said carrier; ()

c. The name and address of the agent for service of process in Idaho; ()

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; ()

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. ()

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. ()

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____. ()

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. ()

h. A statement that the cancellation of surety contracts will be made as set forth in the law, if said contracts are cancelled; ()

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; ()

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 ()

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. ()

012. 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: ()

01. Maintain Statutory Security Deposits with the State Treasurer. ()

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. ()

b. In addition to the security required in Subsection 012.01.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 011.02.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. ()

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. ()

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. ()

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.()

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. ()

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. ()

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 of the Industrial Commission, 700 S. Clearwater Lane, P. O. Box 83720, Boise, Idaho 83720-0041, telephone (208)334-6000. ()

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. ()

06. Report Proof of Coverage. ()

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. ()

b. As an alternative to Subsection 012.06.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. ()

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 and transaction standards is available upon request from the Employer Compliance Bureau, Industrial Commission, 700 S. Clearwater Lane, P. O. Box 83720, Boise, Idaho 83720-0041; telephone (208) 334-6000. ()

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. ()

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. ()

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. ()

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. ()

10. 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. ()

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. ()

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. ()

c. The report shall be submitted on or in a format that is substantially the same as Form IC36A, "Report of Outstanding Awards – Insurance Carriers" which follows this chapter as Appendix B. 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. ()

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. ()

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. ()

11. 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. ()

013. -- 050. (RESERVED).

051. REQUIREMENTS FOR MAINTAINING IDAHO WORKERS' COMPENSATION CLAIMS FILES.

All insurance carriers and licensed adjusters servicing Idaho workers' compensation claims shall comply with the following requirements: ()

01. Idaho Office. ()

a. All insurance carriers and licensed adjusters servicing Idaho workers' compensation claims shall maintain an office within the state of Idaho. The offices shall be staffed by adequate personnel to conduct business. ()

b. The insurance carrier shall authorize a member of its staff or a resident licensed claims adjuster to service and make decisions regarding claims pursuant to Section 72-305, Idaho Code. Answering machines, answering services, or toll free numbers outside of the state will not suffice. That authority shall include, but is not limited to, the following responsibilities: ()

i. Investigate and adjust all claims for compensation; ()

ii. Pay all compensation benefits due; ()

iii. Accept service of claims, applications for hearings, orders of the Commission, and all process which may be issued under the Workers' Compensation Law; ()

iv. Enter into compensation agreements and lump sum settlements with Claimants; and ()

v. Provide at the insurance carrier's expense necessary forms to any worker who wishes to file a claim under the Workers' Compensation Law. ()

c. As staffing changes occur and, at least annually, the insurance carrier or licensed adjuster shall submit to the Industrial Commission Secretary the names of those authorized to make decisions regarding claims pursuant to Section 72-305, Idaho Code. ()

02. Claim Files. All Idaho workers' compensation claim files shall be maintained within the state of Idaho in either hard copy or immediately accessible electronic format. Claim files shall include, but are not limited to: ()

a. First Report of Injury and Claim for Benefits; ()

b. Copies of bills for medical care; ()

c. Copy of lost-time computations, if applicable; ()

d. Correspondence reflecting reasons for any delays in payments (i.e., awaiting medical reports, clarification, questionable items on bills, etc.), the resolution of such delays and acceptance or denial of compensability; ()

e. Employer's Supplemental Report; and ()

f. Medical reports. ()

03. Correspondence. All original correspondence involving adjusting decisions regarding Idaho workers' compensation claims shall be mailed from and maintained at in-state offices. ()

04. Date Stamp. Each of the documents listed in Subsections 051.02 and 051.03 shall be date-stamped with the name of the receiving office on the day received, and by each receiving agent or vendor acting on behalf of the claims office. ()

05. Notice and Claim. All First Reports of Injury, Claims for Benefits, notices of occupational illnesses and fatalities shall be sent directly to the in-state adjuster or insurance carrier. The original copy of the First Report of Injury, Claim for Benefits and notices of occupational illness and fatality shall be sent directly to the Industrial Commission. ()

06. Compensation. All compensation, as defined by Section 72-102, Idaho Code, must be issued from the in-state office. ()

07. Checks and Drafts. Checks must be signed and issued within the state of Idaho; drafts are prohibited. ()

a. The Commission may, upon receipt of a written Application for Waiver, grant a waiver from the provisions of Subsections 051.06 and 051.07 of this rule to permit an insurance carrier to sign and issue checks outside the state of Idaho. ()

b. An Application for Waiver must be accompanied by an affidavit signed by an officer or principal of the insurance carrier attesting to the fact that the insurance carrier is

prepared to comply with all statutes and rules pertaining to prompt payments of compensation. ()

c. All waivers shall be effective from the date the Commission issues the order granting the waiver. A waiver shall remain in effect until revoked by the Industrial Commission. At least annually, staff of the Industrial Commission may review the performance of any insurance carrier for which a waiver under this rule has been granted to assure that the insurance carrier is complying with all statutes and rules pertaining to prompt payments of compensation. ()

d. If at any time after the Commission has granted a waiver, the Commission receives information permitting the inference that the insurance carrier has failed to provide timely benefits to any claimant, the Commission may issue an order to show cause why the Commission should not revoke the waiver; and, after affording the insurance carrier an opportunity to be heard, may revoke the waiver and order the insurance carrier to comply with the requirements of Subsections 051.06 and 051.07 of this rule. ()

08. Copies of Checks. Copies of checks and/or electronically reproducible copies of the information contained on the checks must be maintained in the in-state files for Industrial Commission audit purposes. A copy of the first check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance. ()

09. Prompt Claim Servicing. Prompt claim servicing includes, but is not limited to: ()

a. Payment of medical bills in accordance with the provisions of IDAPA 17.02.09, Medical Fees, Sections 031, 032, 033 and 034. ()

b. Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. ()

10. Audits. The Industrial Commission will perform periodic audits to ensure compliance with the above requirements. ()

11. Non-Compliance. Non-compliance with the above requirements may result in the revocation of the authority of an insurance carrier to write workers' compensation insurance in the state of Idaho, or such lesser sanctions as the Industrial Commission may impose. ()

052. -- 270. (RESERVED).

271. RULE 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. ()

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. ()

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. ()

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. ()

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. ()

a. A penalty of two hundred dollars (\$200) shall be assessed for late filing of seven (7) days or less. ()

b. A penalty of one hundred dollars (\$100) per day shall be assessed for late filing of more than seven (7) days. ()

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. ()

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%). ()

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. ()

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

IC36A -- REPORT OF OUTSTANDING AWARDS – INSURANCE CARRIERS

(Name of Carrier) _____							
Calendar Year: _____							
For Calendar Quarter Ending: qMarch qJune qSeptember qDecember							
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Date of Injury	Claimant Name (as shown on First Report of Injury)	Type of Claim	Total Awards	Compensation Paid This Report Period	Total Compensation Paid to Date	Adjustments	Unpaid Balance [(4) minus (5)]
TOTALS							

Send Original to: Fiscal Section, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041

I, the undersigned corporate officer of the above named insurance carrier, do hereby certify that this report is complete and accurate to the best of my knowledge.

Corporate _____ **Officer's** _____ **Signature:** _____

Title: _____

Printed Name: _____

Date: _____

Name and Title of Preparer: _____

Company: _____

Address: _____

Telephone: _____ **E-Mail** _____ **Address:** _____

Page _____ Of _____

APPENDIX C
IC327 REPORT OF INDEMNITY PAYMENTS
EXHIBIT A to SEMI-ANNUAL PREMIUM TAX REPORT

Reporting Entity Name: _____

Reporting Period: January 1 - June 30, (Year) _____

July 1 - December (Year) _____
31, _____

Date of Preparation: _____

1. Total Claims: _____

2. Total Number of Indemnity Claims: _____

3. Payments Made During the Reporting Period on Indemnity Claims: _____

a. Total Amount of All Payments (including Medical): _____

b. Total Amount of All Indemnity Payments: _____

Certification

State of _____)

_____) ss.

County of _____)

I, _____, being first duly sworn on oath, state that I have read the foregoing report which sets forth certain information relating to indemnity payments made during the reporting period, that I know the contents, and that I certify the report is true and correct to the best of my knowledge.

Signature of Preparer

Title of Preparer

SUBSCRIBED AND SWORN to before me on this ____ day of _____,
_____.

Notary Public for

_____.

Residing

at _____.

My term expires: _____

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.04 - RULES PERTAINING TO BAIL AGENTS

DOCKET NO. 18-0104-1001 (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 2011 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 Chapter 10, Title 41 Section 41-1039(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:

Section 013.02 has been changed to remove language that duplicated language in the Statute.

Section 016.03 has been changed to ensure no conflict with Section 017.03 of this rule.

Section 18. has been amended based on comments from interested parties.

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 original text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 327 through 330.](#)

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 rule, contact Dale Freeman (208) 334-4250.

DATED this 4th day of November, 2010.

Shad Priest, Deputy Director
Idaho Department of Insurance
700 West State Street, 3rd Floor

Boise ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THIS NOTICE 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 Chapter 10 Title 41 Section 41-1039(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 20, 2010.

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:

Section 41-1039, Idaho Code was amended by the 2010 Legislature to include a requirement that the Department of Insurance set forth in rule reasons for immediate suspension of a bail agent license. This rulemaking identifies grounds for immediate suspension of a bail agent license and also clarifies the duties and responsibilities of bail agents doing business in Idaho.

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, formal negotiated rulemaking was not conducted because the writing of this rule was accomplished in consultation with bail industry representatives and drafts were made available to interested parties.

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 Dale Freeman (208) 334-4250.

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 27, 2010.

DATED this 18th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0104-1001

IDAPA 18, TITLE 01, CHAPTER 04

18.01.04 - RULES PERTAINING TO BAIL AGENTS

000. LEGAL AUTHORITY.

This rule is promulgated pursuant to the authority vested in the director under Sections 41-211 and 41-1037 through 41-1045, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rule IDAPA 18.01.04, "Rules Pertaining to Bail Agents." ()

02. Scope. The provisions of this rule shall apply to all bail agents, as defined by Section 41-1038, Idaho Code. This rule is supplementary to other rules and laws regulating insurance producers, and all other rules of the department and provisions of title 41, Idaho Code, applicable to insurance producers shall also apply to bail agents. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying at cost in the main office and each regional or district office of this agency. ()

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Title 41, Chapter 2, Idaho Code, the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General - General provisions." ()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference. ()

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 principal place of business is 700 West State Street, 3rd Floor, Boise, ID 83720-0043. ()

04. Web Site Address. The department's web address is <http://www.doi.idaho.gov>. ()

006. PUBLIC RECORDS COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

007. -- 011. (RESERVED).

012. NOTIFICATION REQUIREMENTS.

01. Notice of Changes Required. A bail agent licensed pursuant to Section 41-1039, Idaho Code, shall immediately notify the Department of Insurance in writing of any the following: ()

a. Change of bail agent's name; ()

b. Change of bail agent's current business address; ()

c. Change of bail agent's current business phone number or business e-mail address if any; ()

d. Change of name or address of any surety insurance company for which the bail agent has an active appointment; ()

e. Cancellation by a surety insurance company of a bail agent's authority to write bonds for that company; ()

f. Any new affiliation with a bail bond agency; ()

g. Cancellation of a bail agent's affiliation with a bail agency; ()

02. Notice of Legal Proceedings Required. A bail agent shall provide immediate written notice to the Department of Insurance of the filing of any criminal charges against the bail agent. In addition to the foregoing, a bail agent shall provide immediate written notice to the Department of Insurance of any material change in circumstances that would require a different

answer than previously provided by the bail agent on the background information section of the Uniform Application for Individual Insurance Producer License/Registration. Upon request by the department, the bail agent shall provide copies of all relevant legal documents relating to the matter and any additional relevant information requested. ()

013. CRIMINAL HISTORY CHECKS.

01. Criminal History Check Required. All licensed bail agents must obtain a criminal history records check in connection with the renewal of a bail agent's license and shall bear all costs associated with the records check. ()

02. Grounds for Immediate Suspension. *For the purpose of determining whether grounds for immediate suspension of a bail agent's license exist under Section 41-1039(4), Idaho Code, a withheld judgment or a plea of nolo contendere shall be considered the same as a conviction or guilty plea.* ()

014. STACKING OF BONDS PROHIBITED.

A bail agent may submit only one (1) power of attorney with each bail bond submitted to any Idaho court. The face value or face amount of the power shall be equal to or greater than the amount of the bail or bond set by the court in the case for which the bond and power are being submitted. A bail agent shall not attempt to "stack" bonds or powers by submitting more than one (1) power of attorney for any single bond. ()

015. NOTIFICATION TO SURETY OF FORFEITURE.

A bail agent shall notify the surety insurance company of any forfeiture, as defined in Section 19-2905, Idaho Code, within ten (10) days of receiving the notice from the court. ()

016. ALLOWABLE BAIL AGENT CHARGES AND FEES.

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. ()

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. ()

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. ()

017. BAIL AGENT FINANCING OF BAIL BOND PREMIUMS.

01. Written Agreement Required. No credit may be extended by any bail agent or surety insurance company for the payment of any bail bond premium without entering into a written agreement. The written agreement for the extension of credit to finance premium must contain at a minimum the following: ()

- a. The names of the parties to the credit agreement; ()
- b. The amount of premium financed; ()
- c. The per annum rate of interest; ()
- d. The scheduled premium payment dates; and ()
- e. Signatures and dates of signatures of all parties to the credit agreement. ()

02. Early Surrender for Failure to Pay. If failure to pay premiums due under a credit arrangement may result in the early surrender of the defendant, that fact must be clearly set forth in the written credit agreement. Early surrender for failure to make premium or interest payments when due must be handled in accordance with Section 41-1044, Idaho Code, and neither the bail agent nor the surety shall be entitled to seek recovery of any amounts unpaid as of the date of surrender. ()

03. Collateral for Credit Agreement. If the credit agreement is to be collateralized, the collateral must not be excessive in relation to the amount of premium financed, must be separate and apart from any collateral used in the bail bond transaction, must be described in the credit agreement or in an attachment to the agreement, and must be handled in accordance with Section 41-1043, Idaho Code. ()

018. PAYMENT OF FORFEITURE.

It is a violation of Section 41-1329(6), Idaho Code, for a bail surety to intentionally, or with such frequency as to indicate a general business practice, fail to pay a claim for forfeiture after liability for payment has become reasonably clear. Liability for payment upon forfeiture is reasonably clear when a defendant has not appeared or has not been brought before the court within one hundred eighty 180 days after the entry of the order of forfeiture, *or a motion to set aside the forfeiture, in whole or in part, has not been filed with the court within five (5) business days after the expiration of the one hundred eighty (180) day period following the order of forfeiture pursuant to the Idaho Bail Act.* ()

019. SEVERABILITY.

If any provision of this Rule is for any reason held to be invalid, the remainder of the Rule shall not be affected thereby. ()

020. -- 999. (RESERVED).

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.05 - HEALTH CARRIER EXTERNAL REVIEW

DOCKET NO. 18-0105-0901 (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 2011 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 Sections 41-211, 41-5905, 41-5906, 41-5908, 41-5909, and 41-5911, 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 is being adopted as proposed. The complete text of the proposed rule was published in the [December 2, 2009 Idaho Administrative Bulletin, Vol. 09-12, pages 89 through 100.](#)

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 rule, contact Shad Priest at (208) 334-4250.

DATED this 27th day of October, 2010.

Shad Priest, Deputy Director
Idaho Department of Insurance
700 West State Str, 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **January 1, 2010**.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 41-211, 41-5905, 41-5906, 41-5908, 41-5909, and 41-5911, 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 December 16, 2009.

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:

This rulemaking implements House Bill 192, the Idaho Health Carrier External Review Act, which is effective January 1, 2010. It sets forth requirements for notice of the right to an external review, the request for an external review, and the exhaustion of an internal grievance process; provides for standard external review, expedited external review, the binding nature of an external review decision, approval of independent review organizations and minimum qualifications for independent review organizations; holds harmless independent review organizations; and provides for external review reporting requirements, funding of external review, and disclosure requirements.

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

The rule is necessary to implement a change to the governing law effective January 1, 2010.

FEE SUMMARY: The following is a descriptive summary of the fee or charge being imposed or increased:

The rule does not impose or increase a fee.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the change is required by a change to the governing law. A draft of the rule was circulated to interested parties.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Shad Priest, 208-334-4214 or Shad.Priest@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 December 23, 2009.

DATED this 29th day of October, 2009.

William W. Deal, Director
Idaho Department of Insurance
700 West State Street, 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PENDING TEXT OF DOCKET NO. 18-0105-0901

IDAPA 18
TITLE 01
CHAPTER 5

18.01.05 - HEALTH CARRIER EXTERNAL REVIEW

000. LEGAL AUTHORITY.

This rule is promulgated and adopted pursuant to the authority vested in the director under Title 41, Chapters 2 and 59, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rule

IDAPA 18.01.05, "Health Carrier External Review." ()

02. Scope. This rule sets forth uniform requirements to be followed by health carriers and independent review organizations in implementing external review procedures in accordance with Title 41, Chapter 59, Idaho Code. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying at cost in the main office and each regional or district office of this agency. ()

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Title 41, Chapter 2, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ()

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS, AND WEB SITE.

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 principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83720-0043. ()

04. Web Site Address. The department's web address 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 Act, Title 9, Chapter 3, Idaho Code. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

As used in this rule, the following terms shall have the following meanings. ()

01. Covered Person. A person as defined in Section 41-5903, Idaho Code. ()

02. Director. The director of the Idaho Department of Insurance. ()

03. Health Benefit Plan. A plan as defined in Section 41-5903, Idaho Code, and subject to Section 41-5904, Idaho Code. ()

04. Health Carrier. An entity as defined in Section 41-5903, Idaho Code. ()

05. URAC. The nationally recognized private health care accreditation organization based in Washington, D.C., that accredits independent review organizations. The web site for URAC is <http://www.urac.org>. ()

011. FONT SIZE FOR PRINTED MATERIALS.

Pertinent text of all printed materials required to be filed with the Director under Title 41, Chapter 59, Idaho Code, or required by this rule, including, but not limited to, notices, disclosure forms and contract forms, is required to be formatted using at least a ten (10) point font. ()

012. -- 019. (RESERVED).

020. NOTICE OF RIGHT TO EXTERNAL REVIEW.

01. Disclosure to Covered Persons. Each health carrier must provide a summary description of external review procedures in or attached to the policy, certificate, membership booklet, outline of coverage or other evidence of coverage the health carrier provides to covered persons. Health carriers must use the summary description in Appendix A. This form has been approved by the Director as meeting the requirements of Section 41-5916, Idaho Code, and this rule. Health carriers must submit summary description forms to the Director for review. ()

02. Notice to Covered Person. When a health carrier sends written notice to a covered person of a final adverse benefit determination for medical necessity or as investigational, the health carrier must send written notice at the same time of the covered person's right to request an external review. ()

a. The written notice of the covered person's right to request an external review must use the form set forth in Appendix B. The notice form in Appendix B has been approved by the Director as meeting the requirements of Section 41-5905, Idaho Code, and this rule. Health carriers must submit notice forms to the Director for review. ()

b. The written notice sent by the health carrier as required by this subsection must include an authorization form to disclose protected health information in compliance with the federal regulation 45 CFR section 164.508. The authorization form in Appendix C has been approved by the Director as meeting the requirements of Section 41-5905, Idaho Code, and this rule. Health carriers must submit authorization forms to the Director for review. ()

021. REQUEST FOR EXTERNAL REVIEW.

01. Request Form. The form for a covered person to request an external review will be available from the department and will be posted on the department's web site. ()

02. Authorization Form. The covered person's request for an external review must include the authorization form to disclose protected health information required in Subsection

020.03. The department will not act on an external review request until the department receives this form completed by the covered person or the covered person's authorized representative. ()

03. Appointment of an Authorized Representative. A covered person may name another person, including the treating health care provider, to act as the covered person's authorized representative for an external review request. ()

022. HEALTH CARRIER NOTICE OF INITIAL DETERMINATION OF AN EXTERNAL REVIEW REQUEST.

Health carriers must use the form set forth in Appendix D for notice of initial determination by a health carrier for a standard external review required by Section 41-5908, Idaho Code, and for an expedited external review required by Section 41-5909, Idaho Code. Health carriers must submit notice forms to the Director for review. ()

023. APPROVAL OF INDEPENDENT REVIEW ORGANIZATIONS.

01. Accreditation. An independent review organization must be accredited by a nationally recognized private accrediting entity in order for the independent review organization to be approved to perform reviews under Title 41, Chapter 59, Idaho Code, and this rule. As of the effective date of this rule, URAC is the only such entity. The Director may later designate other such entities that meet the department's standards set by law and this rule. ()

02. Application Required for Registration. Independent review organizations must apply to the department and pay the applicable fees as set forth at IDAPA 18.01.44, "Schedule of Fees, Licenses and Miscellaneous Charges," to be registered to perform external reviews. The application for registration is posted on the department's web site. The application must include the independent review organization's schedule of costs and fees for performing external reviews. ()

03. Comment Period on Applications. If the Director receives written comments during the forty-two (42) day comment period on an application or reapplication by an independent review organization, the Director may choose to provide those comments to the independent review organization in any approval or denial of the application or reapplication. ()

04. Renewal. Registration as an independent review organization shall continue until two (2) years from the date of approval of the most recent registration except as provided in Subsections 023.05 and 023.06 below. Registration may be renewed by payment of the applicable renewal fee as set forth at IDAPA 18.01.44, "Schedule of Fees, Licenses and Miscellaneous Charges." ()

05. Notice to Director. ()

a. An independent review organization must notify the Director in writing within thirty (30) days of the date the independent review organization is no longer accredited by a nationally recognized private accrediting entity or no longer satisfies the minimum requirements established under Title 41, Chapter 59, Idaho Code and this rule. ()

b. Any change in the independent review organization's schedule of costs and fees for performing external reviews must be submitted to the Director at least sixty (60) days before the effective date of the change. No such change may be applied to an external review being performed by the independent review organization at the time the change would otherwise take effect. ()

06. Termination of Approval. The Director may immediately terminate approval of an independent review organization if the independent review organization is no longer accredited by a nationally recognized private accrediting entity or if the independent review organization no longer satisfies the requirements of Title 41, Chapter 59, Idaho Code and this rule. Notice of termination will be in writing to the independent review organization and such organization will be deleted from the list of organizations approved to perform external reviews. If the independent review organization is performing an external review at the time of termination, the independent review organization must cease performing that review and immediately forward all information and documentation to the Director. ()

024. ANNUAL REPORTING REQUIREMENTS.

All independent review organizations and health carriers must file with the Director, on or before March 1st of each year, an annual statement on the form available from the Department of Insurance and posted on the department's web site. An annual report is required regardless of whether any external review requests were sent to the independent review organization or health carrier during the year. ()

025. -- 029. (RESERVED).

030. EFFECTIVE DATE -- EXISTING HEALTH BENEFIT PLANS -- GROUNDS FOR DISAPPROVAL.

01. Effective Date of Rule. This rule is applicable to every health benefit plan issued or renewed on and after January 1, 2010. ()

02. Health Benefit Plan Compliance. A health benefit plan issued before the effective date of this rule must be brought into compliance with this rule by the anniversary date or renewal date of the plan following the effective date of this rule. ()

03. Grounds for Disapproval. Any health benefit plan containing terms inconsistent with the provisions of this rule is misleading, inequitable and unfairly prejudicial to the covered person and the insurance-buying public. In addition to any other sanction or remedy afforded by Title 41, Idaho Code, the use of provisions inconsistent with this rule in a health benefit plan will be grounds for the Director to disapprove the health benefit plan in accordance with Section 41-1813, Idaho Code. ()

031. -- 999. (RESERVED).

APPENDICES

- A Health Carrier Disclosures - “Your Right to an Independent External Review
- B Health Carrier Notice - “Notice of Your Right to an Independent External Review”
- C Authorization for Release of Medical Records
- D Health Carrier’s Notice of Initial Determination

Appendix A

The summary description below provides an acceptable format approved by the director as meeting the requirements of Idaho Code Section 41-5916. A health carrier may change the terms “you, your” to “covered person” and “we, our” to the health carrier’s name, or similar references consistent with the health carrier’s typical terminology.

YOUR RIGHT TO AN INDEPENDENT EXTERNAL REVIEW

Please read this notice carefully. It describes a procedure for review of a disputed health claim by a qualified professional who has no affiliation with your health plan. If you request an independent external review of your claim, the decision made by the independent reviewer will be binding and final. Except in limited circumstances, you will have no further right to have your claim reviewed by a court, arbitrator, mediator or other dispute resolution entity.

If we issue a final adverse benefit determination of your request to provide or pay for a health care service or supply, you may have the right to have our decision reviewed by health care professionals who have no association with us. You have this right only if our denial decision involved:

- The medical necessity of your health care service or supply, or
- Our determination your health care service or supply was investigational.

You must first exhaust our internal grievance and appeal process. Exhaustion of that process includes completing all levels of appeal, or unless you requested or agreed to a delay, our failure to respond to a standard appeal within 35 days in writing or to an urgent appeal within three business days of the date you filed your appeal. We may also agree to waive the exhaustion requirement for an external review request.

You may submit a written request for an external review to:

Idaho Department of Insurance
ATTN: External Review
700 W State St., 3rd Floor

Boise ID 83720-0043

For more information and for an external review request form:

- See the department's web site, www.doi.idaho.gov, or
- Call the department's telephone number, (208) 334-4250, or toll-free in Idaho, 1-800-721-3272.

You may represent yourself in your request or you may name another person, including your treating health care provider, to act as your authorized representative for your request. If you want someone else to represent you, you must include a signed "Appointment of an Authorized Representative" form with your request.

Your written external review request to the Department of Insurance must include a completed form authorizing the release of any of your medical records the independent review organization may require to reach a decision on the external review, including any judicial review of the external review decision pursuant to ERISA, if applicable. The department will not act on an external review request without your completed authorization form.

If your request qualifies for external review, our final adverse benefit determination will be reviewed by an independent review organization selected by the department. We will pay the costs of the review.

Standard External Review Request: You must file your written external review request with the department within four months after the date we issue a final notice of denial.

1. Within seven days after the department receives your request, the department will send a copy to us.
2. Within 14 days after we receive your request from the department, we will review your request for eligibility. Within five business days after we complete that review, we will notify you and the department in writing if your request is eligible or what additional information is needed. If we deny your eligibility for review, you may appeal that determination to the department.
3. If your request is eligible for review, the department will assign an independent review organization to your review within seven days of receipt of our notice. The department will also notify you in writing.
4. Within seven days of the date you receive the department's notice of assignment to an independent review organization, you may submit any additional information in writing to the independent review organization that you want the organization to consider in its review.
5. The independent review organization must provide written notice of its decision to you, to us and to the department within 42 days after receipt of an external review request.

Expedited External Review Request: You may file a written "urgent care request" with the department for an expedited external review of a pre-service or concurrent service denial.

"Urgent care request" means any pre-service or concurrent care claim for medical care or treatment for which application of the time periods for making a regular external review determination:

1. Could seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function;
2. In the opinion of the treating health care professional with knowledge of the covered person's medical condition, would subject the covered person to severe pain that cannot be adequately managed without the disputed care or treatment; or
3. The treatment would be significantly less effective if not promptly initiated.

The department will send your request to us. We will determine, no later than the second full business day, if your request is eligible for review. We will notify you and the department no later than one business day after our decision if your request is eligible. If we deny your eligibility for review, you may appeal that determination to the department.

If your request is eligible for review, the department will assign an independent review organization to your review upon receipt of our notice. The department will also notify you. The independent review organization must provide notice of its decision to you, to us and to the department within 72 hours after the date of receipt of the external review request. The independent review organization must provide written confirmation of its decision within 48 hours of notice of its decision. If the decision reverses our denial, we will notify you and the department of the approval of coverage as soon as reasonably practicable, but not later than one business day after making the determination.

Binding Nature of the External Review Decision: If your plan is subject to federal ERISA laws (generally, any plan offered through an employer to its employees), the external review decision by the independent review organization will be final and binding on us. You may have additional review rights provided under federal ERISA laws.

If your plan is not subject to ERISA requirements, the external review decision by the independent review organization will be final and binding on both you and us. **This means that if you elect to request external review, you will be bound by the decision of the independent review organization. You will not have any further opportunity for review of our denial after the independent review organization issues its final decision.** If you choose not to use the external review process, other options for resolving a disputed claim may include mediation, arbitration or filing an action in court.

Under Idaho law, the independent review organization is immune from any claim relating to its opinion rendered or acts or omissions performed within the scope of its duties unless performed in bad faith or involving gross negligence.

Appendix B

The notice below provides an acceptable format approved by the director as meeting the requirements of Idaho Code Section 41-5905. A health carrier may change the terms "you, your" to "covered person" and "we, our" to the health carrier's name, or similar references consistent with the health carrier's typical terminology.

NOTICE OF YOUR RIGHT TO AN INDEPENDENT EXTERNAL REVIEW

Please read this notice carefully. It describes a procedure for review of a disputed health claim by a qualified professional who has no affiliation with your health plan. If you request an independent external review of your claim, the decision made by the independent reviewer will be binding and final. Except in limited circumstances, you will have no further right to have your claim reviewed by a court, arbitrator, mediator or other dispute resolution entity.

We have denied your request to provide or pay for a health care service or supply. You may have the right to have our decision reviewed by health care professionals who have no association with us. You have this right only if our denial decision involved:

- The medical necessity of your health care service or supply, or
- Our determination your health care service or supply was investigational.

No later than four months from the date of this denial, you may submit a written request for an external review to:

Idaho Department of Insurance
ATTN: External Review
700 W State St., 3rd Floor
Boise ID 83720-0043

For more information and for an external review request form:

- See the department's web site, www.doi.idaho.gov, or
- Call the department's telephone number, (208) 334-4250, or toll-free in Idaho, 1-800-721-3272.

You may represent yourself in your request or you may name another person, including your treating health care provider, to act as your authorized representative for your request. If you want someone else to represent you, you must include a signed "Appointment of an Authorized Representative" form with your request.

Your written external review request to the Department of Insurance must include a completed form authorizing the release of any of your medical records the independent review organization may require for review to reach a decision on the external review. The department will not act on an external review request without your completed authorization form.

If your request qualifies for external review, our decision will be reviewed by an independent review organization selected by the department. We will pay the costs of the review.

Standard External Review Request: You must file your written external review request with the department **within four months** after the date we issued this notice of denial.

1. Within seven days after the department receives your request, the department will send a copy to us.
2. Within 14 days after we receive your request from the department, we will review your request for eligibility. Within five business days after we complete that review, we will

notify you and the department in writing if your request is eligible or what additional information is needed. If we deny your eligibility for review, you may appeal that determination to the department.

3. If your request is eligible for review, the department will assign an independent review organization to your review within seven days of receipt of our notice. The department will also notify you in writing.
4. Within seven days of the date you receive the department's notice of assignment to an independent review organization, you may submit any additional information in writing to the independent review organization that you want the organization to consider in its review.
5. The independent review organization must provide written notice of its decision to you, to us and to the department within 42 days after receipt of an external review request.

Expedited External Review Request: You may file a written "urgent care request" with the department for an expedited external review of a pre-service or concurrent service denial.

"Urgent care request" means any pre-service or concurrent care claim for medical care or treatment for which application of the time periods for making a regular external review determination:

1. Could seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function;
2. In the opinion of the treating health care professional with knowledge of the covered person's medical condition, would subject the covered person to severe pain that cannot be adequately managed without the disputed care or treatment; or
3. The treatment would be significantly less effective if not promptly initiated.

The department will send your request to us. We will determine, no later than the second full business day, if your request is eligible for review. We will notify you and the department no later than one business day after our decision if your request is eligible. If we deny your eligibility for review, you may appeal that determination to the department.

If your request is eligible for review, the department will assign an independent review organization to your review upon receipt of our notice. The department will also notify you. The independent review organization must provide notice of its decision to you, to us and to the department within 72 hours after the date of receipt of the external review request. The independent review organization must provide written confirmation of its decision within 48 hours of notice of its decision. If the decision reverses our denial, we will notify you and the department of the approval of coverage as soon as reasonably practicable, but not later than one business day after making the determination.

Binding Nature of the External Review Decision: *[NOTE TO HEALTH CARRIERS: The carrier must include one of the applicable paragraphs below for the covered person's health benefit plan.]*

[Your plan is subject to federal ERISA laws (generally, any plan offered through an employer to its employees). The external review decision by the independent review organization will be final and binding on the health insurer, but you may have additional review rights provided under federal ERISA laws.]

[The external review decision by the independent review organization will be final and binding on both you and us. **This means that if you elect to request external review of your claim, you will be bound by the decision of the independent review organization. You will not have any further opportunity for review of your claim after the independent review organization issues its final decision.** If you choose not to use the external review process, other options for resolving a disputed claim may include mediation, arbitration or filing an action in court.]

Under Idaho law, the independent review organization is immune from any claim relating to its opinion rendered or acts or omissions performed within the scope of its duties unless performed in bad faith or involving gross negligence.

Appendix C-1



AUTHORIZATION FOR RELEASE OF MEDICAL RECORDS

I have requested an external review pursuant to Idaho Code Section 41-5906. In order to obtain that review, I understand that I must sign below to authorize my health carrier, whose decision is the subject of this request, and its subcontractors and all applicable medical providers, to release all information relating to the decision to be reviewed including, but not limited to, my files and medical record information, which may include mental health information to the Idaho Department of Insurance (DOI). I authorize the DOI to provide or to instruct the health carrier and/or its subcontractors and providers to provide such information to the independent review organization (IRO) assigned by the DOI to perform the external review.

I, _____, hereby reaffirm my request for an external review. I attest that the information provided in this request is true and accurate to the best of my knowledge. I authorize my health carrier, its subcontractors and agents, and my health care providers to release all relevant medical or treatment records to the independent review organization (IRO) and the Idaho Department of Insurance (DOI). I understand the IRO will use this information to make a determination on my external review and the information will be kept confidential and not be released to anyone else. This release is valid for one year unless it expires sooner upon the IRO rendering a final decision or upon revocation. I understand that the decision of the IRO may be binding and that neither the DOI nor the IRO may authorize services in excess of those covered by my health plan.

I acknowledge that I may revoke this authorization at any time. My revocation will be effective upon receipt, but will not affect actions already taken on the basis of the authorization. In any event, this authorization expires upon the IRO rendering a final decision regarding this external review.

Signature of Covered Person (or authorized Date
representative)*

*(Parent, Guardian, Conservator or Other - Please Specify)

Printed Name of Authorized Representative

Complete the following form only if applicable:

Appendix C-2



**AUTHORIZATION FOR RELEASE OF DRUG OR ALCOHOL ABUSE RECORDS
AND PSYCHOTHERAPY NOTES**

I have requested an external review pursuant to Idaho Code Section 41-5906. In order to obtain that review, I understand that I must sign below to authorize my health carrier, whose decision is the subject of this request, and its subcontractors and all applicable medical providers, to release all information relating to the decision to be reviewed including, but not limited to, my files and medical record information, which may include mental health information to the Idaho Department of Insurance (DOI). I authorize the DOI to provide or to instruct the health carrier and/or its subcontractors and providers to provide such information to the independent review organization (IRO) assigned by the DOI to perform the external review. I acknowledge that information to be used or disclosed as a result of this authorization may include records that are protected by federal and/or state laws applicable to substance abuse and psychotherapy. I SPECIFICALLY AUTHORIZE THE RELEASE OF CONFIDENTIAL INFORMATION RELATING TO PSYCHOTHERAPY, DRUG AND/OR ALCOHOL ABUSE. The recipient of drug and/or alcohol abuse and psychotherapy information disclosed as a result of this authorization will need my further written authorization to re-disclose this information.

I, _____, hereby reaffirm my request for an external review. I attest that the information provided in this request is true and accurate to the best of my knowledge. I authorize my health carrier, its subcontractors and agents, and my health care providers to release all relevant medical or treatment records to the independent review organization (IRO) and the Idaho Department of Insurance (DOI). I SPECIFICALLY AUTHORIZE THE RELEASE OF CONFIDENTIAL INFORMATION RELATING TO PSYCHOTHERAPY, DRUG AND/OR ALCOHOL ABUSE. I understand the IRO will use this

information to make a determination on my external review and the information will be kept confidential and not be released to anyone else. This release is valid for one year unless it expires sooner upon the IRO rendering a final decision or upon revocation. I understand that the decision of the IRO may be binding and that neither the DOI nor the IRO may authorize services in excess of those covered by my health plan.

I acknowledge that I may revoke this authorization at any time. My revocation will be effective upon receipt, but will not affect actions already taken on the basis of the authorization. In any event, this authorization expires upon the IRO rendering a final decision regarding this external review.

Signature of Covered Person (or authorized Date
representative)*

*(Parent, Guardian, Conservator or Other - Please Specify)

Printed Name of Authorized Representative

*Parent (if patient is under 18 years old), guardian (if other than patient), conservator, attorney or other. If other than parent of minor, attach a written authorization to represent patient.

Return to:

Idaho Dept of Insurance
PO Box 83720
Boise, ID 83720-0043

Appendix D

HEALTH CARRIER'S NOTICE OF INITIAL DETERMINATION

[Date]

[Covered Person/Authorized Representative]

[Address]

RE: Initial Determination of Your Request for an External Review

We completed our preliminary review of your request for an external review sent to us by the Idaho Department of Insurance. As part of our review, we considered:

1. Eligibility of the covered person under the health benefit plan at the time the health care

service was requested, or, for a post-service review, the health care service was performed;

2. If the health care service is a covered service under the health benefit plan, except for our determination the health care service does not meet our requirements for medical necessity or the service or supply is investigational;
3. If the covered person has exhausted our internal grievance process, or if we failed to provide a timely determination to a grievance under that process or if we waived the exhaustion requirement under that process; and
4. All information and forms required to process an external review, including your signed authorization to disclose protected health information.

[If the request is complete and eligible for review:

We determined your request is complete and eligible for external review. We sent a copy of this notice to the Idaho Department of Insurance. The Department of Insurance will assign an independent review organization to perform the review and will notify you of the name of that organization.]

[OR if the request is not complete:

We have determined your request is not complete. In order to complete your request, you must provide the following: *(Provide details of what information or materials are needed to make the request complete.)*]

[OR if the request is not eligible for external review:

We have determined your request is not eligible for external review. Your request is ineligible for the following reasons: *(Provide details of the reasons for denial.)*

If you disagree with our initial determination that your request is ineligible, you may file a written appeal with the Director of the Idaho Department of Insurance within 30 days of the date of this notice. Your appeal must include adequate detail and documentation to show proof of your eligibility. The Director may determine a request is eligible based on the terms and conditions of the covered person's health benefit plan and the applicable provision of Idaho Code, Title 41, Chapter 59.]

[Include the following for all notices:]

For further information, please contact the Idaho Department of Insurance, (208) 334-4250, or toll-free, 1-800-721-3272. The department's fax number is (208) 334-4398. The department's web site is: www.doi.idaho.gov

Sincerely,

[Health Carrier]

C: Idaho Department of Insurance/External Review

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.47 - VALUATION OF LIFE INSURANCE POLICIES INCLUDING THE INTRODUCTION AND USE OF NEW SELECT MORTALITY FACTORS

DOCKET NO. 18-0147-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 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 updates the Rule to agree with the National Association of Insurance Commissioners model regulation #830 to apply the same standards to Idaho insurers offering life insurance products as are imposed by other states that have adopted the model. This Rule permits the recognition of company mortality experience in the development of deficiency reserves and removes some arbitrary limits that had been imposed on the recognition of company experience. It includes a requirement for disclosure by the appointed actuary of possible shortfalls in funding future required reserves.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010, Idaho Administrative Bulletin, Vol. 10-9, pages 359 through 371.](#)

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 Georgia Siehl at (208) 334-4314.

DATED this 24th day of September, 2010.

Shad Priest, Deputy Director
Idaho Department of Insurance
700 West State St., 3rd Floor

Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THIS NOTICE 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, no later than September 15, 2010.

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 updates the rule to agree with the National Association of Insurance Commissioners model regulation #830 to apply the same standards to Idaho insurers offering life insurance products as are imposed by other states that have adopted the model. This rule permits the recognition of company mortality experience in the development of deficiency reserves and removes some arbitrary limits that had been imposed on the recognition of company experience. It includes a requirement for disclosure by the appointed actuary of possible shortfalls in funding future required reserves.

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

This rulemaking does not impose any fees.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the proposed changes are from a National Association of Insurance Commissioners model regulation and the Idaho domiciled life insurance company supports adoption of it.

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 Georgia Siehl at (208) 334-4314.

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 22, 2010.

DATED this 10th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0147-1001

001. TITLE AND SCOPE.

01. Title. This chapter shall be cited in full as IDAPA 18.01.47, “Valuation of Life Insurance Policies Including the Introduction and Use of New Select Mortality Factors.” (3-30-01)

02. Scope. The purpose of this chapter is to provide: (3-30-01)

a. Tables of select mortality factors and rules for their use; (3-30-01)

b. Rules concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits; and (3-30-01)

c. Rules concerning a minimum standard for the valuation of plans with secondary guarantees. (3-30-01)

03. Method. The method for calculating basic reserves defined in this chapter will constitute the commissioners’ reserve valuation method for policies to which this chapter is applicable. (3-30-01)

04. Applicability. This chapter shall apply to all life insurance policies, with or without nonforfeiture values, issued on or after the effective date of this chapter, subject to the following exceptions and conditions. (3-30-01)

a. Exceptions: (3-30-01)

i. This chapter shall not apply to any individual life insurance policy issued on or after the effective date of this chapter if the policy is issued in accordance with and as a result of the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount, issued before the effective date of this chapter, that guarantees the premium rates of the new policy. This chapter also shall not apply to subsequent policies issued as a result of the exercise of such a provision, or a derivation of the provision, in the new policy. (3-30-01)

ii. This chapter shall not apply to any universal life policy that meets all the following requirements: (3-30-01)

(1) Secondary guarantee period, if any, is five (5) years or less; (3-30-01)

(2) Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the CSO valuation tables as defined in Subsection ~~004~~10.06 and the applicable valuation interest rate; and ~~(3-30-01)~~()

(3) The initial surrender charge is not less than one hundred percent (100%) of the first year annualized specified premium for the secondary guarantee period. (3-30-01)

iii. This chapter shall not apply to any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts. (3-30-01)

iv. This chapter shall not apply to any variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts. (3-30-01)

v. This chapter shall not apply to a group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one (1) year. (3-30-01)

b. Conditions: (3-30-01)

i. Calculation of the minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), or both, shall be in accordance with the provisions of Section ~~006~~12. ~~(3-30-01)~~()

ii. Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies, that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period shall be in accordance with the provisions of Section ~~007~~13. ~~(3-30-01)~~()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying ~~at cost in the main office and each regional or district office of this agency in accordance with the public records act.~~ ~~(3-30-01)~~()

003. ADMINISTRATIVE APPEALS.

~~There is no appeal to the Attorney General from application of this chapter. All such appeals must be instituted by written demand for a hearing before the Director of the Department of Insurance, pursuant to Chapter 2, Title 41 and Chapter 52, Title 67, Idaho Code. Further appeal from the Director's decision can be taken to district court, pursuant to Chapter 52, Title 67, Idaho Code.~~

All administrative appeals shall be governed by Title 41, Chapter 2, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General -- General Provisions."

~~(3-30-01)~~()

[Codified Section 009 is being moved and renumbered to proposed Section 004]

0094. INCORPORATION BY REFERENCE.

The tables of select mortality factors are hereby incorporated by reference into IDAPA 18.01.47, "Valuation of Life Insurance Policies Including the Introduction and Use of the New Select Mortality Factors" that are the bases to which the respective percentage of Subsections 00511.01.b., 00511.02.b., and 00511.02.c. are applied. The tables referenced are located on the Internet (~~www.doi.state.id.us -- select Miscellaneous under the Company Assistance link~~, <http://www.doi.idaho.gov> - select Rates and Policy Forms under the Companies link, see Related Rules and Bulletins - see Attachments to IDAPA 18.01.47). ~~(3-30-01)~~()

01. Types of Tables. The six (6) tables of select mortality factors incorporated herein by reference include: (3-30-01)

- a. Male aggregate; (3-30-01)
- b. Male nonsmoker; (3-30-01)
- c. Male smoker; (3-30-01)
- d. Female aggregate; (3-30-01)
- e. Female nonsmoker; and (3-30-01)
- f. Female smoker. (3-30-01)

02. Age Basis. These tables apply to both age last birthday and age nearest birthday mortality tables. (3-30-01)

03. Computation for Sex-Blended Mortality Tables. For sex-blended mortality tables, compute select mortality factors in the same proportion as the underlying mortality. For example, for the 1980 CSO-B Table, the calculated select mortality factors are eighty percent (80%) of the appropriate male table as referenced in Section 0094, plus twenty percent (20%) of the appropriate female table, as referenced in Section 0094. ~~(3-30-01)~~()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except weekends 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 principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83720. ()

04. Web Site Address. The Department's web address 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 Act, Title 9, Chapter 3, Idaho Code. ()

007. -- 009. (RESERVED).

[Codified Sections 004 through 008 are being moved and renumbered to proposed Sections 010 through 014, respectively.]

00410. DEFINITIONS.

01. Basic Reserves. Reserves calculated in accordance with Section 41-612(5), Idaho Code. (3-30-01)

02. Contract Segmentation Method. Method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment (from policy inception, for the first segment) to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO valuation tables, as defined in this chapter, (or any other valuation mortality table adopted by the National Association of Insurance Commissioners (NAIC) after the effective date of this chapter and promulgated by rule by the Director for this purpose), and, if elected, the optional minimum mortality standard for deficiency reserves set forth in Subsection 011.02. The length of a particular contract segment shall be set equal to the minimum of the value t for which G_t is greater than R_t (if G_t never exceeds R_t the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy), where G_t and R_t are defined as follows:

- Formulas -

$$G_t = \frac{GP_{x+k+t}}{GP_{x+k+t-1}}$$

where:

x = original issue age;

k = the number of years from the date of issue to the beginning of the segment;

$t =$ 1, 2, ...; t is reset to 1 at the beginning of each segment;

$GP_{x+k+t-1} =$ Guaranteed gross premium per thousand of face amount for year t of the segment, ignoring policy fees only if level for the premium paying period of the policy.

$R_t = \frac{q_{x+k+t}}{q_{x+k+t-1}}$, However, R_t may be increased or decreased by one percent (1%) in any policy year, at the company's option, but R_t shall not be less than one (1);

where:

x , k and t are as defined above, and

$q_{x+k+t-1} =$ valuation mortality rate for deficiency reserves in policy year $k+t$ but using the mortality of Paragraph 011.02.b. if Paragraph 011.02.c. is elected for deficiency reserves.

However, if GP_{x+k} is greater than 0 and $GP_{x+k+t-1}$ is equal to 0, G_t shall be deemed to be 1000. If GP_{x+k+t} and $GP_{x+k+t-1}$ are both equal to 0, G_t shall be deemed to be 0.

~~(3-30-01)~~ ()

- 03. Deficiency Reserves.** Excess, if greater than zero (0), of (3-30-01)
- over
- a.** Minimum reserves calculated in accordance with Section 41-612(10), Idaho Code, (3-30-01)
- b.** Basic reserves. (3-30-01)
- 04. Guaranteed Gross Premiums.** Premiums under a policy of life insurance that are guaranteed and determined at issue. (3-30-01)
- 05. Maximum Valuation Interest Rates.** Interest rates defined in Section 41-612(4b), Idaho Code (Computation of Minimum Standard by Calendar Year of Issue) that are to be used in determining the minimum standard for the valuation of life insurance policies. (3-30-01)
- 06. 1980 CSO Valuation Tables.** Commissioners' 1980 Standard Ordinary Mortality Table (1980 CSO Table) without ten (10) year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983. (3-30-01)
- 07. Scheduled Gross Premium.** Smallest illustrated gross premium at issue for other

than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in [Subsection Paragraph 00713.01.c.](#), if any, or else the minimum premium described in [Subsection Paragraph 00713.01.d.](#)

~~(3-30-01)~~()

08. Segmented Reserves. (3-30-01)

a. Reserves calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals: (3-30-01)

i. The present value of the death benefits within the segment, plus (3-30-01)

ii. The present value of any unusual guaranteed cash value (see Subsection [00612.04](#)) occurring at the end of the segment, less ~~(3-30-01)~~()

iii. Any unusual guaranteed cash value occurring at the start of the segment, plus (3-30-01)

iv. For the first segment only, the excess of the Item one (1) over Item two (2), as follows: (3-30-01)

(1) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one (1) per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen (19) year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one (1) year higher than the age at issue of the policy. (3-30-01)

(2) A net one (1) year term premium for the benefits provided for in the first policy year. (3-30-01)

b. The length of each segment is determined by the “contract segmentation method,” as defined in this chapter. (3-30-01)

c. The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy. (3-30-01)

d. For both basic reserves and deficiency reserves computed by the segmented method, present values shall include future benefits and net premiums in the current segment and in all subsequent segments. (3-30-01)

09. Tabular Cost of Insurance. The net single premium at the beginning of a policy

year for one (1) year term insurance in the amount of the guaranteed death benefit in that policy year. (3-30-01)

10. Ten Year Select Factors. The select factors adopted with the 1980 amendments to the NAIC Standard Valuation Law. (3-30-01)

11. Unitary Reserves. (3-30-01)

a. The present value of all future guaranteed benefits less the present value of all future modified net premiums, where: (3-30-01)

i. Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and (3-30-01)

ii. Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of Item one (1) over Item two (2), as follows: (3-30-01)

(1) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one (1) per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen (19) year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one (1) year higher than the age at issue of the policy. (3-30-01)

(2) A net one (1) year term premium for the benefits provided for in the first policy year. (3-30-01)

b. The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy. (3-30-01)

12. Universal Life Insurance Policy. Any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality or expense charges are made to the policy. (3-30-01)

~~005~~11. GENERAL CALCULATION REQUIREMENTS FOR BASIC RESERVES AND PREMIUM DEFICIENCY RESERVES.

01. Basic Reserves. At the election of the company for any one (1) or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after the effective date of this chapter and promulgated by rule by the Director for this purpose). If select mortality factors are elected, they may be: (3-30-01)

- a. The ten (10) year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law; (3-30-01)
- b. The select mortality factors in the tables as referenced in Section 0094; or ~~(3-30-01)~~()
- c. Any other table of select mortality factors adopted by the NAIC after the effective date of this chapter and promulgated by rule by the Director for the purpose of calculating basic reserves. (3-30-01)

02. Deficiency Reserves. Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero (0), of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the company for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after the effective date of this chapter and promulgated by rule by the Director). If select mortality factors are elected, they may be one of the following: (3-30-01)

- a. The ten (10) year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law; (3-30-01)
- b. The select mortality factors in the tables as referenced in Section 0094; ~~(3-30-01)~~()
- c. For durations in the first segment, X percent of the select mortality factors in the tables as referenced in Section 0094, subject to the following: ~~(3-30-01)~~()
 - i. X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience; (3-30-01)
 - ~~ii. X shall not be less than twenty percent (20%); (3-30-01)~~
 - ~~iii. X shall not decrease in any successive policy years; (3-30-01)~~
 - ~~iv.~~ ii. X is such that, when using the valuation interest rate used for basic reserves, Item one (1) is greater than or equal to Item two (2); (3-30-01)
 - (1) The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X; (3-30-01)
 - (2) The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date; (3-30-01)

~~viii.~~ X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five (5) years after the valuation date; (3-30-01)

~~v.~~ The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of Subsection Paragraph 00511.02.c.; ~~(3-30-01)()~~

~~vi.~~ The appointed actuary may decrease X at any valuation date as long as X ~~does not decrease in any successive policy years and as long as it~~ continues to meet all the requirements of Subsection Paragraph 00511.02.c.; and ~~(3-30-01)()~~

~~vi.~~ The appointed actuary shall specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums. (3-30-01)

~~viii.~~ If X is less than one hundred percent (100%) at any duration for any policy, the following requirements shall be met: (3-30-01)

(1) The appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of the Actuarial and Memorandum Rule, IDAPA 18.01.77, Section 00822, "Statement of Actuarial Opinion Based on an Asset Adequacy Analysis"; ~~and~~ ~~(3-30-01)()~~

(2) The appointed actuary shall disclose, in the Regulatory Asset Adequacy Issues Summary, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one (1) or more interim periods; and ~~()~~

~~(23)~~ The appointed actuary shall annually opine for all policies subject to this chapter as to whether the mortality rates resulting from the application of X meet the requirements of Subsection Paragraph 00511.02.c. This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience; ~~or.~~ ~~(3-30-01)()~~

d. Any other table of select mortality factors adopted by the NAIC after the effective date of this chapter and promulgated by rule by the Director for the purpose of calculating deficiency reserves. (3-30-01)

03. Applicability. Subsection 00511.03 applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than ten (10) years, the appropriate ten (10) year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law may be used thereafter through the tenth policy year from the date of issue. ~~(3-30-01)()~~

04. Gross Premiums. In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the

guaranteed gross premium but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums, even if not included in the actual calculation of basic reserves. (3-30-01)

05. Changes in Guarantees. Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one (1) year after the date of the change shall be the greatest of the following: (3-30-01)

- a. Reserves calculated ignoring the guarantee; (3-30-01)
- b. Reserves assuming the guarantee was made at issue; and (3-30-01)
- c. Reserves assuming that the policy was issued on the date of the guarantee. (3-30-01)

06. Reserve Adequacy. The Director may require that the company document the extent of the adequacy of reserves for specified blocks, including but not limited to policies issued prior to the effective date of this chapter. This documentation may include a demonstration of the extent to which aggregation with other non-specified blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to and consistent with the requirements of the Actuarial and Memorandum Rule, IDAPA 18.01.77, Section ~~00822~~, "Statement of Actuarial Opinion Based on an Asset Adequacy Analysis." (~~3-30-01~~)()

~~00612~~. CALCULATION OF MINIMUM VALUATION STANDARD FOR POLICIES WITH GUARANTEED NONLEVEL GROSS PREMIUMS OR GUARANTEED NONLEVEL BENEFITS (OTHER THAN UNIVERSAL LIFE POLICIES).

01. Basic Reserves. Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy shall use the same valuation mortality table and selection factors. At the option of the insurer, in calculating segmented reserves and net premiums, either of the adjustments described below may be made: (3-30-01)

- a. Treat the unitary reserve, if greater than zero (0), applicable at the end of each segment as a pure endowment and subtract the unitary reserve, if greater than zero (0), applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment; or (3-30-01)
- b. Treat the guaranteed cash surrender value, if greater than zero (0), applicable at the end of each segment as a pure endowment; and subtract the guaranteed cash surrender value, if greater than zero (0), applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment. (3-30-01)

02. Deficiency Reserves. (3-30-01)

- a. The deficiency reserve at any duration shall be calculated: (3-30-01)

i. On a unitary basis if the corresponding basic reserve determined by Subsection 00612.01 is unitary; ~~(3-30-01)~~()

ii. On a segmented basis if the corresponding basic reserve determined by Subsection 00612.01 is segmented; or ~~(3-30-01)~~()

iii. On the segmented basis if the corresponding basic reserve determined by Subsection 00612.01 is equal to both the segmented reserve and the unitary reserve. ~~(3-30-01)~~()

b. Subsection 00612.02 shall apply to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards of mortality (specified in Subsection 00511.02 and rate of interest). ~~(3-30-01)~~()

c. Deficiency reserves, if any, shall be calculated for each policy as the excess if greater than zero (0), for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in Subsection 00511.02. ~~(3-30-01)~~()

d. For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves. (3-30-01)

03. Minimum Value. Basic reserves may not be less than the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves may not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used. The tabular cost of insurance shall use the same valuation mortality table and interest rates as that used for the calculation of the segmented reserves. However, if select mortality factors are used, they shall be the ten (10) year select factors incorporated into the 1980 amendments of the NAIC Standard Valuation Law. In no case may total reserves (including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire upon contract termination) be less than the amount that the policyowner would receive (including the cash surrender value of the supplemental benefits, if any, referred to above), exclusive of any deduction for policy loans, upon termination of the policy. (3-30-01)

04. Unusual Pattern of Guaranteed Cash Surrender Values. (3-30-01)

a. For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held prior to the first unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an n year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where n is the number of years from the date of issue to the date the unusual cash surrender value is scheduled. (3-30-01)

b. The reserves actually held subsequent to any unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the policy as an n year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash

surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where: (3-30-01)

i. n is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of: (3-30-01)

(1) The date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or (3-30-01)

(2) The mandatory expiration date of the policy; and (3-30-01)

ii. The net premium for a given year during the n year period is equal to the product of the net to gross ratio and the respective gross premium; and (3-30-01)

iii. The net to gross ratio is equal to Item One (1) divided by Item Two (2) as follows: (3-30-01)

(1) The present value, at the beginning of the n year period, of death benefits payable during the n year period plus the present value, at the beginning of the n year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the n year period. (3-30-01)

(2) The present value, at the beginning of the n year period, of the scheduled gross premiums payable during the n year period. (3-30-01)

c. For purposes of Subsection ~~006~~12.04, a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of: ~~(3-30-01)~~()

i. One hundred ten percent (110%) of the scheduled gross premium for that year; (3-30-01)

ii. One hundred ten percent (110%) of one (1) year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and (3-30-01)

iii. Five percent (5%) of the first policy year surrender charge, if any. (3-30-01)

05. Optional Exemption for Yearly Renewable Term (YRT) Reinsurance. At the option of the company, the following approach for reserves on YRT reinsurance may be used: (3-30-01)

a. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year; (3-30-01)

b. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in Subsection ~~006~~12.03; ~~(3-30-01)~~()

- c.** Deficiency reserves. (3-30-01)
- i.** For each policy year, calculate the excess, if greater than zero (0), of the valuation net premium over the respective maximum guaranteed gross premium. (3-30-01)
- ii.** Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with ~~Subsection~~**paragraph** ~~00612.05.c.i.;~~ ~~(3-30-01)()~~
- d.** For purposes of Subsection ~~00612.05~~, the calculations use the maximum valuation interest rate and the 1980 CSO mortality tables with or without ten (10) year select mortality factors, or any other table adopted after the effective date of this chapter by the NAIC and promulgated by rule by the Director for this purpose; ~~(3-30-01)()~~
- e.** A reinsurance agreement shall be considered YRT reinsurance for purposes of Subsection ~~00612.05~~ if only the mortality risk is reinsured; and ~~(3-30-01)()~~
- f.** If the assuming company chooses this optional exemption, the ceding company's reinsurance reserve credit shall be limited to the amount of reserve held by the assuming company for the affected policies. (3-30-01)

06. Optional Exemption for Attained-Age-Based Yearly Renewable Term Life Insurance Policies. At the option of the company, the following approach for reserves for attained-age-based YRT life insurance policies may be used: (3-30-01)

- a.** Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year. (3-30-01)
- b.** Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in Subsection ~~00612.03~~. ~~(3-30-01)()~~
- c.** Deficiency reserves: (3-30-01)
- i.** For each policy year, calculate the excess, if greater than zero (0), of the valuation net premium over the respective maximum guaranteed gross premium. (3-30-01)
- ii.** Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with ~~Subsection~~**paragraph** ~~00612.06.c.i.~~ ~~(3-30-01)()~~
- d.** For purposes of Subsection ~~00612.06~~, the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten (10) year select mortality factors, or any other table adopted after the effective date of this chapter by the NAIC and promulgated by rule by the Director for this purpose. ~~(3-30-01)()~~
- e.** A policy shall be considered an attained-age-based YRT life insurance policy for purposes of Subsection ~~00612.06~~ if: ~~(3-30-01)()~~

i. The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are based upon the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and (3-30-01)

ii. The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance and attained age. (3-30-01)

f. For policies that become attained-age-based YRT policies after an initial period of coverage, the approach of Subsection ~~006~~12.06 may be used after the initial period if: ~~(3-30-01)~~()

i. The initial period is constant for all insureds of the same sex, risk class and plan of insurance; or (3-30-01)

ii. The initial period runs to a common attained age for all insureds of the same sex, risk class, and plan of insurance; and (3-30-01)

iii. After the initial period of coverage, the policy meets the conditions of Subsection Paragraph ~~006~~12.06.e.; and ~~(3-30-01)~~()

g. If this election is made, this approach shall be applied in determining reserves for all attained-age-based YRT life insurance policies issued on or after the effective date of this chapter. (3-30-01)

07. Exemption from Unitary Reserves for Certain n-Year Renewable Term Life Insurance Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met: (3-30-01)

a. The policy consists of a series of n -year periods, including the first period and all renewal periods, where n is the same for each period, except that for the final renewal period, n may be truncated or extended to reach the expiry age, provided that this final renewal period is less than ten (10) years and less than twice the size of the earlier n -year periods, and for each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level; (3-30-01)

b. The guaranteed gross premiums in all n -year periods are not less than the corresponding net premiums based upon the 1980 CSO Table with or without the ten (10) year select mortality factors; and (3-30-01)

c. There are no cash surrender values in any policy year. (3-30-01)

08. Exemption From Unitary Reserves for Certain Juvenile Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met, based upon the initial current premium scale at issue: (3-30-01)

- a. At issue, the insured is age twenty-four (24) or younger; (3-30-01)
- b. Until the insured reaches the end of the juvenile period, which shall occur at or before age twenty-five (25), the gross premiums and death benefits are level, and there are no cash surrender values; and (3-30-01)
- c. After the end of the juvenile period, gross premiums are level for the remainder of the premium paying period, and death benefits are level for the remainder of the life of the policy. (3-30-01)

00713. CALCULATION OF MINIMUM VALUATION STANDARD FOR FLEXIBLE PREMIUM AND FIXED PREMIUM UNIVERSAL LIFE INSURANCE POLICIES THAT CONTAIN PROVISIONS RESULTING IN THE ABILITY OF A POLICY OWNER TO KEEP A POLICY IN FORCE OVER A SECONDARY GUARANTEE PERIOD.

- 01. **General.** The following general provisions apply. (3-30-01)
 - a. Policies with a secondary guarantee include: (3-30-01)
 - i. A policy with a guarantee that the policy will remain in force at the original schedule of benefits, subject only to the payment of specified premiums; (3-30-01)
 - ii. A policy in which the minimum premium at any duration is less than the corresponding one (1) year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten (10) year select mortality factors, or any other table adopted after the effective date of this chapter by the NAIC and promulgated by rule by the Director for this purpose; or (3-30-01)
 - iii. A policy with any combination of ~~Subsections~~ ~~paragraphs~~ 00713.01.a.i. and 00713.01.a.ii. (~~3-30-01~~)()
 - b. A secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. When a policy contains more than one secondary guarantee, the minimum reserve shall be the greatest of the respective minimum reserves at that valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees. Secondary guarantees that are unilaterally changed by the insurer after issue shall be considered to have been made at issue. Reserves described in Subsections 00713.02 and 00713.03 below shall be recalculated from issue to reflect these changes. (~~3-30-01~~)()
 - c. Specified premiums mean the premiums specified in the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed. (3-30-01)
 - d. For purposes of Section 00713, the minimum premium for any policy year is the premium that, when paid into a policy with a zero (0) account value at the beginning of the policy year, produces a zero (0) account value at the end of the policy year. The minimum premium

calculation shall use the policy cost factors (including mortality charges, loads and expense charges) and the interest crediting rate, which are all guaranteed at issue. ~~(3-30-01)~~()

e. The one (1) year valuation premium means the net one (1) year premium based upon the original schedule of benefits for a given policy year. The one (1) year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in ~~Subsections Paragraphs~~ ~~00511.02.b.~~, ~~00511.02.c.~~, and ~~00511.02.d.~~ may not be used to calculate the one (1) year valuation premiums. ~~(3-30-01)~~()

f. The one (1) year valuation premium should reflect the frequency of fund processing, as well as the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund. (3-30-01)

02. Basic Reserves for the Secondary Guarantees. Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums shall be set equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force and the segments will be determined according to the contract segmentation method as defined in Subsection ~~00410.02.~~ ~~(3-30-01)~~()

03. Deficiency Reserves for the Secondary Guarantees. Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in Subsection ~~00612.02~~ with gross premiums set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force. ~~(3-30-01)~~()

04. Minimum Reserves. The minimum reserves during the secondary guarantee period are the greater of: (3-30-01)

a. The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or (3-30-01)

b. The minimum reserves required by other rules or rules governing universal life plans. (3-30-01)

~~00814.~~ EFFECTIVE DATE.

This chapter shall become effective January 1, 2000. (3-30-01)

[Codified Section 009 has been moved and renumbered to proposed Section 004]

~~0105.~~ -- 999. (RESERVED).

IDAPA 18 DEPARTMENT OF INSURANCE

18.01.50 - ADOPTION OF THE INTERNATIONAL FIRE CODE

DOCKET NO. 18-0150-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2011. The pending rule has been adopted by the agency and is now pending review by the 2011 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 Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending and is also adopting this rule as a temporary rule. The action is pursuant to Section 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:

The temporary rule reflects the changes to the 2009 edition of the International Fire code to bring it into conformity with Idaho Statutes, the International Building Code 2009 Edition, as adopted, and changes made to previous editions of the International Fire code. This edition also reflects changes agreed upon by a "Fire Code Task Force" organized by the Idaho Legislature after the 2010 session.

In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin following this notice. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 331 through 336.](#)

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1), and 67-5224, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reason(s):

This temporary rule is needed to provide for statewide consistency in code application, until the proposed rule becomes official upon adjournment of the Legislature

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: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule or temporary rule, contact Mark Larson, State Fire Marshal at 208-334-4370.

DATED this 29th day of October, 2010.

Mark Larson
State Fire Marshal
Idaho Department of Insurance
700 West State Street, Third Floor
Boise ID 83720-0043
Phone (208)334-4370
Fax: (208)-334-4375.

THIS NOTICE 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 41-253, 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 20, 2010.

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 proposed rule reflects the changes to the 2009 edition of the International Fire Code to bring it into conformity with Idaho statutes, the International Building Code 2009 edition as adopted, and changes made to previous editions of the fire code. This edition will also reflect changes agreed upon by a “fire code task force” organized by the Idaho Legislature after the 2010 session.

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:

This proposed rule has no impact on the general fund for the state of Idaho. The adoption of new editions of the fire code is and has been since 1982, an ongoing process planned for by most

governmental and affected private entities.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the writing of this rule was accomplished in consultation with representatives of the affected industries, fire agencies and elected officials.

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 International Fire Code makes reference to various documents and standards developed by recognized authorities, such as the National Fire Protection Association and the American Petroleum Institute. Chapter 47 of the 2009 edition of the code as proposed contains a listing of each specific standard referred to in the body of the code. This Code is necessary to provide the minimum standards for the protection of life and property from fire and explosion in the state of Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mark Larson, State Fire Marshal, at 208-334-4370.

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 November 1, 2010.

DATED this 23rd day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0150-1001

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 18.01.50, Rules of the Idaho Department of Insurance, Title 01, Chapter 50, "Adoption of the ~~2006~~ International Fire Code." (4-2-08)()

02. Scope. Pursuant to the authority provided by Section 41-253, Idaho Code, the ~~Idaho State~~ Fire Marshal hereby adopts the ~~2006~~ edition of the International Fire Code, with appendices thereto, and such later editions that may be so published and adopted by the State Fire Marshal, as the minimum standard for the protection of life and property from fire and explosion in the state of Idaho. All such later editions, and appendices thereto, shall be adopted in accordance with Section 67-5229, Idaho Code. (4-2-08)()

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

01. **2006~~9~~ International Fire Code.** In accordance with Section 67-5229, Idaho Code, and pursuant to the authority provided by Section 41-253, Idaho Code, the ~~Idaho~~ State Fire Marshal hereby adopts the 2006~~9~~ edition of the International Fire Code as published by the International Code Council, ~~with the following~~ Any revisions, additions, deletions and/or appendices to the the 2009 International Fire Code are included herein. (4-2-08)()

02. **Availability of Referenced Material.** Copies of the 2006~~9~~ edition of the International Fire Code are available for public inspection at the office of the State Fire Marshal, ~~the State Law Library, and the State Legislative Council.~~ ~~Copies of t~~The 2006~~9~~ International Fire Code and supplements thereto may be ~~procured~~ 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 the following address: <http://www.iccsafe.org/Pages/default.aspx>. (4-2-08)()

005. OFFICE -- OFFICE HOURS, MAILING ADDRESS AND STREET ADDRESS.

The office of the State Fire Marshal is located at 700 West State Street, third floor, Boise Idaho. The business hours are 8 am through 5 pm , Monday through Friday. The mailing address is State Fire Marshal, Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. The department's web address is <http://www.doi.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with this rule are subject to the provisions of the Idaho Public records Law, Title 9, Chapter 3, Idaho Code. ()

~~0057.~~ -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~021. — 025. (RESERVED).~~

021. CHAPTER 5 FIRE SERVICE FEATURES.

01. Section 501. ()

a. To section 501.3 after the phrase, Construction documents for proposed, add the word "driveways." ()

b. To section 501.4 after the phrase, When fire apparatus access roads, add the word "driveways." ()

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. ()

03. Section 503. ()

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.” ()

b. To section 503 add the words, “AND DRIVEWAYS” to the section heading. ()

c. To section 5031.1 add the following sentence, “Driveways shall be provided and maintained in accordance with Sections 503.7 through 503.11.” ()

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. ()

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.” ()

f. Add the following section, “503.7.1 Limits. A driveway shall not serve in excess of five single family dwellings.” ()

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.” ()

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.” ()

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.” ()

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." ()

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." ()

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." ()

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." ()

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." ()

~~026. SECTION 903.2.7 GROUP R AUTOMATIC SPRINKLER SYSTEM REQUIREMENTS.~~

~~Add to the paragraph, "Exception: automatic sprinkler systems are not required in 3 or 4 unit Group R buildings." (4-6-05)~~

022. -- 026. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

037. FIRE ALARM AND DETECTION SYSTEMS, SECTION 907.1, INTERNATIONAL FIRE CODE.

~~01.~~ Notification Devices. When fire alarm systems not required by the International Fire Code are installed, the notification devices shall meet the minimum design and installation requirements for systems which are required by this code. Intent: (Non-required fire alarm systems shall provide the same level of occupant notification that required systems provide). (5-3-03)

~~02. Partial or Limited Detection Systems Are Allowed. If notification devices are provided, they must meet Subsection 037.01 above. (7-1-99)~~

(BREAK IN CONTINUITY OF SECTIONS)

041. EXPLOSIVES AND FIREWORKS, CHAPTER 33, INTERNATIONAL FIRE CODE.

Delete Sections 3301.1.3, 3301.2.2, 3301.2.3, 3301.2.4.1, 3301.2.4.2, and 3308.1 through 3308.3.
(~~5-3-03~~)()

(BREAK IN CONTINUITY OF SECTIONS)

047. -- 05~~4~~0. (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.” ()

052. REFERENCED STANDARDS, CHAPTER 45, INTERNATIONAL FIRE CODE.

Beginning on Page ~~387~~ 418, of the NFPA Referenced Standards, make the following changes to the listed editions:

Delete	Add	Delete	Add	Delete	Add
10-200 27	10-20 07 <u>10</u>	51-2002	51-2007	407-2004	407-2007
11-200 25	11-20 05 <u>10</u>	52-200 26	52-20 06 <u>10</u>	430-2000	430-2004
12A- 97 <u>2004</u>	12A-200 49	57-99	57-2002	480-98	484-2002
13-200 27	13-20 07 <u>10</u>	58-2004	58-2004	484-2000	484-2002
13D-200 27	13D-20 07 <u>10</u>	61-99	61-2002	484-200 26	484-200 69
13R-200 27	13R-20 07 <u>10</u>	69-97	69-2002	490-98	490-2002
14-200 37	14-20 07 <u>10</u>	72-200 27	72-20 07 <u>10</u>	495-200 46	495-20 06 <u>10</u>
45-2004	45-2007	85-2004	85-2007	498-200 46	498-20 06 <u>10</u>
46-2003	46-2007	86-2003	86-2007	505-2002	505-2006
17- 98 <u>2002</u>	17-200 29	99-2002	99-2005	650-98	654-2000
17A- 98 <u>2002</u>	17A-200 29	101-200 36	101-200 69	654-2000	654-2006
20-200 37	20-20 07 <u>10</u>	110-200 25	110-20 05 <u>10</u>	655-2004	655-2007
22- 98 <u>2003</u>	22-200 38	211-200 06	211-20 03 <u>10</u>	664-2002	664-2007
24- 95 <u>2003</u>	24-20 03 <u>10</u>	231-98	230-2003	704-2004	704-2007
25- 9 <u>2008</u>	25-2002	231C-98	230-2003	750-200 36	750-20 06 <u>10</u>
30-2000	30-2003	231D-98	230-2003	4122-97	4125-2004

Delete	Add	Delete	Add	Delete	Add
30A-2000	30A-2003	260-982003	260-20039	1123-20006	11263-200410
30B-2002	30B-2007	261-982003	261-20039	1124-2003	1124-2006
33-2003	33-2007	265-2002	265-2007	1125-2001	1125-2007
34-2003	34-2007	266-98	272-2003	1127-98	1127-2002
40-2004	40-2007	120-19992004	120-200410	1123-2000	1123-2006
12-20005	12-20058	160-2001	160-2006	1126-2001	1126-2006
24-2002	24-2007	241-20004	241-20049	31-2001	31-2006
35-1999	35-2005	286-2000	286-2006	32-2000	32-2007
51A-2001	51A-2006	303-2000	303-2006	701-19992004	701-200410
59A-20046	59A-20069	385-2000	385-2007	703-20006	703-20069
80-19992007	80-200710	409-2001	409-2004	267-98	272-2003
92BA-2005	92A-2006	484-20026	484-20069	111-20045	111-200510
				2001-2000	2001-2004

(4-2-08)()

053. -- 055. (RESERVED).

056. REFERENCES TO APPENDIX, INTERNATIONAL FIRE CODE.

When this code references the appendix, the provisions of the appendix shall not apply unless specifically incorporated by reference. The following appendixes of the International Fire Code are incorporated by reference: (5-3-03)

- 01. Appendix B, Fire Flow Requirements for Buildings. (5-3-03)**
- 02. Appendix C, Fire Hydrant Location and Distribution. (5-3-03)**
- 03. Appendix D, Fire Apparatus Access Roads. (4-2-08)**

a. To section D101.1 Scope, add the following sentence, “Driveways as described in section 503.7 through 503.11 are not subject to the requirements of this appendix.” ()

b. To section D102.1, after the phrase, by way of an approved fire apparatus access road, add the following “designed and maintained to support the imposed loads of the responding fire apparatus and shall be surfaced so as to provide all-weather driving capabilities.” And delete the remainder of the section. ()

c. To section D103.2 Grade. Add the following. “The gradient of the fire apparatus access road shall be within the limits established by the fire code official based on the capabilities of the responding fire departments apparatus.” Delete the remainder of the section and the exception. ()

- 04. Appendix E, Hazard Categories. (5-3-03)**
- 05. Appendix F, Hazard Rankings. (5-3-03)**

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.53 - CONTINUING EDUCATION

DOCKET NO. 18-0153-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 Title 41, Chapter 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:

This rule sets forth continuing education requirements for insurance producers. The proposed changes remove the requirement that ethics courses be stand alone courses, and add a requirement that persons using self-study materials demonstrate their understanding of the materials by completing questions at the end of each chapter with a score of at least 70% before proceeding to the next chapter.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010, Idaho Administrative Bulletin, Vol. 10-9, pages 372 and 373.](#)

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 Gina McBride at (208)334-4340.

DATED this 24th day of September, 2010.

Shad Priest, Deputy Director
Idaho Department of Insurance
700 West State St., 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THIS NOTICE 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 Title 41, Chapter 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, no later than September 15, 2010.

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 sets forth continuing education requirements for insurance producers. The proposed changes remove the requirement that ethics courses be stand alone courses, and add a requirement that persons using self-study materials demonstrate their understanding of the materials by completing questions at the end of each chapter with a score of at least 70% before proceeding to the next chapter.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: This rulemaking does not impose any fees.

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, Idaho Code, negotiated rulemaking was not conducted because the proposed changes were developed in cooperation with members of the affected industry.

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 Gina McBride at (208-334-4340).

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 22, 2010.

DATED this 23rd day of July, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0153-1001

012. BASIC REQUIREMENTS.

01. Proof of Completion. As a condition for the continuation of a license, a licensee must furnish the Director of the Department of Insurance (“Director”), on or before the licensing renewal date, proof of satisfactory completion of approved subjects or courses meeting the following requirements: (4-5-00)

a. Twenty-four (24) hours of continuing education credit during each licensing period, which licensing period is for two (2) years. (3-20-04)

b. At least three (3) hours of continuing education credit in ethics must be earned each licensing period. ~~The ethics courses must be stand-alone courses and not part of other courses.~~ (3-19-10)()

c. No more than four (4) hours of continuing education credit from courses approved for public adjusters shall apply toward the continuation of a producer license. (3-19-10)

02. Relicensing Procedures After Voluntary Termination of License. An insurance agent who voluntarily terminates his/her license can apply to be relicensed without testing if the application is received by the Department within twelve (12) months after the termination and if the continuing education requirements were completed during the licensing period prior to voluntary termination. Non-resident insurance agents who were former resident agents and who wish to obtain a resident license once again will be subject to the continuing education requirements on a pro-rata basis. (4-5-00)

03. Completion Within Two Years. Each course to be applied toward satisfaction of the continuing education requirement must have been completed within the two (2) year period immediately preceding renewal of the license. Courses may not have been duplicated in the same renewal period. The date of completion for a self-study course is the date of successful completion of exam. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

024. CREDIT FOR INDIVIDUAL STUDY PROGRAMS.

01. Requirements for Credit of Independent Study Programs. All approved correspondence courses or independent study programs must include an examination which requires a score of seventy percent (70%) or better to earn a certificate of completion. For each approved course, the sponsoring organization shall maintain multiple tests (two (2) or more) sufficient to maintain the integrity of the testing process. A written explanation of test security and administration methods shall accompany the course examination materials. Each unit and/or chapter of a course must contain review questions that must be answered with a score of seventy percent (70%) or better before access to the following unit/chapter is allowed. ()

02. Completed Tests. The examinations shall be administered, graded, and the results recorded by the organization to which approval was originally granted. Completed tests shall be retained by the sponsoring organization and shall not be returned to any licensee. ~~(7-1-93)~~()

023. Prior Approval Required for Independent Study Programs. All correspondence courses or individual study programs must be submitted for approval and must be approved prior to being offered to licensees for continuing education credit. (7-1-93)

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.66 - DIRECTOR'S AUTHORITY FOR COMPANIES DEEMED TO BE IN HAZARDOUS FINANCIAL CONDITION

DOCKET NO. 18-0166-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 Title 41, Chapter 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:

This rule sets forth the standards which the director may use for identifying insurers found to be in such financial condition as to render the continuance of their business hazardous to the public or to holders of their policies or certificates of insurance. The proposed changes provide additional standards for consideration by the director to determine whether the continued operations of an insurer might be deemed hazardous to the policyholders, creditors or the general public. It also gives the director the authority to issue an order to companies deemed to be in hazardous financial condition to take corrective action.

Pursuant to Section 67-5228, Idaho Code, one change has been made to the rule and is being published with this Notice of Rulemaking as part of the pending rule. 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. Page. 380, paragraph 012.02.I, language “notwithstanding any other provision of law limiting the frequency or amount of premium rate adjustments” has been deleted. The original text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 376 through 380.](#)

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 rule, contact Georgia Siehl at (208) 334-4314.

DATED this 24th day of September, 2010.

Shad Priest, Deputy Director
Idaho Department of Insurance
700 West State St., 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THIS NOTICE 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 Title 41, Chapter 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, no later than September 15, 2010.

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 sets forth the standards which the director may use for identifying insurers found to be in such financial condition as to render the continuance of their business hazardous to the public or to holders of their policies or certificates of insurance. The proposed changes provide additional standards for consideration by the director to determine whether the continued operations of an insurer might be deemed hazardous to the policyholders, creditors or the general public. It also gives the director the authority to issue an order to companies deemed to be in hazardous financial condition to take corrective action.

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 proposed changes are from a National Association of Insurance Commissioners model regulation and few companies fall into the category of hazardous financial condition.

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:

This rule incorporates by reference the full text of the National Association of Insurance Commissioners Financial Condition Examiners Handbook and the National Association of Insurance Commissioners Annual Statement Instructions and Accounting Practices and Procedures Manual, pursuant to Sections 41-223 and 41-335, Idaho Code. The referenced text provides standards the Director may use to identify insurers whose financial condition may be hazardous to the public or to holders of their policies or certificates of insurance.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Georgia Siehl at (208-334-4314).

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 22, 2010.

DATED this 28th day of July, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0166-1001

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 18.01.66, “Director’s Authority for Companies Deemed to be in Hazardous Financial Condition.” ()

02. Scope. The purpose of this rule is to set forth the standards which the Director may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to the public or to holders of their policies or certificates of insurance. This rule shall not be interpreted to limit the powers granted the Director by any laws or parts of laws of this state, nor shall this rule be interpreted to supersede any laws or parts of laws of this state. (10-1-93)()

002. ~~(RESERVED)~~ WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of this rule, or to the documentation of compliance with this rule. These documents will be available for public inspection and copying in accordance with the Idaho Public Records Law, Title 9, Chapter 3, Idaho Code. ()

003. ADMINISTRATIVE APPEALS.

~~Any order or decision of the Director shall be subject to appeal in accordance with Chapter 52, Title 67, Idaho Code, at the instance of any party to the proceedings whose interests are substantially affected.~~ All administrative appeals shall be governed by Title 41, Chapter 2, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General -- General Provisions." (10-1-93)()

004. INCORPORATION BY REFERENCE.

This rule incorporates by reference the full text of the National Association of Insurance Commissioners Financial Condition Examiners Handbook and the National Association of Insurance Commissioners Annual Statement Instructions and Accounting Practices and Procedures Manual, pursuant to Sections 41-223 and 41-335, Idaho Code. Copies may be viewed at: ()

01. Department. Idaho Department of Insurance, 700 West State Street, 3rd Floor, Boise, Idaho 83720-0043. ()

02. Industry Documents. NAIC Executive Headquarters, 2301 McGee Street, Suite 800, Kansas City, MO 64108-2662. <http://www.naic.org>. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS, AND WEB SITE.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except weekends 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 principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83720-0043. ()

04. Web Site Address. The department's web address is <http://www.doi.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with this rule are subject to the provisions of the Idaho Public Records Law, Title 9, Chapter 3, Idaho Code. ()

~~0047.~~ -- 010. (RESERVED).

011. STANDARDS.

The following standards, either singly or ~~a~~ in combination of two (2) or more, may be considered by the Director to determine whether the continued operation of any insurer transacting ~~an~~ insurance business in this state might be deemed to be hazardous to ~~the~~ its policyholders, ~~or~~ creditors or to the general public. The Director may consider: (10-1-93)()

01. Examination Reports. Adverse findings reported in financial condition and market conduct examination reports, audit reports, and actuarial opinions, reports or summaries. (10-1-93)()

02. NAIC Insurance Regulatory Information System. The National Association of Insurance Commissioners Insurance Regulatory Information System and its related reports other financial analysis solvency tools and reports. (10-1-93)()

03. ~~Expense Ratios.~~ ~~The ratios of commission expense, general insurance expense, policy benefits and reserve increases as to annual premium and net investment income which could lead to an impairment of capital and surplus.~~ Adequate Cash Provision. Whether the insurer has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the insurer, when considered in light of the assets held by the insurer with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts. (10-1-93)()

04. ~~Asset Portfolio.~~ ~~The insurer's asset portfolio when viewed in light of current economic conditions is not of sufficient value, liquidity, or diversity to assure the company's ability to meet its outstanding obligations as they mature.~~ (10-1-93)

054. Reinsurance Program. The ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the company's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer. (10-1-93)

065. Operating Loss (50% of Surplus). Whether ~~T~~the insurer's operating loss in the last twelve (12) month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than fifty percent (50%) of ~~such~~ the insurer's remaining surplus as regards policyholders in excess of the minimum required. (10-1-93)()

06. Operating Loss (20% of Surplus). Whether the insurer's operating loss in the last twelve (12) month period or any shorter period of time, excluding net capital gains, is greater than twenty percent (20%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required. ()

07. Insolvency of Affiliate, Subsidiary or Reinsurer. Whether ~~any affiliate, subsidiary or~~ a reinsurer, obligor, or any entity within the insurer's insurance holding company system is insolvent, threatened with insolvency, or delinquent in payment of its monetary or other obligations, and which in the opinion of the Director may affect the solvency of the insurer. (10-1-93)()

08. Contingent Liabilities. Contingent liabilities, pledges or guaranties which either individually or collectively involve a total amount which in the opinion of the Director may affect the solvency of the insurer. (10-1-93)

09. Controlling Person. Whether any “controlling person” of an insurer is delinquent in the transmitting to, or payment of, net premiums to such insurer. (10-1-93)

10. Receivables. The age and collectibility of receivables. (10-1-93)

11. Competence of Management. Whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of such insurer, fails to possess and demonstrate the competence, fitness and reputation deemed necessary to serve the insurer in such position. (10-1-93)

12. Failure to Respond to Inquiries. Whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry. (10-1-93)

13. Failure to Meet Filing Requirements. Whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the Director. ()

134. False or Misleading Financial Statements. Whether management of an insurer either has filed any false or misleading sworn financial statement, or has released false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer. (10-1-93)

145. Extensive Growth. Whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner. (10-1-93)

156. Cash Flow. Whether the company has experienced or will experience in the foreseeable future cash flow and/or liquidity problems. (10-1-93)

17. Reserves Compliance with Minimum Standards. Whether management has established reserves that do not comply with minimum standards established by state insurance laws, regulations, statutory accounting standards, sound actuarial principles and standards of practice. ()

18. Material Under-Reserving. Whether management persistently engages in material under-reserving that results in adverse development. ()

19. Transactions Among Affiliates. Whether transactions among affiliates, subsidiaries or controlling persons for which the insurer receives assets, capital gains or both do not provide sufficient value, liquidity or diversity to assure the insurer’s ability to meet its outstanding obligations as they mature. ()

20. Any Other Finding. Any other finding determined by the Director to be hazardous to the insurer's policyholders or creditors or to the general public. ()

012. DIRECTOR'S AUTHORITY.

01. Determination of Financial Condition. For the purposes of making a determination of an insurer's financial condition under this rule, the Director may: (10-1-93)

a. Disregard any credit or amount receivable resulting from transactions with a reinsurer which is insolvent, impaired or otherwise subject to a delinquency proceeding; (10-1-93)

b. Make appropriate adjustments, including disallowance, to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates, consistent with the NAIC Accounting Policies and Procedures Manual, state laws, and regulations; (~~10-1-93~~)()

c. Refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; (10-1-93)

d. Increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next twelve (12) month period. (10-1-93)

02. Issuance of Order. If the Director determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to the policyholders or creditors or to the general public, then the Director may, upon his a determination, issue an order requiring the insurer to: (~~10-1-93~~)()

a. Reduce the total amount of present and potential liability for policy benefits by reinsurance; (10-1-93)

b. Reduce, suspend or limit the volume of business being accepted or renewed; (10-1-93)

c. Reduce general insurance and commission expenses by specified methods; (10-1-93)

d. Increase the insurer's capital and surplus; (10-1-93)

e. Suspend or limit the declaration and payment of dividend by an insurer to its stockholders or to its policyholders; (10-1-93)

f. File reports in a form acceptable to the Director concerning the market value of an insurer's assets; (10-1-93)

- g.** Limit or withdraw from certain investments or discontinue certain investment practices to the extent the Director deems necessary; (10-1-93)
- h.** Document the adequacy of premium rates in relation to the risks insured; (10-1-93)
- i.** File, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or in such format as promulgated by the Director; (10-1-93)
- j.** Correct corporate governance practice deficiencies and adopt and utilize governance practices acceptable to the Director; ()
- k.** Provide a business plan to the Director in order to continue to transact business in the state; or ()
- l.** Adjust rates for any non-life insurance product written by the insurer that the Director considers necessary to improve the financial condition of the insurer. ()

03. Hearing. Any insurer subject to an order under Subsection 012.02 may request a hearing to review that order pursuant to Title 41, Chapter 2, Idaho Code. ~~The notice of hearing shall be served upon the insurer pursuant to Section 550 to the extent not inconsistent with this subsection. The notice of hearing shall state the time and place of hearing, and the conduct, condition or ground upon which the Director based the order. Unless mutually agreed between the Director and the insurer, the hearing shall occur not less than ten (10) days nor more than thirty (30) days after notice is served and shall be either in Ada County or in some other place convenient to the parties designated by the Director. He shall hold all hearings under this subsection privately, unless the insurer requests a public hearing, in which case the hearing shall be public.~~ (10-1-93)()

013. SEVERABILITY.

If any provisions of this rule ~~be~~ are held ~~to be~~ invalid, the remainder shall not be affected. (10-1-93)()

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.77 - ACTUARIAL OPINION AND MEMORANDUM RULE

DOCKET NO. 18-0177-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 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 updates the Rule to agree with the National Association of Insurance Commissioners model Regulation #822 to apply the same standards to Idaho insurers offering life insurance products as are imposed by other states that have adopted the model. The rule removes outdated language in actuarial opinions, adds a date to the signature of actuary, provides directions on the rationale for degree of rigor in analyzing different blocks of business, provides directions for criteria for determining asset adequacy, and provides instructions to comment on the impact of the insufficiency of assets to support the payment of benefits.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 381 through 390.](#)

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 Georgia Siehl at (208) 334-4314.

DATED this 24th day of September, 2010.

Shad Priest, Deputy Director
Idaho Department of Insurance
700 West State St., 3rd Floor

Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THIS NOTICE 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, no later than September 15, 2010.

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 updates the rule to agree with the National Association of Insurance Commissioners model Regulation #822 to apply the same standards to Idaho insurers offering life insurance products as are imposed by other states that have adopted the model. The rule removes outdated language in actuarial opinions, adds a date to the signature of actuary, provides directions on the rationale for degree of rigor in analyzing different blocks of business, provides directions for criteria for determining asset adequacy, and provides instructions to comment on the impact of the insufficiency of assets to support the payment of benefits.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: This rulemaking does not impose any fees.

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, Idaho Code, negotiated rulemaking was not conducted because the proposed changes are from a National Association of Insurance Commissioners model regulation and the Idaho domiciled life insurance company supports adoption of it.

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 Georgia Siehl at (208) 334-4314.

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 22, 2010.

DATED this 10th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0177-1001

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB SITE.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except ~~Saturday, Sunday~~ **weekends** and legal holidays. (3-30-07)()

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (3-30-07)

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-~~0043~~. (3-30-07)()

04. Web Site Address. The department's web address is <http://www.doi.idaho.gov>. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

022. STATEMENT OF ACTUARIAL OPINION BASED ON AN ASSET ADEQUACY ANALYSIS.

01. General Description. The statement of actuarial opinion submitted in accordance with this section shall consist of; (3-30-07)

a. A paragraph identifying the appointed actuary and his qualifications (see Subsection 022.02.a. of this chapter); (3-30-07)

b. A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis, (see Subsection 022.02.b. of this chapter) and identifying the reserves and related

actuarial items covered by the opinion which have not been so analyzed; (3-30-07)

c. A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, (e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios (see Subsection 022.02.c. of this chapter), supported by a statement of each such expert in the form prescribed by Subsection 022.05 of this chapter; and (3-30-07)

d. An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities (see Subsection 022.02.f. of this chapter). (3-30-07)

e. One (1) or more additional paragraphs will be needed in individual company cases as follows; (3-30-07)

i. If the appointed actuary considers it necessary to state a qualification of his opinion; (7-1-97)

ii. If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion; (3-30-07)

iii. If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release; or (3-30-07)

iv. If the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion. (7-1-97)

02. Recommended Language. The following paragraphs are to be included in the statement of actuarial opinion in accordance with this section. Language is that which in typical circumstances should be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language which clearly expresses his professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this section. (7-1-97)

a. The opening paragraph should generally indicate the appointed actuary's relationship to the company and his qualifications to sign the opinion. For a company actuary, the opening paragraph of the actuarial opinion should read as follows:

"I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the Director dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

For a consulting actuary, the opening paragraph should contain a sentence such as:

"I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors

of [name of company] to render this opinion as stated in the letter to the Director dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies.” (7-1-97)

b. The scope paragraph should include a statement such as the following:

“I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 1920[]. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis.

TABLE 022.02.b.

Asset Adequacy Tested Amounts			Reserves and Liabilities		
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
Exhibit 5 Life Insurance					
Annuities					
Supplementary Contracts Involving Life Contingencies					
Accidental Death Benefit					
Disability - Active					
Disability - Disabled					
Miscellaneous					
Total (Exhibit 5 Item 1, Page 3)					
Exhibit 6 Active Life Reserve					
Claim Reserve					
Total (Exhibit 6 Item 2, Page 3)					
Exhibit 7 Premium and Other Deposit Funds (Column 6, Line 14)					
Guaranteed Interest Contracts (Column 2, Line 14)					
Annuities Certain (Column 3, Line 14)					
Supplemental Contracts (Column 4, Line 14)					

Asset Adequacy Tested Amounts			Reserves and Liabilities		
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
Dividend Accumulations or Refunds (Column 5, Line 14)					
Total Exhibit 7					
Exhibit 8 Part 1 Life (Page 3, Line 4.1)					
Health (Page 3, Line 4.2)					
Total Exhibit 8, Part 1					
Separate Accounts (Page 3, Line 27)					
TOTAL RESERVES					
IMR (General Account, Page 3 Line 9.4)					
IMR (General Account, Page 3 Line 27) <u>Separate Accounts, Page 3 Line 27</u>					
AVR (Page 3 Line 24.1)	(c)				
Net Deferred and Uncollected Premiums					
Notes: (a) The additional actuarial reserves are the reserves established under <u>Subsection Paragraph</u> 021.05.b. or 021.05.c. of this chapter. (b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in Subsection 021.04 of this chapter, by means of symbols which should be defined in footnotes to the table. (c) Allocated amount.					

(3-30-07)()

c. If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as the following:

“I have relied on [name], [title] for [e.g., anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios] or “certain critical aspects of the analysis performed in conjunction with forming my opinion”, as certified in the attached statement. I have reviewed the information relied upon for reasonableness.” ~~or~~

“I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement.” (3-30-07)()

i. Such a statement of reliance on other experts should be accompanied by a

statement by each of the experts of the form prescribed by Subsection 022.05. (3-30-07)

d. If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should also include the following:

“My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. I also reconciled the underlying basic asset and liability records to [exhibits and schedules listed as applicable] of the company’s current annual statement.” (3-30-07)

e. If the appointed actuary has not examined the underlying records, but has relied upon data (e.g. listings and summaries of policies in force and/or asset records) prepared by the company ~~or a third party~~, the reliance paragraph should include a sentence such as:

“In forming my opinion on [specify types of reserves] I relied upon data prepared by [name and title of company officer certifying in-force records or other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company’s current annual statement. In other respects, my examination included such review of the actuarial assumptions and actuarial methods used and such tests of the actuarial calculations ~~as~~ I considered necessary.”
(~~3-30-07~~)()

i. Such a section must be accompanied by a statement by each person relied upon of the form prescribed by Subsection 022.05 of this chapter. (3-30-07)

f. The opinion paragraph should include the following:

“In my opinion the reserves and related actuarial values concerning the statement items identified above:

(a) Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

(b) Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

(c) Meet the requirements of the Insurance Law and rule of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed.

(d) Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below);

(e) Include provision for all actuarial reserves and related statement items which ought to be established.

The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion.”; or

“The following material change(s) which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.)

Note: Choose one (1) of the above two (2) paragraphs, whichever is applicable.

The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company’s future experience may not follow all the assumptions used in the analysis.

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary”

Date

~~(3-30-07)~~()

03. Assumptions for New Issues. The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this Section 022 of this chapter. (3-30-07)

04. Adverse Opinions. If the appointed actuary is unable to form an opinion, then he

shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then he shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph. (7-1-97)

05. Reliance on Data Furnished by Other Persons. If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should so indicate the persons the actuary is relying upon and a precise identification of the items subject to reliance. In addition, the persons on whom the appointed actuary relies shall provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable, of the items. This certification shall include the signature, title, company, address and telephone number of the person rendering the certification, as well as the date on which it is signed. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

024. DESCRIPTION OF ACTUARIAL MEMORANDUM INCLUDING AN ASSET ADEQUACY ANALYSIS AND REGULATORY ASSET ADEQUACY ISSUES SUMMARY.

01. General. (7-1-97)

a. In accordance with Section 41-612(12), Idaho Code, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his opinion regarding the reserves *under a Section 022 opinion*. The memorandum shall be made available for examination by the Director upon his request but shall be returned to the company after such examination and shall not be considered a record of the insurance department or subject to automatic filing with the Director. (3-30-07)()

b. In preparing the memorandum, the appointed actuary may rely on, and include as a part of his own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of Subsection 021.02 of this chapter, with respect to the areas covered in such memoranda, and so state in their memoranda. (3-30-07)

c. If the Director requests a memorandum and no such memorandum exists or if the Director finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements *of this Rule*, the Director may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the Director. (7-1-97)()

d. The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing

actuary shall be retained by the Director; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as examination workpapers and shall be kept confidential to the same extent as is prescribed by Section 41-227, Idaho Code. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this rule for any one of the current year or the preceding three (3) years. (7-1-97)

e. In accordance with Section 41-612(12), Idaho Code, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in Subsection 024.03 of this chapter. The regulatory asset adequacy issues summary will be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary will be maintained as confidential and not subject to public disclosure by the director in accordance with Section 41-612(12), Idaho Code, and Section 9-340D(5) of the Idaho Public Records Act. (3-30-07)

f. In accordance with Section 41-612(12)(d)(iv), the director will accept the regulatory asset adequacy issues summary of a foreign or alien company filed by that company with the insurance supervisory official of another state if the director determines that the summary reasonably meets the requirements applicable to a company domiciled in Idaho. Therefore, foreign or alien insurers required to file the regulatory asset adequacy issues summary in their home state are exempt from filing in this state, except upon request of the director, provided the other state has substantially similar reporting requirements and the summary is filed with the director of the other state within the time specified. (5-8-09)

02. Details of the Memorandum Section Documenting Asset Adequacy Analysis (Section 022). When an actuarial opinion under Section 022 of this chapter is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in Subsection 021.04 of this chapter and any additional standards under this rule. It shall specify; (3-30-07)

a. For reserves; (3-30-07)

i. Product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant; (7-1-97)

ii. Source of liability in force; (7-1-97)

iii. Reserve method and basis; (7-1-97)

iv. Investment reserves; (7-1-97)

v. Reinsurance arrangements; and (3-30-07)

vi. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis. (3-30-07)

- b.** Documentation of assumptions to test reserves for the following: (3-30-07)
 - i. Lapse rates (both base and excess); (3-30-07)
 - ii. Interest crediting rate strategy; (3-30-07)
 - iii. Mortality; (3-30-07)
 - iv. Policyholder dividend strategy; (3-30-07)
 - v. Competitor or market interest rate; (3-30-07)
 - vi. Annuitization rates; (3-30-07)
 - vii. Commissions and expenses; and (3-30-07)
 - viii. Morbidity. (3-30-07)
 - ix. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions. (3-30-07)
- c.** For assets: (7-1-97)
 - i. Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets; (7-1-97)
 - ii. Investment and disinvestment assumptions; (7-1-97)
 - iii. Source of asset data; (7-1-97)
 - iv. Asset valuation bases. (7-1-97)
- d.** Documentation of assumptions made for the following assets: (3-30-07)
 - i. Default costs; (3-30-07)
 - ii. Bond call function; (3-30-07)
 - iii. Mortgage prepayment function; (3-30-07)
 - iv. Determining market value for assets sold due to disinvestment strategy; and (3-30-07)
 - v. Determining yield on assets acquired through the investment strategy. (3-30-07)
 - vi. The documentation of the assumptions shall be such that an actuary reviewing the

actuarial memorandum could form a conclusion as to the reasonableness of the assumptions. (3-30-07)

- e. For the Aanalysis basis: (7-1-97)()
- i. Methodology; (7-1-97)
- ii. Rationale for inclusion/exclusion of different blocks of business and how pertinent risks were analyzed; (7-1-97)
- iii. Rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of “materiality” that was used in determining how rigorously to analyze different blocks of business); (7-1-97)()
- iv. Criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under “moderately adverse conditions” or other conditions as specified in relevant actuarial standards of practice); (7-1-97)()
- v. Effect of Whether the impact of federal income taxes; was considered and the method of treating reinsurance and other relevant factors in the asset adequacy analysis. (7-1-97)()
- f. Summary of material changes in methods, procedures, or assumptions from prior year’s asset adequacy analysis; (3-30-07)
- g. Summary of Results; (7-1-97)
- h. Conclusion(s). (7-1-97)
- 03. Details of the Regulatory Asset Adequacy Issues Summary.** (3-30-07)
 - a. The regulatory asset adequacy issues summary shall include: (3-30-07)
 - i. Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force; (3-30-07)
 - ii. The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis; (3-30-07)
 - iii. The amount of reserves and the identity of the product lines that had been

subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion; (3-30-07)

iv. Comments on any interim results that may be of significant concern to the appointed actuary. For example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods; (~~3-30-07~~)()

v. The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested; and (3-30-07)

vi. Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including but not limited to those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis. (3-30-07)

b. The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion. (3-30-07)

04. Conformity to Standards of Practice. The memorandum shall include a statement:

“Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum.” (7-1-97)

05. Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve. An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, must be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support. The amount of the assets used for the AVR must be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets must be disclosed in the memorandum. (7-1-97)

06. Documentation. The appointed actuary shall retain on file, for at least seven (7) years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained. (7-1-97)

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.79 - RECOGNITION OF PREFERRED MORTALITY TABLES FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES

DOCKET NO. 18-0179-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 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 updates the Rule to agree with the National Association of Insurance Commissioners model regulation #815 to apply the same standards to Idaho insurers offering life insurance products as are imposed by other states that have adopted the model. These revisions will allow the preferred mortality tables to be used as a valuation standard for any business issued using the 2001 CSO (Commissioners Standard Ordinary), as the valuation mortality table, with approval of the Director. Mortality tables are developed by studying mortality experience of insured people. The rule also includes a specific limitation related to the accounting used when there is a coinsurance treaty in effect.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 391 through 393.](#)

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 Georgia Siehl at (208) 334-4314.

DATED this 24th day of September, 2010.

Shad Priest, Deputy Director
Idaho Department of Insurance
700 West State St., 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THIS NOTICE 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, no later than September 15, 2010.

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 updates the rule to agree with the National Association of Insurance Commissioners model regulation #815 to apply the same standards to Idaho insurers offering life insurance products as are imposed by other states that have adopted the model. These revisions will allow the preferred mortality tables to be used as a valuation standard for any business issued using the 2001 CSO (Commissioners Standard Ordinary), as the valuation mortality table, with approval of the Director. Mortality tables are developed by studying mortality experience of insured people. The rule also includes a specific limitation related to the accounting used when there is a coinsurance treaty in effect.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: This rulemaking does not impose any fees.

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, Idaho Code, negotiated rulemaking was not conducted because the proposed changes are from a National Association of Insurance Commissioners model regulation and the Idaho domiciled life insurance company

supports adoption of it.

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 Georgia Siehl at (208) 334-4314.

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 22, 2010.

DATED this 10th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0179-1001

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB SITE.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except ~~Saturday, Sunday~~ **weekends** and legal holidays. (4-2-08)()

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (4-2-08)

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho ~~83702-0043~~ **83720**. (4-2-08)()

04. Web Site Address. The Department's web address is <http://www.doi.idaho.gov>. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

011. 2001 CSO PREFERRED CLASS STRUCTURE TABLE.

At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this regulation, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. For policies issued on or after January 1, 2004, and prior to January 1, 2007,

these tables may be substituted with the consent of the Director and subject to the conditions of Section 012 of this chapter. In determining such consent, the Director may rely on the consent of the commissioner of the company's state of domicile. No such election shall be made until the company demonstrates at least twenty percent (20%) of the business to be valued on this table is in one (1) or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of IDAPA 18.01.59, "Recognition of the 2001 CSO Mortality Table For Use In Determining Minimum Reserve Liabilities And Nonforfeiture Benefits." (4-2-08)()

012. CONDITIONS.

01. Preferred Nonsmoker and Residual Standard Nonsmoker Tables. For each plan of insurance with separate rates for Preferred and Standard Nonsmoker lives, an insurer may use the Super Preferred Nonsmoker, Preferred Nonsmoker, and Residual Standard Nonsmoker tables to substitute for the Nonsmoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the Residual Standard Nonsmoker Table, the appointed actuary shall certify that: (4-2-08)

a. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class. (4-2-08)

b. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class. (4-2-08)

02. Preferred Smoker and Residual Standard Smoker Tables. For each plan of insurance with separate rates for Preferred and Standard Smoker lives, an insurer may use the Preferred Smoker and Residual Standard Smoker tables to substitute for the Smoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the Preferred Smoker Table, the appointed actuary shall certify that: (4-2-08)

a. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table corresponding to the valuation table being used for that class. (4-2-08)

b. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table. (4-2-08)

03. Unless Exempted By the Director. Every authorized insurer using the 2001 CSO Preferred Class Structure Table shall annually file with the director, with the NAIC, or with a statistical agent designated by the NAIC and acceptable to the director, statistical reports showing mortality and such other information as the director may deem necessary or expedient for the administration of the provisions of this regulation. The form of the reports shall be established by the director or the director may require the use of a form established by the NAIC or by a statistical agent designated by the NAIC and acceptable to the director. (4-2-08)

04. Reserve Credit for Policies Issued Prior to January 1, 2007. The use of the 2001 CSO Preferred Class Structure Table for the valuation of policies issued prior to January 1, 2007 shall not be permitted in any statutory financial statement in which a company reports, with respect to any policy or portion of a policy coinsured, either of the following: ()

a. In cases where the mode of payment of the reinsurance premium is less frequent than the mode of payment of the policy premium, a reserve credit that exceeds, by more than the amount specified in this paragraph as Y, the gross reserve calculated before reinsurance. Y is the amount of the gross reinsurance premium that (a) provides coverage for the period from the next policy premium due date to the earlier of the end of the policy year and the next reinsurance premium due date, and (b) would be refunded to the ceding entity upon the termination of the policy. ()

b. In cases where the mode of payment of the reinsurance premium is more frequent than the mode of payment of the policy premium, a reserve credit that is less than the gross reserve, calculated before reinsurance, by an amount that is less than the amount specified in this paragraph as Z. Z is the amount of the gross reinsurance premium that the ceding entity would need to pay the assuming company to provide reinsurance coverage from the period of the next reinsurance premium due date to the next policy premium due date minus any liability established for the proportionate amount not remitted to the reinsurer. ()

05. Reserve Method. For the purposes of the condition specified in Subsection 012.04 of this rule, the reserve (i) for the mean reserve method shall be defined as the mean reserve minus the deferred premium asset, and (ii) for the mid-terminal reserve method shall include the unearned premium reserve. A company may estimate and adjust its accounting on an aggregate basis in order to meet the conditions to use the 2001 CSO Preferred Class Structure Table. ()

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.01.01 - RULES OF THE IDAHO BOARD OF ARCHITECTURAL EXAMINERS

DOCKET NO. 24-0101-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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(s) 54-312, 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 is being adopted as proposed. The complete text of the proposed rule was published in the December 2, 2009 Idaho Administrative Bulletin, Vol. 09-12, pages 109 through 111.

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 3rd day of November, 2010.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., STE 220
Boise, ID 83702
(208) 334-3233 phone
(208) 334-3945 fax

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **September 18, 2009**.

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 54-312, 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 December 16, 2009.

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 2009 Legislature passed House Bill 92 which allows an applicant who meets the education requirement and is currently enrolled in the Intern Development Program (IDP) to apply for the Architect Registration Examination (ARE). These rules implement this change in the law.

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:

This temporary rule is necessary to comply with a deadline to amendments in governing law.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: 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, Idaho Code, negotiated rulemaking was not conducted because the change is due to changes in the Architect law.

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 December 23, 2009.

DATED this 22nd day of October, 2009.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0101-0902

250. QUALIFICATIONS OF APPLICANTS (RULE 250).

01. ARE Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess the minimum qualifications required by the NCARB Handbook for Interns and Architects, where such handbook does not conflict with Idaho law. All applicants for the ARE must have started or completed the Intern Development Program (IDP) requirements.

(4-11-06)()

02. Experience in Lieu of Degree Applicants. The Board may allow an applicant without an architecture degree to sit for the architecture examination upon determining that such applicant has attained the knowledge and skill approximating that attained by graduation from an accredited architecture curriculum including the submission of a record of eight (8) years or more of experience in architecture work of a character deemed satisfactory by the Board. Said experience shall be in addition to that necessary for completion of the Intern Development Program (IDP) requirements. Two (2) years of eight (8) or more years of experience may be accepted if determined that such experience is directly related to architecture under the direct supervision of a registered engineer (practicing as a structural, civil, mechanical or electrical engineer in the field of building construction) or a registered landscape architect. At least six (6) years of such experience must be obtained while working under the direct supervision of a licensed architect. A person is qualified for the examination once they have met the experience requirement and started the Intern Development Program (IDP).

(4-6-05)()

251. – 299. (RESERVED).

300. APPLICATION (RULE 300).

01. Licensure by Examination.

(7-1-93)

a. Application for licensure by examination shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau.

(3-15-02)()

b. Applicants shall furnish all information required by the uniform application form and shall include the following:

(3-15-02)

- i. Certified transcript of all subjects and grades received for all college courses taken. (7-1-93)
- ii. If graduated from a college or university, furnish certification of graduation and a certified transcript of all work completed. (7-1-93)
- iii. Furnish statement or statements, of all actual architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. (7-1-93)
- iv. A recent passport photograph taken within the previous year for identification purposes. (3-30-01)
- v. In addition to the above required information, an applicant having credits or a degree or degrees from any college or university shall furnish the Board a certified statement from each above institution stating by what accrediting group, if any, such credits or degree or degrees are accredited. (7-1-93)
- c. Application shall not be reviewed by the Board until all required information is furnished and the required fee is paid. (3-15-02)
- d. To be considered by the Board, properly completed applications must be received by the Bureau at least thirty (30) days prior to the first day of the month in which the Board will meet. (3-15-02)

02. Licensure by Endorsement -- Blue Cover. (7-1-97)

- a. General requirements. Application shall be accompanied by a current blue cover dossier compiled by the NCARB certifying that the applicant has satisfactorily passed the standard NCARB examinations, or NCARB authorized equivalent and shall include letters, transcripts, and other documents substantiating all statements relative to education and experience made in said application as required by the Board. (7-1-97)
- b. Seismic knowledge requirements for endorsement applicants. Each applicant for license under endorsement to practice architecture in the state of Idaho shall submit evidence of his skill and knowledge in seismic design and such evidence shall be submitted and signed by the applicants acknowledged before a notary public, and shall contain one of the following statements: (7-1-97)
 - i. "I have passed the examinations in Building Construction and Structural Design of the Western Conference of State Architectural Registration Boards in June 1963 or since and/or the NCARB in 1965 or since." (7-1-97)
 - ii. "I am registered in the State of _____ in 20____, where competence in seismic was a requirement for registration since _____, 20____." (7-1-93)
 - iii. Certification of the successful completion of the seismic seminar approved by the

National Conference of Architectural Registration Boards. (7-1-93)

c. All applicants shall attach to their statement a certification from the State architectural registration agency of the cited state attesting the adequacy of the cited seismic examination. (7-1-93)

03. Licensure by Endorsement -- Equivalency. (7-1-97)

a. Application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau. (3-15-02)

b. Applicant shall comply with all requirements set forth in Subsections 300.01, 300.02.b.i., 300.02.b.ii., 300.02.b.iii., and 300.02.c. (7-1-97)

c. Applicant shall provide proof of holding a current and valid license issued by another state, a licensing authority recognized by the Board. (7-1-97)

d. Applicant shall provide proof of satisfactorily passing the NCARB examinations or NCARB authorized equivalent examination, as determined by the Board. (7-1-97)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS

DOCKET NO. 24-0201-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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(s) 54-512, 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 is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 375 and 376.](#)

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 3rd day of November, 2010.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., STE 220
Boise, ID 83702
(208) 334-3233 phone
(208) 334-3945 fax

THIS NOTICE 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 54-512, 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 20, 2010.

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 an effort to more timely process endorsement applications and to ensure knowledge of laws and rules is current, the Board of Barber Examiners is eliminating the jurisprudence examination. Applicants will swear under oath that they have fully reviewed, understand, and will abide by the laws and rules. The barber school in Idaho is currently teaching laws and rules to the students.

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 discussions were held in 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 27,

2010.

DATED this 18th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0201-1001

350. ENDORSEMENT (RULE 350).

01. Requirements for Licensure by Endorsement. (3-13-02)

a. Applicants for license by endorsement under the provisions of Section 54-512, Idaho Code, must make application on the form provided by the Board and furnish proof of current license in another state or country, having requirements substantially equal to the requirements of Idaho, or who has a current license as a barber or barber-stylist in another state or country and has maintained that license for at least three (3) years immediately prior to making application in this state. (3-13-02)

b. Certification of licensure must be completed and signed by the licensing agency of such other state, or country, and received in the office of the Bureau of Occupational Licenses directly from the licensing agency of such other state or country. (3-13-02)

c. Each applicant must provide official documentation of having met the education requirements as set forth in Section 54-506, Idaho Code. Documentation must be received in the office of the Bureau of Occupational Licenses directly from the school registrar or other certifying entity. (3-13-02)

d. Applications for license by endorsement must be accompanied by the endorsement fee and the license fee. If the Idaho Barber Board finds that the applicant is ineligible for license by endorsement, but is eligible for license by examination, a refund may be made of the endorsement fee in excess of the required examination fee, and the applicant permitted to take the examination. (7-1-93)

e. The board shall require all applicants for endorsement to ~~pass the Idaho jurisprudence examination as noted under Section 400 prior to licensure by endorsement~~ sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Idaho Barber Law, Title 54, Chapter 5, Idaho Code, and the Board's Rules, IDAPA 24.02.01, "Rules of the Board of Barber Examiners". (3-13-02)()

02. Requirements for Licensure by Examination. Credit of fifty (50) hours of instruction in an approved school of barbering, will be given for each three (3) months of practical experience as a licensed barber or a barber-stylist in another state, territory, possession or country. (Example: If a barber-stylist, is licensed in a state which does not have requirements equal to the requirements of Idaho, or for any other reason does not have endorsement with Idaho, such

applicant is required to meet the educational requirements of Idaho.) If he has completed a course of one thousand six hundred (1,600) hours of instruction in a licensed school in such other state and has one (1) year of practical experience as a licensed barber-stylist, he is considered to have completed two hundred (200) hours of instruction in school, and is eligible to take the examination for Idaho barber-stylist license. (3-13-02)

351. -- 399. (RESERVED).

400. EXAMINATION (RULE 400).

01. Content and Passing Grade on Exam. The examination will consist of ~~three~~ **two** (32) portions: theory, ~~Idaho Jurisprudence~~ and practical. An applicant must obtain at least a seventy-five percent (75%) grade on each portion to pass the examination. (3-13-02)()

02. Subjects on Exam. The examination for licensure as a barber or barber-stylist shall consist of a: (3-13-02)

a. Practical demonstration of all or any combination of those services outlined in Section 54-502(2), Idaho Code, for barbers or Section 54-502(1), Idaho Code, for barber-stylists; and (3-13-02)

b. Written theory examination covering those topics outlined in Section 54-507(2), Idaho Code, for barbers or Section 54-507(1), Idaho Code, for barber-stylists; ~~and~~ (3-13-02)()

~~**c.** Written jurisprudence examination covering Title 54, Chapter 5, Idaho Code and IDAPA 24.02.01 "Rules of the Board of Barber Examiners."~~ (3-13-02)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS

DOCKET NO. 24-0201-1002

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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(s) 54-512 and 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.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 377 and 378.](#)

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 3rd day of November, 2010.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., STE 220
Boise, ID 83702
(208) 334-3233 phone
(208) 334-3945 fax

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **August 11, 2010**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-512 and 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 20, 2010.

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 2010 Legislature passed House Bill 459 which changed the student/instructor ratio. This rule is being updated to reflect this change.

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 reasons:

The 2010 legislature passed House Bill 459 which amended Section 54-507, Idaho Code, to require that one instructor be present for each twenty students.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: 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 changes are due to amendment in statute and were discussed in an open, noticed meeting.

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 October 27, 2010.

DATED this 18th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0201-1002

501. TEACHING STAFF (RULE 501).

01. Qualifications of Instructor. No person shall teach or be employed to teach in any barber school within the state who at the time of rendering such service is not a holder of an instructor's license. (3-13-02)

02. Scope of Instruction. An instructor shall teach only those areas of practice for which the instructor is licensed. (3-13-02)

03. Number of Instructors Requirement. One (1) instructor must be employed and physically present in the school for each ~~fifteen~~ twenty (~~15~~20) students or fractional part thereof. (3-13-02)()

04. Licensed Instructors. Only those persons holding a valid instructors license shall count toward the instructor/student ratio. Persons holding cosmetology instructor licenses shall count toward the instructor student ratio only when teaching under the direct personal supervision of a licensed barber instructor. (3-13-02)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS

DOCKET NO. 24-0801-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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(s) 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.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 388 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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at 208 334-3233.

DATED this 3rd day of November, 2010.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., STE 220
Boise, ID 83702
(208) 334-3233 phone
(208) 334-3945 fax

THIS NOTICE 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 October 20, 2010.

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 order to protect the public, the Board of Morticians is clarifying the rules that pertain to resident trainees. The rules define resident trainee and clarify the training requirements; outline the sponsoring mortician's responsibility; clarify eligibility to be licensed and clarify the qualifications. Documentation of the completion of a resident trainee program is being clarified in the application section.

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 discussions were held in 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 27,

2010.

DATED this 18th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0801-1001

250. RESIDENT TRAINEE (RULE 250).

~~01. Definition.~~ The term “A Resident Trainee” ~~as herein used~~ is a person who is engaged in learning the practice of embalming and/or the profession of mortuary arts and sciences licensed to train, under the direct and immediate supervision of a sponsoring mortician, to become a licensed mortician or funeral director. ()

01. Training Requirements. ()

a. Training ~~shall be understood to mean~~ requires the Resident Trainee’s diligent attention to the subject matter in the course of regular and full-time paid employment. Full-time employment ~~shall mean a minimum of~~ requires that the Resident Trainee be employed for at least thirty-six (36) hours per week for fifty (50) weeks per year within the mortuary where the Resident Trainee’s sponsoring resident mortician is the practicing, resident mortician. It shall be further required that ()

i. ~~a~~ At least three-fourths (3/4) of the Resident Trainee’s training period must consist of ~~a~~ the sponsoring licensed mortician instructing and demonstrating practices and procedures to increase the Resident Trainee’s knowledge of the service performed by a mortician or a funeral director as defined in Chapter 11, Title 54, Idaho Code. ~~A Resident Trainee shall not sign a death certificate as provided under Idaho law.~~ ()

ii. For the balance of the required hours, ~~it would be the responsibility of~~ the sponsoring mortician, or his licensed appointee, ~~to~~ must be immediately available ~~for to~~ consultation with the Resident Trainee. ()

b. All training must ~~be served in the state of~~ occur within Idaho. ~~(4-11-06)~~()

c. A Resident Trainee shall not sign a death certificate. ()

02. Sponsoring Mortician. A practicing sponsoring mortician must: ()

a. Be an Idaho-licensed mortician within the state of who practices as a full-time resident mortician in Idaho, ~~who is duly registered as such with the Bureau and assumes responsibility for the proper supervision and instruction of a~~ ()

b. Not serve as the sponsoring mortician for more than two (2) “Resident Trainees at

any given time.” (4-11-06)()

c. Supervise and instruct the Resident Trainee, and provide demonstrations for and consultations to the Resident Trainee, as described in Subsection 250.01, of this rule. ()

d. Complete and co-sign, with the Resident Trainee, quarterly and final reports. These reports must be completed on forms approved by the Board and document the information described in Subparagraphs 250.04.c. and 250.04.d., of this rule. The sponsoring mortician must promptly submit a report after the period of time covered by the report ends. For example, the sponsoring mortician must promptly submit the first quarter report after the first quarter ends, the second quarter report after the second quarter ends, etc. ()

e. Promptly notify the Board in writing if a Resident Trainee’s training is terminated, including termination due to interruption as specified in Subsection 250.05, of this rule and submit a final report documenting training up to the termination date. ()

03. Eligibility to Be Licensed. ~~No~~ **A** person ~~shall be eligible to~~ **may not** be licensed as a “Resident Trainee” ~~who~~ **if the person** has practiced as a Resident Trainee or apprentice for a total cumulative period of more than two (2) years in ~~the state of~~ Idaho, ~~unless approved by the Board for good cause.~~ For purposes of accounting for total cumulative training as a Resident Trainee, the sponsoring mortician ~~is required to~~ **must** notify the Bureau at the beginning and termination of the training period. When a Resident Trainee ~~has~~ **completed** training, ~~the Resident Trainee must complete the remaining~~ **qualifications** for licensure as a ~~licensed~~ mortician or funeral director ~~must be completed~~ within the following three (3) years ~~period~~ or ~~said trainee must~~ show good reason for further delay. (4-11-06)()

04. Resident Trainee Applicants to Qualify. (7-1-93)

a. An applicant for a Resident Trainee license must apply on Board-approved forms and pay the appropriate fee. The applicant must: ()

ai. ~~Must b~~ **Be** at least eighteen (18) years of age; (7-1-93)()

bii. ~~Must b~~ **Be** of good moral character; (7-1-93)()

eiii. ~~Must h~~ **Have** graduated from an accredited high school or have received an equivalent education as determined by the standards set and established by the state board of education; (7-1-93)()

div. ~~A~~ **Provide a** photo as specified in Section 200 ~~above.~~ **of this rule; and** (3-13-02)()

v. Identify the sponsoring mortician and the funeral establishment in which the applicant will train. The applicant must promptly notify the Board in writing if this information changes during the training period ()

eb. The effective date of the resident training shall be determined by the board at its next meeting. In no case shall it be prior to the date the application, together with the required

fees, are received in the office of the Bureau. (4-11-06)

~~*f. Resident training must be served under the direction of a qualified full-time resident mortician licensed and practicing in Idaho. (4-11-06)*~~

~~*g. Applicants Resident Trainees pursuing a mortician license must complete resident training affidavits showing time served, the number of bodies embalmed and co-sign, with the sponsoring mortician, quarterly and final reports documenting that the applicant has assisted in embalming at least twenty-five (25) dead human bodies and assisted in making at least twenty-five (25) funeral arrangements and in conducting at least twenty-five (25) funerals under supervision. (4-11-06)()*~~

~~*h. Applicants Resident Trainees pursuing a funeral director license must complete resident training affidavits of conducting and/or providing assistance and co-sign, with the sponsoring mortician, quarterly and final reports documenting that the applicant has assisted in making at least twenty-five (25) funerals arrangements and in conducting at least twenty-five (25) funerals under supervision. (4-11-06)()*~~

05. Interruption in Training. An interruption in training of sixty (60) days or more constitutes termination of training. (7-1-93)

251. -- 299. (RESERVED).

300. APPLICATIONS AND EXAMINATION (RULE 300).

In order to be admitted to the examination, the applicant must submit a completed application on forms provided by the bureau and provide all requested documentation including proof of having completed the training period as prescribed by law and these rules, and meet the specific requirements for license as set forth in Section 54-1109 of the Idaho Code as follows: (4-11-06)

01. Age. Applicant must have attained the age of twenty-one (21) years by the time of examination. (7-1-93)

02. Moral Character. Must be of good moral character. (7-1-93)

03. Mortician Educational Requirements. Applicants for a mortician license must have completed and received credit for at least sixty (60) semester hours or ninety (90) quarter hours instruction in a duly accredited college or university and has obtained at least a C grade average for all courses of instruction; provided, however, at least three-fourths (3/4) of all such credits must be for courses in fields of liberal arts, business or science directly relating to the knowledge required to successfully compete in the field of mortuary science. In questionable cases the decision of the board shall be final. These requirements shall be in addition to and not considered a part of the completion of and graduation from a mortuary college accredited by the American Board of Funeral Service Education that includes an embalming course of study. (4-11-06)

04. Funeral Director Educational Requirements. Applicants for a funeral director license must have completed and received at least sixty (60) semester hours' or ninety (90) quarter-hours' instruction from a duly accredited college or university and has obtained at least a

C grade average for all courses of instruction; provided, however, at least three-fourths (3/4) of all such credits must be for courses in the fields of liberal arts, business or science as defined and specified by the board. These requirements shall be in addition to completion of at least fifteen (15) semester credit hours or the equivalent from a mortuary college accredited by the American board of funeral service education, inc., or such credits as are otherwise approved by the board, with course of study to include business law, psychology, sociology, funeral service counseling, funeral service management and other classes that relate to conducting funeral business.(4-11-06)

05. Photo. A photo as specified in Section 200 of these rules. (4-11-06)

06. Completion of One Year as a Resident Trainee. Must have served one (1) year as required by statute as a Resident Trainee and receive certification from a sponsoring mortician in Idaho. (4-11-06)

a. ~~Trainees~~ An applicant pursuing licensure as a mortician must document having on Board-approved forms that the applicant has assisted in embalming at least twenty-five (25) dead human bodies and assisted in making at least twenty-five (25) funeral arrangements and in conducting at least twenty-five (25) funerals under the supervision of a sponsoring mortician. ~~(5-8-09)~~()

b. ~~An Applicants~~ An Applicant pursuing licensure as a funeral director must document having on Board-approved forms that the applicant has assisted in making at least twenty-five (25) funeral arrangements and in conducting twenty-five (25) funerals under the supervision of a sponsoring mortician. ~~(4-11-06)~~()

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM

59.01.02 - ELIGIBILITY RULES OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

DOCKET NO. 59-0102-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 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. Correction of statutory cross-reference and clarification. Correct statutory cross-reference in Rule 005.08 and clarify wording in Rule 113 regarding definition of “normally works twenty hours...”. Clarify Rule 122 regarding member on leave of absence without pay.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [August 4, 2010, Idaho Administrative Bulletin, Vol. 10-8, pages 221 through 223.](#)

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 25th of October, 2010.

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 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 August 18, 2010.

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:

Correction of statutory cross-reference and clarification. Correct statutory cross-reference in Rule 005.08 and clarify wording in Rule 113 regarding definition of “normally works twenty hours...” Clarify Rule 122 regarding member on leave of absence without pay.

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 it would be inconsistent with the Retirement Board’s exclusive fiduciary responsibility for plan operations.

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 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 August 25, 2010.

DATED this 29th day of June, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0102-1001

005. DEFINITIONS (RULE 5).

The following definitions are supplemental to those provided by Section 59-1302, Idaho Code. (1-1-94)

01. Board. “Board” means the governing authority of the Public Employee Retirement System of Idaho as provided by Section 59-1304, Idaho Code, of the Firefighters’ Retirement Fund created by Chapter 14, Title 72, Idaho Code, and the Policeman’s Retirement Fund created by Chapter 15, Title 50, Idaho Code. (1-1-94)

02. Compensation. “Compensation” as used in Section 59-1342(6), Idaho Code, means “salary” as defined by Section 59-1302(31), Idaho Code. (1-1-94)

03. Date of Retirement. “Date of retirement” means the effective date on which a retirement allowance becomes payable. (1-1-94)

04. Employee. “Employee” means a person as defined in Section 59-1302(14), Idaho Code. (1-1-94)

05. Employment. “Employment” as used in Section 59-1302(14)(B)(b), Idaho Code, shall mean the period of time from a member’s date of hire to the member’s succeeding date of separation from that employer. Placing a member on leave of absence with or without pay shall not be considered as a separation from the employer. (1-1-94)

06. Firefighters' Retirement Fund. “Firefighters’ Retirement Fund” or “FRF” is the retirement fund provided by Chapter 14, Title 72, Idaho Code. (1-1-94)

07. General Member. “General member” is a PERSI member not classified as a police officer, firefighter, or paid firefighter. (1-1-94)

08. Paid Firefighter. “Paid firefighter” includes a former FRF members and paid firefighters as defined by Section 59-13591(f), Idaho Code, hired October 1, 1980, and thereafter. (1-1-94)()

09. Police Officer. “Police officer” means an employee who is serving in a position designated by Section 59-1303(3), Idaho Code, or in a position so designated by the Retirement Board as provided by Section 59-1303(4), Idaho Code. (1-1-94)

10. Primary Employer. The primary employer is the employer from whom the

employee receives the highest aggregate salary per month. (1-1-94)

11. Public Employee Retirement System of Idaho. “Public Employee Retirement System of Idaho” or “PERSI” is the retirement system created by Chapter 13, Title 59, Idaho Code. (1-1-94)

12. Retirement Board. “Retirement Board” means the governing authority of the Public Employee Retirement System of Idaho as provided by Section 59-1304, Idaho Code, and of the Firefighters’ Retirement Fund created by Chapter 14, Title 72, Idaho Code, and the Policeman’s Retirement Fund created by Chapter 15, Title 50, Idaho Code. (1-1-94)

13. Same Position. “Same position” as set forth in Section 59-1303(7), Idaho Code, means the same job classification or position title including continued employment in any revised job classification or new position title evolving from that same position as the result of personnel reclassification procedures provided the continued employment remains within the same state agency or within the same department of a political subdivision. (1-1-94)

14. Surviving Spouse. “Surviving spouse” is a person as defined in Section 15-2-802, Idaho Code. (1-1-94)

15. Teacher. “Teacher” is defined as a school employee who is required to be certified. (1-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

113. DEFINITION OF NORMALLY WORKS TWENTY HOURS (RULE 113).

If a person works twenty (20) hours or more per week ~~over~~ **for more than** one-half (1/2) of the weeks during the period of employment being considered, then the person meets the requirements of Section 59-1302(14)(A)(a), Idaho Code (“normally works twenty (20) hours or more per week”), and shall be considered an employee if the person meets the other requirements of Section 59-1302(14), Idaho Code. Statutory References: Section 59-1302(14)(A)(a).

~~(1-1-94)~~()

(BREAK IN CONTINUITY OF SECTIONS)

122. LEAVE OF ABSENCE (RULE 122).

A member is ~~an inactive member~~ ineligible to contribute and receive membership service credit while on leave of absence without pay or while on leave of absence with less than one-half (1/2) pay, unless the absence is occasioned by a worker’s compensation claim approved by a surety. An active member separated from employment under conditions where both the member and the employer plan a later return to employment should be placed on leave of absence without pay during the planned period of absence.

~~(1-1-94)~~()

01. Employer and Employee Contributions -- Leave of Absence. During the leave of absence without pay, employer and employee contributions cease. If the member is on a leave of absence as a result of an approved worker's compensation claim, employer and employee contributions are due and payable on any salary paid to the member. The member is entitled to a month of membership service credit for each month the member remains on leave of absence as a result of an approved worker's compensation claim and receives salary in addition to income benefits. (1-1-94)

02. Documentation of Leave of Absence. The employer shall provide PERSI with documentation, on a form provided by PERSI, of a leave of absence to clarify the member's status and retirement benefit entitlement. (1-1-94)

03. Status of Employee on Leave of Absence. An employee placed on a leave of absence by an employer remains in an employee status and is ineligible for payment of any separation benefits or for payment of a service, early, disability, or vested retirement allowance. If a member on leave of absence without pay terminates employment without returning to work, the leave without pay status is negated. (5-8-09)

04. Leave of Absence -- Effect on Benefit Enhancement. An employee shall not be placed on a leave of absence without pay prior to the effective date of a benefit enhancement and then return to work after the effective date of the benefit enhancement for the purpose of qualifying for the benefit enhancement. An employee placed on unpaid leave of absence prior to the date of the benefit enhancement who returns to work after the effective date of the benefit enhancement and subsequently applies for retirement shall include with the application for retirement, certification from the employer that the leave of absence was not granted for the purpose of allowing the person to qualify for the benefit enhancement. (1-1-94)

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM

59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

DOCKET NO. 59-0103-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 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.

Idaho Code section 59-1322(1) requires the Retirement Board establish contribution rates to fund benefits, within certain constraints. The Retirement Board has determined based on actuarial values of reserves and liabilities that it is necessary to increase the contributions necessary to fund the level of benefits authorized by the plan. Increase contribution rates by a total of 5.28%. The increase is to be phased in over a 3 year period. These increases will affect employees and employers, since, by law, contributions are allocated 37.5% to employees and 62.5% to employers.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The only amendment is to the effective date of the contribution rate increases, which now begin July 1, 2012. 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 [August 4, 2010, Idaho Administrative Bulletin, Vol. 10-8, pages 224 through 227.](#)

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:

Employer contribution rates will increase by a total of 3.26% (of payroll) over a three-year period, beginning July 1, 2012. This will affect the general fund as the state is a PERSI employer, to the extent that an agency's PERSI employer fund contributions are made from general fund dollars.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, PERSI, 287-9271.

DATED this 7th of December, 2010.

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 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 August 18, 2010.

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:

Section 59-1322(1), Idaho Code, requires the Retirement Board to establish contribution rates to fund benefits, within certain constraints. The Retirement Board has determined, based on actuarial values of reserves and liabilities, that it is necessary to increase the contributions necessary to fund the level of benefits authorized by the plan. The contribution rates will be increased by a total of 5.28%. The increase is to be phased in over a three-year period, beginning July 1, 2011. These increases will affect employees and employers, since, by law, contributions are allocated 37.5% to employees and 62.5% to employers.

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

Increase contribution rates by a total of 5.28%. The increase is to be phased in over a three-year period, beginning July 1, 2011. These increases will affect employees and employers, since, by law, contributions are allocated 37.5% to employees and 62.5% to employers.

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:

Employer contribution rates will increase by a total of 3.26% (of payroll) over a three-year period, beginning July 1, 2011. This will affect the general fund as the state is a PERSI employer, to the extent that an agency's PERSI employer fund contributions are made from general fund dollars.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

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 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 August 25, 2010.

DATED this 29th day of June, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0103-1001

026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (RULE 26).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, shall be nine point seventy-seven percent (9.77%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point thirty-nine percent (10.39%) of payroll through June 30, 2012. Beginning July 1, 2012, the rate shall be eleven point thirty-two percent (11.32%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be twelve point twenty-four percent (12.24%) of payroll through June 30, 2014. Beginning July 1, 2014, the rate shall be thirteen point sixty-five percent (13.65%) of payroll until next determined by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) (5-8-09)(_____)

027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (RULE 27).

The Firefighter Retirement Fund employer rate shall be: (10-1-94)

01. Option I And II Firefighters. For option I and II firefighters hired before October 1, 1980, as follows:

Option I And II Firefighters	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll <u>through June 30, 2012. Beginning July 1, 2012, the rate shall be eleven point sixty-six percent (11.66%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be twelve point fifty-eight percent (12.58%) of payroll through June 30, 2014. Beginning July 1, 2014, the rate shall be thirteen point ninety-nine percent (13.99%) of payroll</u> until next determined by the Board.
Additional Employer Rate:	One percent (1.00%)
Social Security Rate:	Seven point sixty-five percent (7.65%)
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Thirty-six percent (36%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be thirty-six point sixty-two percent (36.62%) of payroll <u>through June 30, 2012. Beginning July 1, 2012, the rate shall be thirty seven point fifty-five percent (37.55%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be thirty eight point forty-seven percent (38.47%) of payroll through June 30, 2014. Beginning July 1, 2014, the rate shall be thirty nine point eighty-eight percent (39.88%) of payroll</u> until next determined by the Board.

~~(5-8-09)~~()

02. Class D Firefighters. For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund), as follows:

Class D Firefighters	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll <u>through June 30, 2012. Beginning July 1, 2012, the rate shall be eleven point sixty-six percent (11.66%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be twelve point fifty-eight percent (12.58%) of payroll through June 30, 2014. Beginning July 1, 2014, the rate shall be thirteen point ninety-nine percent (13.99%) of payroll</u> until next determined by the Board.
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Twenty-seven point thirty-five percent (27.35%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be twenty-seven point ninety-seven percent (27.97%) of payroll <u>through June 30, 2012. Beginning July 1, 2012, the rate shall be twenty eight point nine percent (28.9%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be twenty nine point eighty-two percent (29.82%) of payroll through June 30, 2014. Beginning July 1, 2014, the rate shall be thirty one point twenty-three percent (31.23%) of payroll</u> until next determined by the Board.

028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (RULE 28).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police officer member excluding those listed in Rule 29 of this chapter when applicable, and firefighters excluding those listed in Rule 27 of this chapter, shall be ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2012. Beginning July 1, 2012, the rate shall be eleven point sixty-six percent (11.66%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be twelve point fifty-eight percent (12.58%) of payroll through June 30, 2014. Beginning July 1, 2014, the rate shall be thirteen point ninety-nine percent (13.99%) of payroll until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) ~~(5-8-09)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (RULE 100).

The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, for all members not classified as police members or firefighters, shall be five point eighty-six percent (5.86%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be six point twenty-three percent (6.23%) of salary through June 30, 2012. Beginning July 1, 2012, the rate shall be six point seventy-nine percent (6.79%) of salary through June 30, 2013. Beginning July 1, 2013, the rate shall be seven point thirty-four percent (7.34%) of salary through June 30, 2014. Beginning July 1, 2014, the rate shall be eight point nineteen percent (8.19%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(5-8-09)~~(____)

101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (RULE 101).

The employee contribution rate as provided in Section 59-1334, Idaho Code, for an employee classified as a police officer member is seven point twenty-one percent (7.21%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be seven point sixty-five percent (7.65%) of salary through June 30, 2012. Beginning July 1, 2012, the rate shall be eight point thirty-two percent (8.32%) of salary through June 30, 2013. Beginning July 1, 2013, the rate shall be eight point ninety-nine percent (8.99%) of salary through June 30, 2014. Beginning July 1, 2014, the rate shall be ten percent (10%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(5-8-09)~~(____)

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM

59.01.04 - DISABILITY RULES OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

DOCKET NO. 59-0104-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 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.

Amend rules 06, 201, 205 and 300 to implement HB 458, passed in the 2010 session, which created Section 59-1354A, Idaho Code regarding a disability retiree return to work. Technical correction to rule 100. Delete rule 102 (duplicative of rule 300).

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [August 4, 2010, Idaho Administrative Bulletin, Vol. 10-8, pages 228 and 229.](#)

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 25th day of October, 2010.

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 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 August 18, 2010.

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:

Amend rules 006, 201, 205 and 300 to implement HB 458, passed in the 2010 session, which created Section 59-1354A, Idaho Code regarding a disability retiree return to work. Technical correction to rule 100. Delete rule 102 (duplicative of rule 300).

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 it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

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 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 August 25, 2010.

DATED this 29th day of June, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0104-1001

006. DEFINITIONS (RULE 6).

PERSI adopts through incorporation by reference as if set forth fully herein all of the definitions listed in IDAPA 59.01.02, Section 005, "Eligibility Rules of the Public Employee Retirement System of Idaho". The following definitions are supplemental. (4-5-00)()

01. Applicant. "Applicant" means an applicant for disability retirement under Section 59-1352, Idaho Code, or an individual requesting resumption of a disability retirement allowance under Section 59-1354A, Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

100. GENERAL RULE (RULE 100).

Only *active* members of PERSI with five (5) years of credited service are eligible for disability retirement except as provided in Section 59-1352(2), Idaho Code. (5-8-09)()

(BREAK IN CONTINUITY OF SECTIONS)

~~**102. DISABLED PRIOR TO SEPARATION (RULE 102).**~~

~~The applicant must demonstrate that, before he separated from service, he was disabled under the applicable disability standard. In other words, the applicant must demonstrate that, while an active member, he was disabled under the applicable standard.~~ (4-5-00)

~~**1032. -- 199. (RESERVED).**~~

(BREAK IN CONTINUITY OF SECTIONS)

201. INITIAL APPLICATION REVIEW ~~—SERVICE REQUIREMENTS~~ (RULE 201).

Applications will first be reviewed to determine whether the applicant meets *service* eligibility requirements. If *service all* eligibility requirements are met, the application will proceed to disability assessment review. If *service all eligibility* requirements are not met, the applicant will be notified in writing. ~~Eligibility determinations are subject to subsequent review, audit and adjustment.~~ (4-5-00)()

(BREAK IN CONTINUITY OF SECTIONS)

205. DELEGATION (RULE 205).

PERSI may, by contract or otherwise, delegate all or part of these processes to third parties. Where such delegation has been made, the term “PERSI” includes those third parties. When a member requests the resumption of a disability retirement allowance pursuant to Section 59-1354A, Idaho Code, the board may delegate its authority under Section 59-1354A, Idaho Code, to a third party. Where such delegation has been made, the term “Board” includes those third parties.
(4-5-00)()

(BREAK IN CONTINUITY OF SECTIONS)

300. BURDEN ON APPLICANT (RULE 300).

Disability retirement is only available to active members. Applicant must demonstrate that, on or before applicant’s last day of employment, he was disabled under the disability standard. The last day of employment is the last day applicant earned compensation, including annual leave and sick leave. When a member requests the resumption of a disability retirement allowance pursuant to Section 59-1354A, Idaho Code, the member must demonstrate that he could not successfully return to work because of the same disability on which his disability retirement was based.
(4-5-00)()

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM
59.01.05 - SEPARATION FROM SERVICE RULES FOR THE PUBLIC
EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0105-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 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.

Delete rule 104 allowing for pre-tax payroll deduction to pay for reinstatement of prior service. Reinstatement could be made pre-tax through a rollover from a qualified plan and can be made with after tax dollars.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [August 4, 2010, Idaho Administrative Bulletin, Vol. 10-8, pages 230 and 231.](#)

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 25th day of October, 2010.

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 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 August 18, 2010.

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:

Delete rule 104 allowing for pre-tax payroll deduction to pay for reinstatement of prior service. Reinstatement could be made pre-tax through a rollover from a qualified plan and can be made with after tax dollars.

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 it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

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 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 August 25, 2010.

DATED this 29th day of June, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0105-1001

~~104. EMPLOYER "PICKUP" OF REINSTATEMENT PAYMENTS (RULE 104).~~

~~**01. Periodic Pre-Tax Payments.** Payroll deduction payments may be made pre-tax under the employer pickup provision referenced in Section 59-1332, Idaho Code, only if the member authorizes an irrevocable payroll deduction. Once executed, the deduction cannot be changed or revoked. If the member terminates employment the member may continue making payments directly to PERSI but they will not be considered pre-tax until they are picked up by a subsequent irrevocable payroll deduction, approved by PERSI, and executed with another PERSI employer. (3-30-01)~~

~~**02. Multiple Irrevocable Payroll Deductions.** Members who have previously authorized an irrevocable payroll deduction for purposes of making periodic pre-tax payments to reinstate previous credited service as provided in Section 59-1360, Idaho Code, may increase repayments by executing additional irrevocable payroll deductions to supplement the previously authorized deductions so long as the previous irrevocable deductions are not modified or terminated. (3-30-01)~~

1054. IN-SERVICE TRANSFERS TO REINSTATE SERVICE (RULE 1054).

To the extent permitted by federal law, and in accordance with any regulation or other guidance issued by the Internal Revenue Service, an active member may transfer funds from a 401(k), a 403(b), or an eligible 457(b) plan, in which they are currently eligible to participate, to the Base Plan for purposes of buying back service previously forfeited due to receiving a separation benefit, purchasing service related to eligible waiting periods, or purchasing service for periods of delinquent contributions. (5-3-03)

1065. -- 123. (RESERVED).

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM

59.01.06 - RETIREMENT RULES OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0106-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 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.

Clarification of rule 162 (Table C) to reflect the factors applicable to those persons who retired before July 1, 1995 (the last time the factors were changed). Delete rule 163. Add a new rule 557 to incorporate definitions for purposes of the federal Pension Protection Act which provides that PERSI pays insurance premiums from retirement allowance for retired public safety officers (which is exempt from income tax up to \$3,000).

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [August 4, 2010, Idaho Administrative Bulletin, Vol. 10-8, pages 232 through 240.](#)

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 25th day of October, 2010.

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 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 August 18, 2010.

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:

Clarification of rule 162 (Table C) to reflect the factors applicable to those persons who retired before July 1, 1995, the last time the factors were changed; delete rule 163; and adds a new rule 557 to incorporate definitions for purposes of the federal Pension Protection Act which provides that PERSI pays insurance premiums from retirement allowance for retired public safety officers, which is exempt from income tax up to \$3,000.

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, Idaho Code, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

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 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 August 25,

2010.

DATED this 29th day of June, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0106-1001

162. ACTUARIAL ASSUMPTION TABLES (RULE 162).

The actuarial tables used for determining optional and early retirement benefits are as follows:

TABLE A -- Page 1
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
If the date of last contribution is prior to 10/1/92

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.770	.690	.610	.530	.450
1	.998	.968	.938	.908	.878	.843	.763	.683	.603	.523	
2	.995	.965	.935	.905	.875	.837	.757	.677	.597	.517	
3	.993	.963	.933	.903	.873	.830	.750	.670	.590	.510	
4	.990	.960	.930	.900	.870	.823	.743	.663	.583	.503	
5	.988	.958	.928	.898	.868	.817	.737	.657	.577	.497	
6	.985	.955	.925	.895	.865	.810	.730	.650	.570	.490	
7	.983	.953	.923	.893	.863	.803	.723	.643	.563	.483	
8	.980	.950	.920	.890	.860	.797	.717	.637	.557	.477	
9	.978	.948	.918	.888	.858	.790	.710	.630	.550	.470	
10	.975	.945	.915	.885	.855	.783	.703	.623	.543	.463	
11	.973	.943	.913	.883	.853	.777	.697	.617	.537	.457	

First sixty months reduction: .2500% Next sixty months reduction: 0.6667% (1-1-94)

TABLE A -- Page 2
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
If the date of last contribution is on or after 10/1/92 but prior to 10/1/93

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.777	.705	.632	.560	.487
1	.998	.968	.938	.908	.878	.844	.771	.699	.626	.554	
2	.995	.965	.935	.905	.875	.838	.765	.693	.620	.548	
3	.993	.963	.933	.903	.873	.832	.759	.687	.614	.542	
4	.990	.960	.930	.900	.870	.826	.753	.681	.608	.536	
5	.988	.958	.928	.898	.868	.820	.747	.675	.602	.530	
6	.985	.955	.925	.895	.865	.814	.741	.669	.596	.524	
7	.983	.953	.923	.893	.863	.808	.735	.663	.590	.518	
8	.980	.950	.920	.890	.860	.802	.729	.657	.584	.512	
9	.978	.948	.918	.888	.858	.796	.723	.651	.578	.506	
10	.975	.945	.915	.885	.855	.790	.717	.645	.572	.500	
11	.973	.943	.913	.883	.853	.784	.711	.639	.566	.494	

First sixty months reduction: 0.2500% Next sixty months reduction: 0.6042% (3-20-97)

TABLE A -- Page 3
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
If the date of last contribution is on or after 10/1/93 but prior to 10/1/94

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.785	.720	.655	.590	.525
1	.998	.968	.938	.908	.878	.845	.780	.715	.650	.585	
2	.995	.965	.935	.905	.875	.839	.774	.709	.644	.579	
3	.993	.963	.933	.903	.873	.834	.769	.704	.639	.574	
4	.990	.960	.930	.900	.870	.828	.763	.698	.633	.568	
5	.988	.958	.928	.898	.868	.823	.758	.693	.628	.563	
6	.985	.955	.925	.895	.865	.817	.752	.687	.622	.557	
7	.983	.953	.923	.893	.863	.812	.747	.682	.617	.552	
8	.980	.950	.920	.890	.860	.807	.742	.677	.612	.547	
9	.978	.948	.918	.888	.858	.801	.736	.671	.606	.541	
10	.975	.945	.915	.885	.855	.796	.731	.666	.601	.536	
11	.973	.943	.913	.883	.853	.790	.725	.660	.595	.530	

First sixty months reduction: 0.2500% Next sixty months reduction: 0.5417% (3-20-97)

TABLE A -- Page 4
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
Date of last contribution is on or after 10/1/94 or later

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.0	.970	.940	.910	.880	.850	.792	.735	.677	.620	.562
1	.998	.968	.938	.908	.878	.845	.788	.730	.673	.615	
2	.995	.965	.935	.905	.875	.840	.783	.725	.668	.610	
3	.993	.963	.933	.903	.873	.836	.778	.721	.663	.606	
4	.990	.960	.930	.900	.870	.831	.773	.716	.658	.601	
5	.988	.958	.928	.898	.868	.826	.769	.711	.654	.596	
6	.985	.955	.925	.895	.865	.821	.764	.706	.649	.591	
7	.983	.953	.923	.893	.863	.816	.759	.701	.644	.586	
8	.980	.950	.920	.890	.860	.812	.754	.697	.639	.582	
9	.978	.948	.918	.888	.858	.807	.749	.692	.634	.577	
10	.975	.945	.915	.885	.855	.802	.745	.687	.630	.572	
11	.973	.943	.913	.883	.853	.797	.740	.682	.625	.567	

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TABLE B -- Page 1
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH
BENEFITS
Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age
Death Benefits: Additional Years and Months Until Member Would Qualify
for an Unreduced Service Retirement Allowance
AFTER Applying Table A factors

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.923	.853	.787	.727	.671	.620	.572	.528	.488	.451
1	.993	.917	.847	.782	.722	.667	.616	.568	.525	.485	
2	.987	.911	.841	.777	.717	.662	.612	.565	.521	.481	
3	.980	.905	.836	.772	.713	.658	.608	.561	.518	.478	
4	.974	.899	.830	.767	.708	.654	.604	.557	.515	.475	
5	.967	.893	.825	.762	.703	.649	.600	.554	.511	.472	

Months	Years									
6	.961	.887	.819	.756	.699	.645	.596	.550	.508	.469
7	.955	.881	.814	.751	.694	.641	.592	.546	.504	.466
8	.948	.876	.808	.746	.689	.636	.588	.543	.501	.463
9	.942	.870	.803	.742	.685	.632	.584	.539	.498	.460
10	.936	.864	.798	.737	.680	.628	.580	.535	.494	.457
11	.930	.858	.793	.732	.676	.624	.576	.532	.491	.454

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TABLE B -- Page 2
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH
BENEFITS

Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age
Death Benefits: Additional Years and Months Until Member Would Qualify
for an Unreduced Service Retirement Allowance
AFTER Applying Table A factors

Months	Years										
	10	11	12	13	14	15	16	17	18	19	20
0	.451	.416	.384	.355	.327	.302	.279	.258	.238	.220	.203
1	.448	.413	.382	.352	.325	.300	.277	.256	.236	.218	
2	.445	.411	.379	.350	.323	.298	.276	.254	.235	.217	
3	.442	.408	.377	.348	.321	.296	.274	.253	.233	.215	
4	.439	.405	.374	.345	.319	.294	.272	.251	.232	.214	
5	.436	.402	.372	.343	.317	.293	.270	.249	.230	.213	
6	.433	.400	.369	.341	.315	.291	.268	.248	.229	.211	
7	.430	.397	.367	.339	.313	.289	.267	.246	.227	.210	
8	.427	.394	.364	.336	.311	.287	.265	.244	.226	.208	
9	.424	.392	.362	.334	.308	.285	.263	.243	.224	.207	
10	.422	.389	.359	.332	.306	.283	.261	.241	.223	.206	
11	.419	.387	.357	.330	.304	.281	.260	.240	.221	.204	

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TABLE B -- Page 3
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH
BENEFITS

Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age

*Death Benefits: Additional Years and Months Until Member Would Qualify
for an Unreduced Service Retirement Allowance
AFTER Applying Table A Factors*

	Months		Years			
	20	21	22	23	24	25
0	.203	.187	.173	.160	.148	.136
1	.202	.186	.172	.159	.147	.135
2	.200	.185	.171	.158	.146	.134
3	.199	.184	.170	.157	.145	.134
4	.198	.183	.169	.156	.144	.133
5	.196	.181	.167	.155	.143	.132
6	.195	.180	.166	.154	.142	.131
7	.194	.179	.165	.153	.141	.130
8	.192	.178	.164	.152	.140	.129
9	.191	.177	.163	.151	.139	.128
10	.190	.175	.162	.150	.138	.127
11	.189	.174	.161	.149	.137	.127

(1-1-94)

TABLE C -- Page 1
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
CONTINGENT ANNUITANT FACTORS
For persons retiring before July 1, 1995

	<u>Age Difference in Years</u>	<u>Factors</u>	
		<u>Option 1</u>	<u>Option 2</u>
	<u>15 *</u>	<u>0.600</u>	<u>0.750</u>
	<u>14</u>	<u>0.610</u>	<u>0.758</u>
	<u>13</u>	<u>0.621</u>	<u>0.766</u>
	<u>12</u>	<u>0.631</u>	<u>0.775</u>
	<u>11</u>	<u>0.642</u>	<u>0.782</u>
<u>Member</u>	<u>10</u>	<u>0.652</u>	<u>0.789</u>
<u>Older</u>	<u>9</u>	<u>0.663</u>	<u>0.797</u>
<u>Than</u>	<u>8</u>	<u>0.674</u>	<u>0.804</u>
<u>Contingent Annuitant</u>	<u>7</u>	<u>0.685</u>	<u>0.812</u>
	<u>6</u>	<u>0.697</u>	<u>0.821</u>
	<u>5</u>	<u>0.708</u>	<u>0.830</u>

	<u>Age Difference in Years</u>	<u>Factors</u>	
	<u>4</u>	<u>0.720</u>	<u>0.838</u>
	<u>3</u>	<u>0.732</u>	<u>0.846</u>
	<u>2</u>	<u>0.746</u>	<u>0.855</u>
	<u>1</u>	<u>0.762</u>	<u>0.865</u>
	<u>0</u>	<u>0.780</u>	<u>0.876</u>
	<u>1</u>	<u>0.799</u>	<u>0.887</u>
	<u>2</u>	<u>0.823</u>	<u>0.902</u>
	<u>3</u>	<u>0.836</u>	<u>0.910</u>
	<u>4</u>	<u>0.847</u>	<u>0.918</u>
	<u>5</u>	<u>0.856</u>	<u>0.924</u>
<u>Member</u>	<u>6</u>	<u>0.865</u>	<u>0.930</u>
<u>Younger</u>	<u>7</u>	<u>0.873</u>	<u>0.935</u>
<u>Than</u>	<u>8</u>	<u>0.881</u>	<u>0.940</u>
<u>Contingent Annuitant</u>	<u>9</u>	<u>0.888</u>	<u>0.944</u>
	<u>10</u>	<u>0.897</u>	<u>0.949</u>
	<u>11</u>	<u>0.906</u>	<u>0.955</u>
	<u>12</u>	<u>0.916</u>	<u>0.961</u>
	<u>13</u>	<u>0.926</u>	<u>0.967</u>
	<u>14</u>	<u>0.934</u>	<u>0.969</u>
	<u>15 or more</u>	<u>0.940</u>	<u>0.970</u>

*For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the factor for Option 1 and subtract .006 from the factor for Option 2. ()

TABLE C -- Page 2
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
CONTINGENT ANNUITANT FACTORS
For persons retiring on or after July 1, 1995

	Age Difference in Years	Factors	
		Option 1	Option 2
	15 *	0.690	0.810
	14	0.700	0.816
	13	0.710	0.822
	12	0.720	0.828

	Age Difference in Years	Factors	
	11	0.730	0.834
Member	10	0.735	0.840
Older	9	0.740	0.846
Than	8	0.745	0.852
Contingent Annuitant	7	0.750	0.858
	6	0.755	0.864
	5	0.760	0.870
	4	0.765	0.876
	3	0.770	0.882
	2	0.785	0.888
	1	0.800	0.894
	0	0.815	0.900
	1	0.835	0.915
	2	0.855	0.925
	3	0.875	0.935
	4	0.890	0.945
	5	0.900	0.950
Member	6	0.910	0.955
Younger	7	0.920	0.960
Than	8	0.930	0.965
Contingent Annuitant	9	0.940	0.967
	10	0.944	0.969
	11	0.946	0.971
	12	0.948	0.973
	13	0.950	0.975
	14	0.952	0.977
	15 or more	0.954	0.979

*For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the factor for Option 1 and subtract .006 from the factor for Option 2. (Amended 96) ~~(3-20-97)~~()

~~163. POST RETIREMENT COST OF LIVING ADJUSTMENTS -- FIREFIGHTERS' RETIREMENT FUND (RULE 163).~~

The Board shall annually determine the post-retirement cost of living adjustment (COLA) for the

~~firefighters' retirement fund pursuant to Section 72-1471, Idaho Code. The Board shall annually adopt the COLA at the November Board meeting with an effective date of January 1 of the next year.~~

~~Statutory References: Section 72-1471, Idaho Code.~~

~~(3-20-97)~~

~~1643.~~ -- 174. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

557. PENSION PROTECTION ACT DEFINITIONS (RULE 557).

Solely for purposes of the implementation by PERSI of section 402(l) of the Internal Revenue Code, the following definitions shall apply: ()

01. Chaplain. "Chaplain" means any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency. ()

02. Eligible Retired Public Safety Officer. "Eligible retired public safety officer" means an individual who, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer with the employer who maintains the eligible retirement plan from which distributions are made. ()

03. Normal Retirement Age. "Normal Retirement Age" means the member's age at the time that the member is eligible to retire with an unreduced benefit. ()

04. Public Safety Officer. "Public Safety Officer" means an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, as a chaplain, or as a member of a rescue squad or ambulance crew. ()

~~5578.~~ -- 575. (RESERVED).