

PENDING FEE RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
Senate Commerce & Human
Resources Committee
65th Idaho Legislature
Second Regular Session – 2020



Prepared by:

*Office of the Administrative Rules Coordinator
Division of Financial Management*

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SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 01 – BOARD OF ACCOUNTANCY

DOCKET NO. 01-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-204(1), Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter promulgated as a proposed rule under this docket number under IDAPA 01, rules of the Idaho State Board of Accountancy:

IDAPA 01

- 01.01.01, *Idaho Accountancy Rules* (Chapter 2, Title 54, Idaho Code).

These pending fee rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those rules. Third parties rely on the accuracy of the financial information issued by a certified public or licensed public accountant. Not having these rules would endanger third parties who need reliable information on transactions such as a buy-sell agreement, business valuations which can include stock prices for publicly traded companies and loan from financial institutions.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 33 – 55](#).

Amendments to these rules since the June 19, 2019 Idaho Administrative Bulletin include the renumbering of rules, the elimination or reduction of, and/or clarification to the following rules: 010 Definitions, reduced, and 011, Filing of Documents, was removed as it is in Idaho Code. Rules 100 – 107 which cover the CPA Exam were made more streamlined as duplicate information found in the Accountancy Act was removed as were duties of the testing center. Rules 200 – 203 will now cover licensure with reductions to eliminate duplicate information. Rules 300 – 305 relate to a licensee's Professional Conduct with simplification to the sections covering Contingent Fees and Commissions, Records, and Firm Names. Repetitive information that is found in other parts of the Accountancy Rules, Discreditable Acts and Acting Through Others were moved. Rules 400 – 408 now pertain to Continuous Professional Education, CPE. These rules were simplified by removing repetitive language found in statute, combining information on reinstatement and/or reentry applications and general housekeeping to make the section flow more efficiently. Rules 500 – 511 cover Firm Registration and Peer Review. Simplification was made to remove duplicate language and rules on accepting applications for an organization to be administering organizations were eliminated due to obsolescence. The rules concerning the Peer Review Oversight Committee were also consolidated. Minor changes were made to Rule 600, Fees, to clarify the information and make it easier for stakeholders to identify.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. These fees cover Exam, Licensure and Firm Registration; Administrative Services such as the Interstate Exchange of Information to other jurisdictions and wall certificates for licensees; and Late Fees regarding licensing, CPE filing and firm registration. These fees or charges are being imposed pursuant to Section 54-212, Idaho Code.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Kent A. Absec, Executive Director at (208) 334-2490.

Dated this 14th day of October, 2019.

Kent A. Absec
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**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-204(1) Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 01, rules of the Idaho State Board of Accountancy:

IDAPA 01

- 01.01.01, *Idaho Accountancy Rules* (Chapter 2, Title 54, Idaho Code) – all rules *except* Sections/Subsections 004.04, 010.08, 012, 013, 014, 015, 016, 017, and 608. In addition, minor housekeeping edits were made.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. To further illustrate, third parties rely on the accuracy of the financial information issued by a certified public or licensed public accountant. To not have these rules in place would endanger third parties that rely on financial information from licensees for transactions such as a buy-sell, business valuations which can include stock prices for publicly traded companies and loans from banks. Furthermore, without the rules, there

would not be a way for an individual to be licensed as a certified public accountant in the state which would cause individuals and the economy in general as those seeking licensing would be denied the opportunity to leverage their education and talents.

Any fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. The agency is a dedicated fund agency that receives no monies from the general fund. The agency relies primarily on the income from examination applications and licensing to fund operations. Without these fee rules, not only would the budget be set up for failure, it would also put the agency in peril which would create chaos in the financial markets in Idaho and abroad.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The fees included in this rulemaking involve examination and licensing, administrative and late fees for occurrences of late renewal, non-compliance with timely filing of Continuous Professional Education and non-compliance with firm registration and peer review.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kent A. Absec, Executive Director at (208) 334-2490.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 6th day of May, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 01-0101-1900F

01.01.01 – IDAHO ACCOUNTANCY RULES

000. LEGAL AUTHORITY (RULE 000).

This chapter is adopted under the legal authority of Title 54, Chapter 2, Idaho Code. (4-2-03)

001. TITLE AND SCOPE (RULE 001).

01. **Title.** These rules are titled IDAPA 01.01.01, “Idaho Accountancy Rules.” (4-2-03)

02. **Scope.** These rules govern the administration of the certified public accountant examination, the issuance and renewal of licenses to practice as certified or licensed public accountants, the registration of firms, the regulation of individuals granted practice privileges, and the limitation of non-licensees. (4-2-03)

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE (RULE 004).

The following documents are hereby incorporated by reference into IDAPA 01.01.01 and can be obtained at the Board office. Licensees are required to comply with the following standards when applicable. (3-1-05)

01. **AICPA Standards.** The AICPA Professional Standards as applicable under the circumstances and at the time of the services, except as superseded by Section 54-206(8), Idaho Code. (3-29-10)

02. **CPE Standards.** 2016 Statements on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA. (3-28-18)

03. **PCAOB Standards.** The Standards issued by the Public Company Accountability Oversight Board, as applicable under the circumstances and at the time of the services. (3-29-10)

005. -- 009. (RESERVED)

010. DEFINITIONS (RULE 010).

The Idaho State Board of Accountancy adopts the definitions set forth in Section 54-206, Idaho Code. In addition, as used in this chapter: (4-2-03)

01. **Administering Organization.** An entity that has met, and at all relevant times continues to meet, the standards specified by the Board for administering peer reviews. (4-2-03)

02. **Board.** The Board or its designated representative. (4-2-03)

03. **Candidate.** Applicants approved to sit for the CPA Examination. (4-2-03)

04. **CPA Examination.** Uniform Certified Public Accountant Examination. (4-2-03)

05. **CPE.** Continuing Professional Education. (4-2-03)

06. **Ethics CPE.** Programs in ethics include topics such as ethical reasoning, state-specific statutes and rules, and standards of professional conduct, including those of other applicable regulatory bodies. (5-8-09)

07. **NASBA.** The National Association of State Boards of Accountancy. (3-16-04)

08. **National Candidate Database.** The National Association of State Boards of Accountancy database of all CPA Examination candidates. ()

09. **State-Specific Ethics for Idaho.** A minimum two-hour (2) CPE course on Idaho Accountancy Act and Rules, which is exempt from the Statements on Standards for CPE. ()

10. **Year of Review.** The calendar year during which a peer review is conducted. (4-2-03)

11. **Year Under Review.** The twelve-month (12) period that is reviewed. ()

011. -- 017. (RESERVED)

018. COMPLIANCE WITH THESE RULES (RULE 018).

A licensee of the Board or an individual granted practice privileges is subject to the rules of the Board when rendering professional services. (4-2-03)

019. COMPUTATION OF TIME (RULE 019).

The time in which any act provided by law, rule, order, or notice is to be done is computed by excluding the first day; and including the last day unless the last day is a Saturday, Sunday, or legal holiday and then it is also excluded. (4-2-03)

020. GOOD MORAL CHARACTER (RULE 020).

01. Demonstrating Good Moral Character. Applicants have the burden of demonstrating good moral character as defined by Section 54-206(11), Idaho Code, in the manner specified by the Board in its application forms. (5-8-09)

02. Evidence. Prima facie evidence of a lack of good moral character includes, but is not limited to: (5-8-09)

a. Any deferred prosecution agreement involving an admission of wrongdoing, or any criminal conviction, including conviction following a guilty plea or plea of nolo contendere, for any felony or any crime, an essential element of which is fraud, dishonesty, or deceit, or any other crime that evidences an unfitness of the applicant to provide professional services in a competent manner and consistent with the public safety; (5-8-09)

b. Revocation, suspension or the lapsing in lieu of discipline of any license or other authority to practice by or before any state, federal, foreign or other licensing or regulatory authority; or (3-28-18)

c. Any act that would be grounds for revocation or suspension of a license if committed by a licensee of the Board. (5-8-09)

03. Rehabilitation. The applicant may offer, and the Board may consider the following factors in determining whether the applicant's moral character has been rehabilitated as of the date the applicant is seeking licensure. These factors include, but are not limited to: (3-28-18)

a. The applicant's completion of criminal probation, restitution, community service, military or other public service; (3-28-18)

b. The passage of time without the applicant's commission of further crime or act demonstrating a lack of good moral character; and (3-28-18)

c. The entry of an order by any state or federal court expunging any conviction, reducing a conviction from a felony to misdemeanor, or commuting, suspending, or withholding any judgment as provided by law. ()

021. NOTIFICATION OF CHANGE OF ADDRESS, FELONY CHARGES, OR ACTIONS TAKEN (RULE 021).

Per Section 54-211(3), Idaho Code, within thirty (30) days after its occurrence, a licensee or candidate will notify the Board, in writing, of: ()

01. Address Change. A change in the business address, residence address, or business connection, employer, or principal place of business; ()

02. Felony Charge. Any felony charges, or; ()

03. Actions Taken. The issuance, denial, disciplinary action, restriction, revocation, or suspension of a certificate, license, or permit by another state or by any federal agency. ()

022. -- 099. (RESERVED)

100. CPA EXAMINATION (RULE 100).

An applicant must pass the CPA Examination before applying for a CPA license. The CPA Examination is graded by the American Institute of Certified Public Accountants and subject to review and acceptance by the Board. ()

101. EXAM APPLICATIONS (RULE 101).

Applications to take the CPA Examination are to be made as prescribed in accordance with Section 54-208, Idaho Code. ()

102. AUTHORIZATION TO TEST AND NOTIFICATION TO SCHEDULE (RULE 102).

The Board will forward notification of eligibility in the form of an Authorization to Test (ATT) to NASBA. The ATT is issued for the test section(s) for which the candidate applied. Candidates must pay the fees charged by the AICPA, NASBA, and the test delivery service provider directly to NASBA. The ATT will expire ninety (90) days after it is issued if the candidate has not paid the appropriate fees. Eligible candidates will receive a Notice to Schedule (NTS) for the CPA Examination. The NTS is valid for six (6) months from the date issued. A candidate's ATT lasts as long as the NTS is valid, or until the candidate tests, whichever occurs first. ()

103. FAILURE TO APPEAR (RULE 103).

A candidate who fails to appear for the CPA Examination forfeits all fees paid. (3-16-04)

104. CPA EXAM EDUCATIONAL QUALIFICATIONS (RULE 104).

A candidate for the CPA examination provides evidence of successful completion of a baccalaureate degree or its equivalent to include thirty (30) or more semester hours (or forty-five (45) or more quarter hours) in business administration subjects of which at least twenty (20) semester hours (or at least thirty (30) quarter hours) are in accounting subjects. ()

105. TESTING PERIOD AND CREDIT (RULE 105).

01. CPA Examination Credit. Candidates are to pass all four (4) test sections of the CPA Examination with a grade of seventy-five (75) or higher within an eighteen-month period which begins on the date that the first test section is passed. Candidates who do not pass all four (4) sections of the CPA Examination within the eighteen-month period lose credit for any test section(s) passed outside the eighteen-month period and that test section(s) is to be retaken. ()

02. Extending the Term of Credit. The Board may extend the term of credit validity upon demonstration by the candidate that the credit was lost by reason of circumstances beyond the candidate's control. ()

03. Transfer of Credit. An applicant may submit the results of any test section of the CPA Examination taken by the applicant in any other state having standards at least equivalent to those of this state, and these results may be adopted by the Board in lieu of examination in this state on the same test section and in accordance with the provisions of Section 54-210, Idaho Code, and these rules. ()

106. CHEATING (RULE 106).

01. Actions. Cheating by an applicant in applying for the CPA Examination or by a candidate in taking the CPA Examination will cause any grade otherwise earned on any part of the CPA Examination to be invalidated. Cheating may warrant summary expulsion from the examination room and disqualification from taking the CPA Examination for a specified period of time. (3-16-04)

02. Hearings. If the Board believes that it has evidence that a candidate has cheated on the examination or a candidate has been expelled from the examination, the candidate will be provided notice and opportunity for hearing. In such hearings, the Board decides: ()

a. Whether or not there was cheating, and if so what remedy should be applied; (4-2-03)

b. Whether the candidate will be given credit for any portion of the examination completed in that session; and (4-2-03)

c. Whether the candidate will be barred from taking the examination in future sittings, and if so, for how many sittings. (4-2-03)

03. Notice. If a candidate is refused credit for any test section of an examination taken, disqualified from taking any test section, or barred from taking the examination in the future, the Board will provide information about findings and actions taken to the national candidate database and the board of any other state to which the candidate may apply for the examination. (3-16-04)

107. SECURITY AND IRREGULARITIES (RULE 107).

Notwithstanding any other provisions under these rules, the Board may postpone scheduled examinations, the release of grades, or the issuance of certificates due to a breach of security, unauthorized acquisition or disclosure of the contents of an examination, suspected or actual negligence, errors, omissions, or irregularities in conducting an examination, or for any other reasonable cause or unforeseen circumstance. ()

108. -- 199. (RESERVED)

200. INITIAL CERTIFIED PUBLIC ACCOUNTANT LICENSURE (RULE 200).

Applications for initial licensure are to be made as prescribed in Section 54-207, Idaho Code, and are to comply with the following: ()

01. Education. (4-2-03)

a. Applicants for licensure are to meet the provisions of Section 54-207(2), Idaho Code. An applicant for licensure who was accepted for the May 2000 CPA Examination or prior examination is exempt from additional educational requirements. ()

b. The Board will recognize: ()

i. Any college or university accredited by the Northwest Commission on Colleges or Universities or any other regional accrediting association having the equivalent standards; (3-30-07)

ii. Any independent senior college in Idaho certified by the State Department of Education for teacher training; and (4-2-03)

iii. Accounting and business programs accredited by the Association to Advance Collegiate Schools of Business (AACSB) or any other accrediting agency having equivalent standards. (4-2-03)

c. An applicant is deemed to have met the education requirement if, as part of the one hundred fifty (150) semester hours of education, the applicant has met any one (1) of the following conditions: ()

i. Earned a graduate degree with a concentration in accounting from a program that is accredited in accounting by an accrediting agency approved by the Board; (4-2-03)

ii. Earned a graduate degree from a program that is accredited in business by an accrediting agency approved by the Board. Completion of at least twenty-four (24) semester hours in accounting at the undergraduate or fifteen (15) semester hours at the graduate level, or an equivalent combination thereof, including coverage of, but not necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting; ()

iii. Earned a baccalaureate degree at an institution approved by the Board or from a program that is accredited in business by an accrediting agency approved by the Board. Completion of at least twenty-four (24) semester hours in business (other than accounting courses) and twenty-four (24) semester hours in accounting at the undergraduate or graduate level including coverage of, but not necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting. ()

02. Experience. ()

a. An applicant is to provide evidence of one (1) year of experience as prescribed in Section 54-209, Idaho Code, and these rules. Experience consists of full or part time employment that extends over a period of no less than twelve (12) months and no more than thirty-six (36) months with no fewer than two thousand (2,000) hours earned within the ten (10) year period immediately preceding the latest application for licensure. ()

b. An applicant completes and submits the Verification of Employment and Experience Evaluation form(s). An applicant may be called to appear before the Board to supplement or verify evidence of experience. ()

c. A licensee verifying experience will maintain supporting documentation of the applicant's experience until thirty (30) days after the applicant is granted a license. The licensee will permit the Board to inspect the supporting documentation prior to issuing a license to the applicant. Any licensee who has been requested by an applicant to submit to the Board evidence of the applicant's experience and has refused to do so will, upon request by the Board, explain in writing or in person the basis for such refusal. ()

d. A licensee who is responsible for supervising attest services, and signs or authorizes someone to sign the accountant's report on the financial statement on behalf of the firm, is to meet the experience requirement set out in the AICPA statements on quality control standards. ()

03. Examination on Code of Professional Conduct. Prior to licensure, applicants successfully complete a course in professional ethics that is acceptable to the Board. ()

04. Initial License Application Fee. As prescribed in Rule 600. ()

201. ANNUAL LICENSE RENEWAL AND LATE FEE (RULE 201).

01. Renewal. Licenses expire on June 30 of each year. ()

02. Non-Renewal. Individuals choosing not to renew their license are to notify the Board, on the renewal form by the expiration date. Individuals with lapsed licenses may not publicly display their wall certificates, use the title CPA or LPA, or provide services that are reserved to licensees. ()

03. Late Fee. Licenses renewed after July 1, but before August 1, are subject to the late renewal fee as prescribed in Rule 600. After August 1, any license not renewed is deemed lapsed and is subject to reinstatement pursuant to Section 54-211, Idaho Code. ()

202. PRACTICE PRIVILEGES (RULE 202).

01. Substantially Equivalent. As prescribed in Section 54-227, Idaho Code, and these rules. ()

02. Internet Disclosures. An individual entering into an engagement to provide professional services via a web site, pursuant to Idaho practice privileges, is to disclose on their web site: ()

a. Their principal state of licensure, license number, and address. ()

b. A means for regulators and the public to contact a responsible licensee in charge at the firm regarding complaints, questions, or regulatory compliance. ()

203. RECIPROCAL LICENSURE (RULE 203).

If the practice privilege standard set out in Section 54-227, Idaho Code, is not applicable, the Board will issue a license to an applicant provided that the applicant pays the application and licensure fees prescribed in Rule 600 and meets one of the following: ()

01. Interstate Reciprocity. The requirements for a reciprocal license under Section 54-210(2), Idaho Code. Notwithstanding anything to the contrary, an individual whose principal place of business is not in this state and who holds a valid license or permit with unrestricted practice privileges as a Certified Public Accountant from any state that the NASBA National Qualification Appraisal Service has verified to be in substantial equivalence with

the CPA licensure requirements of the AICPA/NASBA Uniform Accountancy Act is presumed to have the qualifications substantially equivalent to this state's requirements. (4-11-19)

02. International Reciprocity. The requirements for foreign reciprocal licensure under Section 54-210(5), Idaho Code, provided that the Board relies on the International Qualifications Appraisal Board for evaluation of foreign credential equivalency. Such licensees are to report any investigations undertaken, or sanctions imposed, by a foreign credentialing body against the licensee's foreign credential. The Board will participate in joint investigations with foreign credentialing bodies and rely on evidence supplied by such bodies in disciplinary hearings. ()

204. -- 299. (RESERVED)

300. APPLICABILITY OF RULES (RULE 300).

01. Reliance. A certified public accountant or licensed public accountant is to hold the affairs of his clients in strict confidence, observe the standards incorporated by reference, promote sound and informative financial reporting, and maintain high standards of personal conduct. ()

02. Acceptance of Licensure. Acceptance of practice privileges or licensure as a certified public accountant or licensed public accountant establishes an affirmative obligation by said individual to be diligent in the performance of professional services, and to be fair and honest in relations with clients, fellow practitioners and the public. (4-2-03)

03. Rules. These rules do not comprise all acts that may be considered incompatible with the obligations and responsibilities imposed by professional status or discreditable or harmful even though not specifically mentioned or described in the rules. The Board may revoke, suspend, refuse to renew, administratively penalize, reprimand, restrict, or place on probation a licensee, individual granted practice privileges or other individual. The action will not be taken until the individual has been given notice and opportunity for hearing. (4-2-03)

04. Applicability. These rules apply to all professional services offered or performed by licensees or individuals granted practice privileges, including tax and management advisory services. ()

05. Responsibility. A licensee is responsible for ensuring all persons associated with the licensee in the rendering of professional services, who are either under the licensee's supervision or who are the licensee's partners or shareholders in the practice comply with these rules. A licensee may not permit others to carry out, on his behalf, either with or without compensation, acts that, if carried out by the licensee, would place the licensee in violation of any laws. ()

06. Interpretation of Rules. In the interpretation and enforcement of these rules, the Board gives consideration, but not necessarily dispositive weight, to relevant interpretations, rulings and opinions issued by other states, and by appropriately authorized standard setting bodies. ()

07. Investigative Committee. The Board may appoint an investigative committee of not less than three (3) members consisting of active licensees in good standing. The committee duties are to direct the review and investigation of complaints of violations of the Idaho Accountancy Act and Rules, and to provide reports to the Board. (4-2-03)

301. COMMISSIONS AND CONTINGENT FEES (RULE 301).

01. Acceptance. Licensees may accept commissions or contingent fees subject to Section 54-218, Idaho Code, the AICPA Code of Professional Conduct, and these rules. ()

02. Disclosures. Any licensee who directly or indirectly accepts or agrees to accept such form of compensation is to disclose the terms of such compensation to the client. The disclosure is to be: (4-2-03)

a. In writing, clear, and conspicuous; and state the amount of the compensation or basis on which it

will be computed; ()

b. Made at or prior to the time of the recommendation or referral of the product or service for which the commission is paid, prior to the client retaining the licensee to whom the client has been referred for which a referral fee is paid, and prior to the time the licensee undertakes representation of or performance of the service upon which a contingent fee will be charged. (4-2-03)

302. CONFIDENTIAL CLIENT INFORMATION (RULE 302).

01. Confidentiality. A licensee is to protect and not disclose confidential client information obtained in the course of performing professional services, unless the licensee has obtained the specific consent of the client, or of such client's heirs, successors or personal representatives, or others legally authorized to give such consent on behalf of the client. (4-2-03)

02. Exemptions. Nothing in these rules is construed as prohibiting the disclosure of information that is required to be disclosed: (5-8-09)

- a.** In reporting on the examination of financial statements; (4-2-03)
- b.** In investigations by the Board or other accounting regulatory agency; (5-8-09)
- c.** In ethical investigations conducted in private professional organizations; (4-2-03)
- d.** In the course of peer reviews; (4-2-03)
- e.** To other persons active in the organization performing services for that client on a need to know basis; (4-2-03)
- f.** To persons in the entity who need this information for the sole purpose of assuring quality control; or (4-2-03)
- g.** By any act of law. (4-2-03)

03. Disciplinary Proceedings. Members of the Board and investigative officers may not disclose any confidential client information that comes to their attention from licensees in disciplinary proceedings or otherwise, except that they may furnish such information to an investigative or disciplinary body. (4-2-03)

303. RECORDS (RULE 303).

A licensee is to furnish to his client or former client, upon request made within a reasonable time after original issuance of the document in question all client records, as that term is defined in the AICPA Code of Professional Conduct belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account. The licensee may make and retain copies of such documents when they form the basis for work performed by him. Client records are to be returned upon request by the client, whether the engagement has been terminated or the licensee has been paid for services rendered. ()

01. Tax Return, Other Reports, Working Papers Including Audit Documentation Made Part of Client's Records. A licensee who has been paid for the services rendered is to furnish to his client or former client, upon request, within a reasonable time after original issuance of the document in question the following records: ()

- a.** A copy of a tax return of a client. ()
- b.** A copy of any report, or other document, issued by the licensee to or for the client; and (4-2-03)
- c.** A copy of the licensee's working papers, to the extent that such working papers include records that would ordinarily constitute part of the client's books and records and are not otherwise available to the client. This would include adjusting, closing, combining, or consolidating journal entries; information normally contained in books of original entry and general ledgers or subsidiary ledgers; and tax and depreciation carry forward information.

The information should be provided in the medium in which it is requested, provided it exists in that medium. The licensee does not have to convert information that is not in electronic format to an electronic format. ()

02. Working Papers Including Audit Documentation Not a Part of the Client's Records. A licensee's working papers that do not become part of a client's records, which may include analyses and schedules prepared by the client at the request of the licensee, are the licensee's property, not client records, and need not be made available under any circumstances. ()

03. Charges. A licensee does not have to furnish records to a client or a former client more than once. A licensee may charge the client or former client actual costs for time and photocopying charges on subsequent requests. ()

304. FIRM NAMES (RULE 304).

01. General. A licensee may only provide professional services under a firm name that is not misleading as to the description of the legal form of the firm, or as to the person or persons who are owner(s), partners, officers, shareholders or members of the firm. Names of one (1) or more past owners, partners, shareholders or members who were licensed may be included in the firm name. A partner surviving the death or withdrawal of all other partners may continue to practice under a partnership name for up to two (2) years after becoming a sole practitioner. ()

02. Title. A firm may designate itself as "Certified Public Accountant(s)," "Licensed Public Accountant(s)" or "Public Accountant(s)" when a majority of its partners, shareholders, or members are actively licensed certified public accountants or licensed public accountants under the provisions of the Idaho Accountancy Act and Rules. The firm name may not include the name of a non-licensee owner, except as allowed in Subsection 304.01 if the title "CPA(s)" or "LPA(s)" is included in the firm name. The firm name may not include the name of a person who is not a CPA or LPA if the title "Public Accountant(s)" is included in the firm name. ()

305. COMMUNICATIONS (RULE 305).

01. Response. Unless otherwise specified, a licensee is to respond within thirty (30) calendar days of the mailing to any communication in which the Board requests a response. ()

02. Complaints. Upon the receipt or filing of a complaint against an individual over whom the Board has regulatory authority, the Board may transmit a copy of such complaint to the individual. Upon receipt of a transmitted complaint, the individual is to file a written answer to the complaint within twenty (20) calendar days of receipt, unless otherwise granted an extension of time by the Board. (4-2-03)

306. -- 399. (RESERVED)

400. CPE BASIC REQUIREMENTS (RULE 400).

Demonstrate participation in a program of learning that meets the requirements as set forth in the Statement of Standards as referenced in Rule 004. CPE courses approved on NASBA's National Registry of CPE Sponsors, the AICPA, and state societies are deemed to meet the CPE requirements of this state. Responsibility for documenting the acceptability of the program and the validity of the credits rests with the licensee. ()

01. Renewal. Licensees seeking active license renewal are to demonstrate that during the two (2) calendar years immediately preceding the date the reporting form is due that no less than eighty (80) hours of CPE are recorded, of which at least four (4) hours are ethics with a minimum of thirty (30) hours in any one (1) calendar year, and a maximum of fifty (50) hours recorded in any one (1) calendar year. ()

02. New and Reciprocal. Completion of at least a two-hour (2) course on Idaho state-specific ethics during the calendar year that the license is issued. During the second calendar year of licensure, a minimum of thirty (30) hours is to be completed which may include an ethics component based on the prior year submission. ()

401. CPE REPORTING, CONTROLS, AND LATE FEES (RULE 405).

01. Reporting. No later than January 31 of each year, individuals renewing their licenses are to provide a signed reporting form either: ()

a. Disclosing the information pertaining to the educational programs submitted for qualification as prescribed in the CPE Standards; or ()

b. Applying for exception, extension, or exemption. ()

02. CPE Late Fees. A License will not be issued until the licensee files the reporting form with supporting documentation, pays the late filing as prescribed in Rule 600, license renewal fee and any other penalty the Board may impose. ()

402. CPE EXCEPTIONS, EXTENSIONS, AND EXEMPTIONS (RULE 402).

01. Exceptions and Extensions. The Board may make exceptions to the CPE requirements, or grant extensions of time for completion of the CPE requirements, where reasons of health as certified by a medical doctor prevent compliance by the licensee, or other good cause exists. (4-2-03)

a. Licensees asking for exceptions or extensions under these conditions apply on the reporting form for the year in which the extension or exemption is sought, and within the time period set for CPE reporting, stating the reasons for asking for such exception or extension. Any request not filed timely is subject to the late fee prescribed in Rule 600, in addition to any administrative action. ()

b. A penalty of no more than fifty percent (50%) of the hours a licensee is short in meeting the calendar year CPE requirement may be assessed for extensions. In such cases, the licensee will be required to complete the CPE hours and any assessed penalty no later than April 30. The penalty for non-compliance with ethics CPE is to obtain the mandatory hours of ethics CPE plus fifty percent (50%) penalty hours in ethics CPE prior to April 30. The penalty for non-compliance with state-specific ethics for Idaho is to complete the course plus fifty percent (50%) penalty hours in ethics CPE prior to April 30. (4-11-15)

02. Inactive or Retired. Licensees who elect inactive or retired status are exempt from any CPE requirements as prescribed by Sections 54-211(c) and (d), Idaho Code. A licensee who has elected inactive or retired status may provide the following volunteer, uncompensated services: tax preparation services, participating in a government-sponsored business mentoring program, serving on the board of directors for a nonprofit or governmental organization, or serving on a government-appointed advisory board. If the CPA provides the foregoing volunteer, uncompensated services, the CPA has a duty to ensure that they hold the professional competencies necessary to offer these services. ()

403. REVIEW AND AUDIT OF CPE REPORTS (RULE 403).

All signed CPE reports are subject to formal verification to determine qualification and sufficiency of hours reported. A formal audit of CPE reported may be performed to determine whether hours reported qualify for credit. If a reporting form is not approved, the licensee will be notified. ()

404. NOTIFICATION (RULE 404).

A licensee is served a notice of noncompliance when it is determined the CPE requirement has not been fulfilled. The notice advises and provides opportunity for the deficiencies to be addressed. If the deficiencies remain, administrative action may be taken. ()

405. ACTION (RULE 405).

Following notice and hearing, the Board may suspend the license or take other action pursuant to Section 54-219, Idaho Code. (4-2-03)

406. REINSTATEMENT AND RE-ENTRY (RULE 406).

An individual whose license has lapsed or is in a non-active status per Section 54-211, Idaho Code, is to complete no less than eighty (80) hours of CPE, of which at least four (4) hours are in ethics CPE with a minimum of two (2) hours to be in state specific ethics for Idaho, during the twelve (12) months immediately prior to applying for reinstatement

or re-entry to an active license. The applicant is required to identify and complete a program of learning designed to demonstrate the currency of the applicant's competencies directly related to his area of service. Completion of the CPE will otherwise exempt the licensee from obtaining CPE hours during the calendar year of returning to an active license. If a licensee applies for re-entry during a license period and has already paid the fee for an inactive or retired license, the licensee is to pay the difference between the cost of an inactive or retired license and the annual license renewal fee. An individual who is applying for reinstatement to an inactive or retired license is not required to meet a CPE requirement. ()

407. FORMERLY LICENSED (RULE 407).

Any person who was licensed by the Board and who chose to let their license lapse, or had their license lapsed by the Board, may place the word "former" adjacent to their CPA or LPA title on any business card, letterhead, or any other document or device so long as at the time the license lapsed, the person was in good standing with the Board. (3-29-17)

408. CONTINUING PROFESSIONAL EDUCATION COMMITTEE (RULE 408).

01. Appointment. The Board may appoint a continuing professional education committee. The committee consists of not less than five (5) members who are active licensees of this state, in good standing, and who need not be members of this Board. The committee performs the following duties and is authorized to take all actions necessary to perform these duties: ()

- a. To evaluate reported CPE to determine qualification. ()
- b. To consider applications for exceptions, extensions, and exemptions, and to assess penalties. ()
- c. To audit CPE reports and to consider other matters that may be assigned by the Board. ()

02. Powers and Duties. Any decision or ruling of this committee, in performance of these duties, will have the full power and effect of a ruling of the Board, but is subject to the Board's review and approval. ()

409. -- 499. (RESERVED)

500. PURPOSE OF FIRM REGISTRATION AND PEER REVIEW (RULE 500).

The purpose of the program is to monitor compliance with applicable accounting and auditing standards adopted by generally recognized standard setting bodies. The program emphasizes appropriate education programs or remedial procedures that may be recommended or required where the firm does not comply with appropriate professional standards. In the event a firm is unwilling or unable to comply with professional standards, or a firm's failure to comply with professional standards is so egregious as to warrant continuing action, the Board will take appropriate action to protect the public interest as authorized by Section 54-219, Idaho Code. (5-8-09)

501. ISSUANCE OF REPORTS AND FORM OF PRACTICE (RULE 501).

A licensee can provide or offer to provide attest services or issue reports on compilations only in a firm as defined by Section 54-206(10), Idaho Code, except as provided under Section 54-221(4), Idaho Code. (4-2-03)

502. PEER REVIEW PROGRAM PARTICIPATION (RULE 502).

01. Participation. Any firm that issues reports on accounting and auditing engagements, including audits, reviews, compilations, prospective financial information, engagements performed in accordance with the PCAOB, and any examination, review or agreed-upon procedures engagement performed in accordance with the statement on standards for attestation engagements. A licensee who issues compilation reports through any form of business other than a firm is to participate in the peer review program. Such licensees are to meet the requirements for registration and peer review. ()

02. Practice Privileges. Individuals with practice privileges in Idaho are to comply with the peer review requirements in the state of their principal place of business. (5-8-09)

503. EXEMPTION FROM PARTICIPATION (RULE 503).

- 01. Firms.** A firm that does not perform any of the services in Rule 502 is exempt from peer review.

The firm is to notify the Board of such exemption in writing at the time of renewal of its registration. A firm that begins providing these services is to commence a peer review within eighteen (18) months of the date of the issuance of its initial report. ()

02. Licensees Not in Public Practice. A licensee who does not perform any of the services in Rule 502 is exempt from firm registration and peer review. The licensee is to notify the Board of such exemption in writing at the time of initial CPA licensure and annually thereafter at the time of CPA or LPA license renewal. ()

03. Licensees Not Issuing Reports. A licensee who issues financial statements pursuant to Section 54-221(5), Idaho Code, is exempt from peer review. ()

504. SCHEDULING OF THE PEER REVIEW (RULE 504).

01. Frequency. A firm performing any of the services in Rule 502 undergoes, at its own expense, a peer review commensurate in scope with its practice, not less than once in each three (3) years. ()

02. Currently Enrolled. A firm currently enrolled in a program of an approved administering organization will use the year of review assigned by the administering organization. The firm will notify the Board of the deadlines set by the administering organization. (4-2-03)

03. Review Year. Each firm is to enroll with one (1) of the approved administering organizations. Each firm adopts the review date assigned by the appropriate administering organization and notifies the Board of such date. ()

04. New Firms. Within one (1) year of registration with the Board, new firms are to enroll with an approved administering organization. The firm adopts the review date assigned and notifies the Board of such date. ()

05. Mergers or Combinations. In the event that two (2) or more firms are merged or combined, the resulting firm retains the peer review year of the firm with the largest number of accounting and auditing hours. ()

06. Dissolutions or Separations. In the event that a firm is divided, the new firm(s) retains the review year of the former firm. In the event that the year under review is less than twelve (12) months, a review year will be assigned so that the review occurs within eighteen (18) months of the commencement of the new firm(s). ()

07. Multi-State Practices. With respect to a multi-state firm, the Peer Review Oversight Committee may accept a peer review based solely upon work conducted outside of this state if the peer review is performed in accordance with requirements equivalent to those of this state. ()

08. Report Issuance. It is the responsibility of the firm to anticipate its need for peer review services in sufficient time to enable the reviewer to issue the report within six (6) months after the review date. (4-2-03)

09. Extensions. The Board may accept an extension recommended by the administering organization for the conduct of a review, provided the Board is notified by the firm within thirty (30) days of the date of receipt of recommendation for such an extension. (4-2-03)

10. Just Cause. The Board may change a firm's peer review year for just cause. (4-2-03)

505. MINIMUM STANDARDS (RULE 505).

The minimum standards for peer review are contained in the Standards for Performing and Reporting on Peer Reviews section of the AICPA Standards. Peer reviews intended to meet the requirements of the AICPA peer review program are to be carried out in conformity with these standards under the supervision of an administering organization approved by the Board to administer peer reviews. Reviewed firms arrange and schedule their reviews in compliance with the procedures established by the administering organization and cooperate with the administering organization and with the Board in all matters related to the review. (4-2-03)

506. REPORTING TO THE BOARD (RULE 506).

01. Firm Registration Form. All firms performing any of the peer reviewable services in Rule 502

annually files a firm registration no later than September 30. The registration is on a form prescribed by the Board. Firm registrations filed after September 30 are subject to penalty for non-compliance pursuant to Rule 600. ()

02. Peer Review Documentation. A firm that has undergone peer review will file a copy of the peer review report, letter of comments if any, letter of response if any, and letter accepting the review report issued by the administering organization. The letter will be filed within thirty (30) days after receipt. Additionally, firms are to notify the Board within thirty (30) days of the date the peer reviewer or a team captain advises the firm that a grade of fail will be recommended. The Board reserves the right to obtain all other information relating to the peer review. The Board also has the authority to exempt for good cause firms who would otherwise have to file peer review documentation. ()

507. RETENTION OF DOCUMENTS RELATING TO PEER REVIEWS (RULE 507).

Documents relating to peer reviews are to be retained as follows: ()

01. Documents. All documentation necessary to establish that each peer review was performed in conformity with peer review standards adopted by the Board. These documents may include the peer review working papers, the peer review report, comment letters and related correspondence indicating the firm's concurrence or non-concurrence, and any proposed remedial actions and related implementation. ()

02. Retention Period. Document retention is for a period of time corresponding to the designated retention period of the relevant administering organization and, upon request of the Committee, to be made available to it. In no event may the retention period be less than ninety (90) days from the date of acceptance of the review by the administering organization. ()

508. CONFIDENTIALITY (RULE 508).

The letter and any documentation submitted to the Board pursuant to Rule 506.02 is confidential as authorized by Title 74, Chapter 1, Idaho Code, unless an Order is issued by the Board pursuant to Section 54-219, Idaho Code. ()

509. REMEDIES FOR FAILURE TO COMPLY (RULE 509).

01. Corrective Actions. The Board will take appropriate action to protect the public interest if the Board determines, through the peer review process or otherwise, that a firm's performance or reporting practices, or both, are not, or may not be, in accordance with applicable professional standards, or that the firm does not comply with peer review program requirements or with all or some of the reporting, remedial action, or fee penalty requirements of this section. The Board's actions may include, but are not limited to: ()

a. The annual license of the principal(s) of a non-compliant firm will not be issued until the firm complies with all requirements of these rules, provided the licensee has met all licensing requirements; ()

b. Requiring the firm to develop quality control procedures to provide a reasonable assurance that similar occurrences will not occur in the future; ()

c. Requiring any individual licensee who had responsibility for, or who substantially participated in, the engagement(s) to successfully complete specific courses or types of continuing education as specified by the Board; ()

d. Requiring the reviewed firm to engage a Board-approved licensee to conduct a Board-prescribed on-site field review of the firm's work product and practices or perform other investigative procedures to assess the degree or pervasiveness of nonconforming work product. The Board-approved licensee engaged by the firm will submit a report of the findings to the Board within thirty (30) days of the completion of the services. The cost of the Board-prescribed on-site review or other Board-prescribed procedures will be at the firm's expense; ()

e. Requiring the reviewed firm responsible for engagement(s) to submit all or specified categories of its compilation or attest working papers and reports to a preissuance evaluation performed by a Board-approved licensee in a manner and for a duration prescribed by the Board. Prior to the firm issuing the reports on the engagements reviewed, the Board-approved licensee submits to a designee of the Board for the purpose of recommending that the Board accept a report of the findings, including the nature and frequency of recommended actions for the firm. The cost of the Board-approved preissuance evaluation will be at the firm's expense; ()

f. Initiating an investigation to determine if additional discipline pursuant to Section 54-219, Idaho Code, is warranted. Notwithstanding the foregoing, absent an investigation the specific rating of a single peer review report is not a sufficient basis to warrant disciplinary action. ()

02. Solicitation and Review of Other Sources. The Board may solicit, and review licensee reports and other information covered by the reports from clients, public agencies, banks, and other users of such information. ()

510. ADMINISTERING ORGANIZATIONS (RULE 510).

Qualified administering organizations that register with, and are approved by the Board based on their adherence to the AICPA Peer Review minimum standards, include the peer review program of the American Institute of Certified Public Accountants (AICPA) and state CPA societies fully involved in the administration of the AICPA Peer Review Program and their successor organizations that meet the minimum standards. ()

511. PEER REVIEW OVERSIGHT COMMITTEE (RULE 511).

01. Appointment. The Board appoints an Oversight Committee consisting of no more than seven (7) members who are active licensees and possess extensive current experience in accounting and auditing services. No committee member may be a current member of the Board. ()

02. Responsibilities. The committee acts in an advisory capacity to the Board with the following duties: ()

a. Monitoring administering organizations to provide reasonable assurance that peer reviews are being conducted and reported in accordance with the peer review minimum standards. ()

i. Visit annually the administering organizations to examine their procedures for administering the peer review program and meet with the organization's peer review committee during the consideration of peer review documents. ()

ii. Review, on the basis of random selection, a number of reviews performed by the administering organization which include, at a minimum, a review of the peer review report, the letter of comments (if any), the firm's response to the matters discussed in the letter of comments, the organization's acceptance letter outlining any additional corrective or monitoring procedures, and working papers on the selected review. The review of documents may be expanded if significant deficiencies, problems, or inconsistencies are discovered. ()

b. Reports to the Board on conclusions reached and makes recommendations to the adherence to Peer Review Standards. Alternatively, for those organizations participating in the AICPA oversight program in connection with involved state societies, the committee may obtain and review the oversight program report to ensure that reviews are being conducted and reported on in accordance with the standards. Reports submitted may not contain information concerning specific firms or reviewers. ()

c. Based on the result of the foregoing procedures, the committee will make recommendation to the Board as to the continuing qualifications of the approved administering organizations. ()

512. -- 599. (RESERVED)

600. FEES (RULE 600).

01. Examination and License.

Exam/License	Initial Fee
Initial Exam	\$100
Re-Exam	\$50
Active License	\$120

Exam/License	Initial Fee
Inactive or Retired License	\$100
Reciprocity	\$175 + Initial license fee
International Reciprocity	\$175 + license fee
Transfer of Grades	\$175 + license fee
Reinstatement License	Sum of unpaid license fees for the preceding 3 license renewal cycles
Re-entry License	\$20
Firm Registration	\$20 firm plus \$5 per licensee up to \$200 maximum

()

02. Administrative Services.

Category	Fee
Interstate Exchange of Information	\$10
Wall Certificate	\$20

(4-2-03)

03. Late Fees.

Category	Fee
Late License Renewal	\$100
Non-compliance with CPE Filing:	
February	\$100
March	\$150
April	\$200
May	\$250
June	\$300
Non-compliance with Firm Registration	\$100 per licensee

()

701. -- 999. (RESERVED)

IDAPA 07 – DIVISION OF BUILDING SAFETY

DOCKET NO. 07-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the Legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

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

I.C. § 39-4112	I.C. § 44-2107	I.C. § 54-2607	I.C. § 55-2203
I.C. § 39-4113	I.C. § 54-1005	I.C. § 54-1907	I.C. § 55-2211
I.C. § 39-4303	I.C. § 54-1006	I.C. § 54-4510	I.C. § 67-2601A
I.C. § 39-8605	I.C. § 54-2605	I.C. § 54-5017	
I.C. § 44-2103	I.C. § 54-2606	I.C. § 54-5022	

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 07, rules of the Division of Building Safety:

- 07.02.02, *Rules Governing Plumbing Permits (renamed Rules Governing Plumbing)*
- 07.03.01, *Rules of Building Safety*
- 07.03.03, *Rules for Modular Buildings*
- 07.03.11, *Rules Governing Manufactured/Mobile Home Industry Licensing*
- 07.03.12, *Rules Governing Manufactured or Mobile Home Installations*
- 07.04.02, *Safety Rules for Elevators, Escalators, and Moving Walks*
- 07.05.01, *Rules of the Public Works Contractors License Board*
- 07.07.01, *Rules Governing Installation of Heating, Ventilation and Air Conditioning Systems*
- 07.10.01, *Rules Governing the Damage Prevention Board*

This pending rule vacates the following proposed rules previously promulgated as part of the omnibus proposed rulemaking under IDAPA 07, rules of the Division of Building Safety:

- **(VACATED)** 07.01.02, *Rules Governing Fees for Electrical Permits and Inspections*
- **(VACATED)** 07.01.03, *Rules of Electrical Licensing and Registration – General*
- **(VACATED)** 07.01.11, *Rules Governing Civil Penalties*
- **(VACATED)** 07.02.03, *Rules Governing Permit Fee Schedule*
- **(VACATED)** 07.02.07, *Rules Governing Civil Penalties*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 923–1025](#). Amendments to the chapters identified in this notice were made consistent with Executive Orders [2019-01](#) and [2019-02](#) related to the Licensing Freedom Act and the Red Tape Reduction Act. Amendments made to the rulemakings included revision to eliminate unnecessary, outdated, or duplicative rule provisions, or to simplify or reformat (consolidate) rules.

Specifically, this pending rule vacates the proposed rules for the following chapters: IDAPA 07.01.02, “Rules Governing Fees for Electrical Permits and Inspections”; 07.01.03, “Rules of Electrical Licensing and Registration – General”; and 07.01.11, “Rules Governing Civil Penalties.” These chapters are being consolidated into a new, renamed chapter 07.01.01, “Rules of the Idaho Electrical Board.” The proposed rules for that rulemaking are contained in Docket Number 07-0101-1901, published in the Idaho Administrative Bulletin, September 4, 2019 – [Vol. 19-9, pages 132-154](#).

Further, this pending rule vacates the proposed rules for IDAPA 07.02.03, “Rules Governing Permit Fee Schedule,” and 07.02.07, “Rules Governing Civil Penalties.” This pending rulemaking consolidates these chapters into a renamed chapter 07.02.02, “Rules Governing Plumbing.” Additionally, this pending rulemaking amends former IDAPA 07.02.05 at Subsection 016.03 to align it with I.C. Section 54-2617(3), and 07.02.03 at Subsection 011.02 to identify a fee for modular and manufactured home inspections pursuant to I.C. Section 54-2622. Those changes can be found in the renamed 07.02.02, “Rules Governing Plumbing,” at Subsections 207.03 and 102.02, respectively.

The Division of Building Safety rules are necessary to ensure that properly qualified persons continue to practice in the professions over which the Division exercises regulatory authority, and that the installations made in the various trades and professions related thereto, and other applicable construction work, is performed safely and in accordance with laws, codes, standards, and processes that protect the safety and welfare of the public.

The fee or charge imposed by the rule(s) is necessary to avoid immediate danger. The fee(s) or charge(s) reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state’s obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho’s constitutional requirement that it balance its budget. All Division programs that are covered by this notice operate from statutorily created dedicated funds that provide for the licensing of persons within the respective professions, as well as the inspection of such installations and/or administration of such programs by the Division. All of these operations require the collection of certain fees to ensure compliance with applicable standards and to protect the health and safety of the public.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules, with the exception noted above. All fees contained in rule chapters covered by this notice relate to licensing and related administrative fees, fees to perform inspections on various types of construction installations, or the assessment of civil penalties for non-compliance with applicable statutes. This fee or charge is being imposed pursuant to the following sections of Idaho Code:

I.C. § 39-4004	I.C. § 39-4107	I.C. § 39-4112	I.C. § 39-4113
I.C. § 39-4303	I.C. § 39-8605	I.C. § 39-8616	I.C. § 44-2103
I.C. § 44-2107	I.C. § 44-2202	I.C. § 54-1005	I.C. § 54-1006
I.C. § 54-1013	I.C. § 54-2606	I.C. § 54-2607	I.C. § 54-2623
I.C. § 54-1907	I.C. § 54-1910	I.C. § 54-1912	I.C. § 54-4510
I.C. § 54-5005	I.C. § 54-5006	I.C. § 54-5017	I.C. § 54-5022
I.C. § 55-2203	I.C. § 55-2211	I.C. § 67-2601A	

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patrick Grace, Regional Manager at (208) 332-7120.

Dated this 8th day of October, 2019.

Chris Jensen, Administrator
Division of Building Safety
1090 E. Watertower St., Ste 150
Meridian, ID 83642
(208) 332-7100

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

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

I.C. § 39-4112	I.C. § 44-2107	I.C. § 54-2607	I.C. § 55-2203
I.C. § 39-4113	I.C. § 54-1005	I.C. § 54-1907	I.C. § 55-2211
I.C. § 39-4303	I.C. § 54-1006	I.C. § 54-4510	I.C. § 67-2601A
I.C. § 39-8605	I.C. § 54-2605	I.C. § 54-5017	
I.C. § 44-2103	I.C. § 54-2606	I.C. § 54-5022	

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 07, rules of the (Division of Building Safety):

IDAPA 07

- 07.01.02, *Rules Governing Fees for Electrical Permits and Inspections*
- 07.01.03, *Rules of Electrical Licensing and Registration – General*
- 07.01.11, *Rules Governing Civil Penalties*
- 07.02.02, *Rules Governing Plumbing Permits*
- 07.02.03, *Rules Governing Permit Fee Schedule*
- 07.02.07, *Rules Governing Civil Penalties*
- 07.03.01, *Rules of Building Safety*
- 07.03.03, *Rules for Modular Buildings*
- 07.03.11, *Rules Governing Manufactured/Mobile Home Industry Licensing*
- 07.03.12, *Rules Governing Manufactured or Mobile Home Installations*
- 07.04.02, *Safety Rules for Elevators, Escalators, and Moving Walks*
- 07.05.01, *Rules of the Public Works Contractors License Board*
- 07.07.01, *Rules Governing Installation of Heating, Ventilation and Air Conditioning Systems*
- 07.10.01, *Rules Governing the Damage Prevention Board*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. The Division of Building Safety Rules are necessary to ensure that properly qualified persons continue to practice in the professions over which the Division exercises regulatory authority, and that the

installations made in the various trades and professions related thereto, and other applicable construction work is performed safely and in accordance with laws, codes, standards, and processes that protect the safety and welfare of the public.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. All Division programs that are covered by this notice operate from statutorily created dedicated funds that provide for the licensing of persons within the respective professions, as well as the inspection of such installations and/or administration of such programs by the Division. All of these operations require the collection of certain fees to ensure compliance with applicable standards and to protect the health and safety of the public.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. All fees contained in rules covered by this notice relate to licensing and related administrative fees, fees to perform inspections on various types of construction installations, or the assessment of civil penalties for non-compliance with applicable statutes.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Patrick Grace, Regional Manager at (208) 332-7120.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 07-0000-1900F

07.02.02 – RULES GOVERNING PLUMBING

000. LEGAL AUTHORITY.

In accordance with Sections 54-2605(1) and 54-2606(3), Idaho Code, the Idaho Plumbing Board is authorized to make, promulgate, and publish such rules as may be necessary for carrying out the provisions of this act in order to effectuate the purposes thereof and for the orderly and efficient administration thereof, and except as may be limited or prohibited by law and the provisions of this act, such rules so made and promulgated have the force of statute.

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001. TITLE AND SCOPE.

01. Title. IDAPA 07.02.02, “Rules Governing Plumbing.”

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02. Scope. These rules prescribe criteria for plumbing permits, fee schedules for plumbing permits, inspections of plumbing installations, the issuance of licenses for plumbing installation, adoption and amendment of the Idaho State Plumbing Code, and civil penalties.

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002. ADMINISTRATIVE APPEALS.

Within ten (10) days of receiving notice of a civil penalty, the notified party shall comply with the penalty or file a written request for an administrative appeal before the Board and pay a bond in the amount of the penalty. Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General,” shall govern administrative appeals and judicial review thereof.

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003. INCORPORATION BY REFERENCE.

The Idaho State Plumbing Code, 2017 Edition, is incorporated by reference into these rules as further specified in Rule 301.

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004. -- 008. (RESERVED)

007. DEFINITIONS.

01. Administrator. The Division of Building Safety Administrator.

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02. Board. The Idaho State Plumbing Board, created under the provisions of Section 54-2605, Idaho Code.

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03. Division. The Division of Building Safety of the state of Idaho.

(1-22-82)

04. Fixture. Any water using or waste producing unit attached to the plumbing system, and includes sewers, water treatment equipment, solar systems, sprinkler systems, hot tubs and spas.

(1-22-82)

008. -- 100. (RESERVED)

**SUBCHAPTER A - PLUMBING PERMITS, FEE SCHEDULE, AND SAFETY INSPECTIONS
(Rule 101 through 103)**

101. PERMITS.

01. Serial Number. Each permit must bear a serial number.

(6-4-76)

02. Plumbing Contractors. Permits will be furnished by the Division to licensed plumbing contractors upon request. Permit serial numbers must be registered in the name of the plumbing contractor and are transferable only as provided herein these rules.

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03. Home Owners. Home owners making plumbing installations on their own premises under the provisions of Section 54-2602, Idaho Code, must secure a plumbing permit by making application to the Division as provided by Section 54-2620, Idaho Code.

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04. Commercial, Industrial and Others. The application form must be properly completed, and returned to the Division together with a verified copy of bid acceptance and the proper permit fee as hereinafter provided. Persons, companies, firms, associations, or corporations making plumbing installations, other than on their own property, must be licensed as a contractor by the state of Idaho as provided by Section 54-2610, Idaho Code.

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05. Expiration of Permit. Every permit expires and becomes null and void if the work authorized by such permit is not commenced within one hundred twenty (120) days from the date of permit issuance, or if work authorized by such permit is suspended or abandoned at any time after work is commenced for a period of one hundred twenty (120) days. Before such work can be recommenced, a new permit must first be obtained, and the fee is one-half (1/2) the amount of a new permit for such work; provided, no changes have been made, or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one (1) year. All plumbing fixtures must be listed on the application for permit. ()

06. Transferring a Permit. A plumbing permit may be transferred to another eligible party if such party provides to the Division written authorization signed and notarized by the original permit holder consenting to the transfer itself, as well as assignment of all responsibilities and conditions incorporated into the original permit issuance. A permit may be transferred to the owner of the property on which the plumbing work is to be performed and for which the permit was issued, or such owner’s designated legal agent in cases where the property owner has terminated their legal relationship with the plumbing contractor who originally obtained the permit. An administrative fee in the amount of forty-five dollars (\$45) for the transfer of a permit will be assessed by the Division. (3-24-17)

07. Refunds of Permits. ()

a. The Administrator may authorize a refund of the entire permit fee paid when no work has been performed related to the installation of plumbing work covered by a permit issued by the Division. A lesser amount up to fifty percent (50%) of the permit fee amount may be refunded if work has commenced and the project is less than fifty percent (50%) complete as determined by the Division; and (3-24-17)

b. The Administrator will not authorize a refund of any permit fee paid except upon written application for such filed by the original permit holder or the property owner’s representative not less than one hundred eighty (180) days after the date the permit was issued. (3-24-17)

102. PERMIT FEE SCHEDULE.

01. New Residential. Includes all buildings with plumbing systems being constructed on each property. The following fees shall apply to new residential construction:

One-Family Dwelling	
Square Feet	Fee
Up to 1,500	- \$130
1,501 to 2,500	- \$195
2,501 to 3,500	- \$260
3,501 to 4,500	- \$325
Over 4,500	- \$325 plus \$65 for each additional 1,000 square feet or portion thereof
Two- or Multi-Family Dwelling	
Dwelling	Fee
Two-family dwelling	- \$260
Multi-family dwelling	- 130 per Building plus \$65 per Unit

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02. Miscellaneous. The following fees shall apply for the types of permits listed:

Type	Fee
Existing residential	\$65 per inspection plus \$10 for each additional fixture
Requested inspection	\$65 per hour or portion thereof plus costs of out-of-state travel
Technical service	\$65 per hour or portion thereof
Plan check	
Mobile home, manufactured home, or recreational vehicle park	Calculated under Subsection 102.03 of these rules
Sewer or water service line - nonresidential (new construction, installations, and replacements)	
Reclaimed water system	
Lawn sprinkler system - nonresidential	
Lawn sprinkler system - residential	\$65 per inspection
Sewer or water service line - residential (new construction, installations, and replacements)	
Mobile or manufactured home	
Modular building	
Multipurpose residential fire sprinkler	\$65 or \$4 per fire sprinkler head, whichever is greater
Gray water system	\$130 per inspection

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03. Other Installations Including Industrial and Commercial. The fees listed in this Subsection shall apply to plumbing installations in this schedule that refer to this Subsection and installations not specifically mentioned elsewhere in this schedule. The plumbing system cost shall be the cost to the owner of labor charges and other costs incurred to complete the installation of plumbing equipment and materials installed as part of the plumbing system. All fees calculated under this Subsection must be based on the total plumbing system cost, which must be listed on the permit.

Plumbing System Cost	Fee
Up to \$10,000	- \$60 plus 2% of plumbing system cost
\$10,000 to \$100,000	- \$260 plus 1% of plumbing system cost exceeding \$10,000
Over \$100,000	- \$1,160 plus .5% of plumbing system cost exceeding \$100,000

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04. Additional Fees. A fee of sixty-five dollars (\$65) per hour or portion thereof shall apply to trips to inspect when the permit holder has given notice to the Division of Building Safety that the work is ready for inspection and it is not;

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- a. If the permit holder has not accurately identified the work location; ()
 - b. If the inspector cannot gain access to make the inspection; ()
 - c. Corrections required by the inspector as a result of the permit holder improperly responding to a corrective notice. ()
 - d. When corrections have not been made in the prescribed time, unless an extension has been requested and granted. ()
- 05. No Permit.** Failure to purchase a permit before commencing work may result in the assessment of a double fee. ()

103. REQUIRED INSPECTIONS.

- 01. Ground Work Inspection Tags.** For ground work to be covered, with acceptance by the inspector. A tag will be attached in a prominent location, preferably to a vertical riser. ()
- 02. Rough-In Inspection Tags.** For rough-in, prior to covering or concealing, with acceptance by the inspector. A tag will be placed in a prominent location. ()
- 03. Final Inspection Tags.** For final, attached when the plumbing as specified on the permit is complete and conforms to the requirements of the code. ()
- 04. Inspection Tags for Unacceptable Plumbing.** Correction Notice - when attached to the plumbing system means that the plumbing is not acceptable and that corrections are required. A reinspection and reinspection fee for such installations shall be required in accordance with this chapter. ()

104. -- 199. (RESERVED)

SUBCHAPTER B - PLUMBING SAFETY LICENSING
(Rule 201 through 210)

201. LICENSURE HISTORY.

An applicant for any plumbing registration or certificate of competency who has been previously licensed as a journeyman or master plumber in any recognized jurisdiction is required upon application to the Division of Building Safety to disclose such licensure history and provide sufficient proof thereof. An applicant for any plumbing registration or certificate of competency who has been previously licensed as a journeyman or master plumber in any recognized jurisdiction will not be issued a plumbing apprentice registration. ()

202. APPRENTICE REGISTRATION.

A person wishing to become a plumbing apprentice must register with the Division prior to going to work. All apprentices must pay the registration fee as prescribed by Section 54-2614, Idaho Code. The minimum age for any apprentice must be sixteen (16) years. No examination is required for such registration. In order to maintain registration, the apprentice must renew his registration in accordance with Sections 54-2614 and 54-2614A, Idaho Code. ()

01. Work Requirements. A plumbing apprentice must work at the trade under the constant on-the-job supervision of a journeyman and in the employ of a contractor for a total of four (4) years, defined as a minimum of eight thousand (8,000) hours work experience in order to be eligible for a journeyman certificate of competency. ()

02. Schooling Requirements. A plumbing apprentice must complete a Board-approved related course of instruction for four (4) years in order to be eligible for a journeyman certificate of competency. Unless prior approval has been granted by the Division the apprentice must complete the required course work sequentially: year

one (1) must be completed prior to beginning year two (2); year two (2) must be completed prior to beginning year three (3); and year three (3) must be completed prior to beginning year four (4). A minimum of one hundred forty-four (144) hours of classroom or other Idaho Plumbing Board-approved instruction time per school year is required. A grade average of seventy percent (70%) must be attained in these courses. Upon completion of apprenticeship schooling, the apprentice must obtain a certificate of completion, or a letter signed by the chairman of his apprenticeship committee, and attach the certificate or letter to his application for a journeyman license. ()

03. Journeyman Examination. ()

a. Any plumbing apprentice who desires to take the written portion of the journeyman examination must complete an Idaho Plumbing Board approved related course of instruction for four (4) years as described in Subsection 202.02 of these rules prior to the date of the exam and provide a certificate of completion with the application for examination. There is no minimum work requirement in order to be eligible to take the written portion of the plumbing journeyman examination. ()

b. Successful completion of the journeyman written 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 plumber or the practical portion of the examination in order to be issued a journeyman certificate of competency. Successful completion of the written plumbing journeyman examination notwithstanding, no journeyman certificate of competency will be issued until an apprentice successfully completes the practical portion for the examination and furnishes to the Division proof of satisfaction of the work requirements contained in Subsection 011.01 of these rules. Satisfaction of the work requirements contained in Subsection 202.01 of these rules is required before any individual is eligible to take the practical portion of the journeyman examination. ()

203. JOURNEYMAN.

01. Qualifications for Journeyman Plumber. An applicant for a journeyman plumber's certificate of competency 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 certificate of competency. In order to obtain a journeyman certificate of competency, an individual must submit an application for examination and license. The application must be accompanied by proof the applicant has completed an approved course of instruction for four (4) years as provided in Subsection 202.02 of these rules. The journeyman examination may be taken by an individual who has successfully completed a Board-approved course of instruction for four (4) years as described in Subsection 202.03 of these rules. The examination fee is as prescribed by Section 54-2614, Idaho Code, and must accompany the application. ()

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

03. Out-of-State Journeyman Applications. ()

a. Exhibition of a license issued by another recognized jurisdiction may be accepted as proof of meeting the experience and schooling requirements listed in Subsections 203.01 and 203.02 of these rules. An application for a journeyman certificate of competency from an individual previously licensed as a journeyman in another jurisdiction recognized by the Idaho Plumbing Board must include satisfactory proof of licensure in such jurisdiction. The applicant must pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. ()

b. An application for a journeyman certificate of competency from an individual who has never been previously licensed as a journeyman in a jurisdiction recognized by the Board must include evidence that demonstrates that the applicant has four (4) years of plumbing work experience of a nature at least equivalent to that which a plumbing apprentice must perform in Idaho, as well as four (4) years of schooling equivalent to that which a

plumbing apprentice must complete in Idaho. Alternatively, such an applicant may submit proof verifying eight (8) years, defined as a minimum of sixteen thousand (16,000) hours of plumbing work experience of a nature at least equivalent to that which a plumbing apprentice must perform in Idaho. Upon submission of sufficient proof of having completed such experience and schooling requirements, such applicant must also pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. ()

204. PLUMBING CONTRACTOR.

01. Qualifications for Plumbing Contractor. A plumbing contractor must be certified as competent by the Idaho Plumbing Board and the administrator of the Division before he offers his service to the public. To obtain the certificate, he must first submit an acceptable application. The applicant must possess an active journeyman plumbing certificate of competency issued by the Division, a provable minimum of two and one-half (2 1/2) years' experience as a licensed journeyman plumber in the state of Idaho, as well as provide payment to the Division for all applicable application and examination fees, and successfully complete the contractor examination administered by the Division. The compliance bond required by Section 54-2606, Idaho Code, is required to be on file with the Division upon successful completion of the examination. The examination fee is as prescribed by Section 54-2614, Idaho Code. ()

02. Out-of-State Contractor Applications. ()

a. An applicant for a contractor certificate of competency who has previously been licensed as a journeyman in another jurisdiction recognized by the Idaho Plumbing Board must first obtain an Idaho journeyman certificate of competency in accordance with Section 203 of these rules. Such applicants may provide proof of two and one half (2 1/2) years of experience as a plumbing journeyman by providing satisfactory evidence to the Division of such work history in another recognized jurisdiction. Such applicants must also pay all applicable application and examination fees to the Division, and successfully complete the contractor examination administered by the Division. The compliance bond required by Section 54-2606, Idaho Code, is required to be on file with the Division upon successful completion of the examination. ()

b. An applicant for a contractor certificate of competency who has never been previously licensed as a journeyman in a jurisdiction recognized by the Idaho Plumbing Board must first obtain an Idaho journeyman certificate of competency in accordance with Section 203 of these rules. Such applicants must also provide proof of four (4) years of experience performing plumbing work of a nature equivalent to what a journeyman in Idaho must demonstrate to qualify for a contractor certificate of competency. Proof of such work experience may be provided by the submission of three (3) sworn affidavits from individuals attesting to the fact that the applicant has had at least four (4) years' experience performing such work. Alternatively, such an applicant must provide proof of two and one half (2 1/2) years of experience as a journeyman plumber in the state of Idaho. Such applicants must also pay all applicable application and examination fees to the Division, and successfully complete the contractor examination administered by the Division. The compliance bond required by Section 54-2606, Idaho Code, is required to be on file with the Division upon successful completion of the examination. Applications that are incomplete in any detail will be returned as unacceptable, or denied. ()

03. Restrictive Use of Contractor Certificate. Any individual holding a contractor certificate and designated by a firm to represent that firm for licensing purposes represents one (1) firm only, and must immediately notify the Division in writing when his working arrangement with that firm has been terminated for purposes of becoming self-employed or affiliation with another firm, or for any other reason. A license holder cannot represent any other person or firm, self-employed or otherwise, than originally stated on his application for license. When a change is made, he is required to so inform the Division. Otherwise, he is guilty of transferring his license in violation of Section 54-2610, Idaho Code, and is subject to license suspension, revocation, or refusal to renew under Section 54-2608, Idaho Code, or to prosecution under the provisions of Section 54-2628, Idaho Code. ()

04. Previous Revocation. Any applicant for a plumbing contractor's license who has previously had his plumbing contractor's license revoked for cause, as provided by Section 54-2608, Idaho Code, is considered as unfit and unqualified to receive a new plumbing contractor's license so long as such cause for revocation is continuing, and of such a nature that correction can be made by the applicant. ()

05. Reviving an Expired License. Any applicant for a plumbing contractor's license who has allowed his license to expire and seeks to revive it under the provisions of Section 54-2617, Idaho Code, may be denied a license as unfit and unqualified if, while operating under the license prior to expiration, he violated any of the laws, rules or regulations applicable to plumbing contractors, and such violation is continuing, and of such a nature that corrections can be made by the applicant. ()

06. Effective Dates. The effective dates of the compliance bond referred to in Subsection 204.01 of these rules coincide with the effective dates of the contractor's license. Proof of renewal of the compliance bond must be on file with the Division before the contractor can renew or revive his license. ()

07. Plumbing Contractor's Responsibility. It is the responsibility of the plumbing contractor to ensure that all his employees working at the plumbing trade are licensed as provided by Idaho Code and these rules. ()

08. Advertising. Any person or entity advertising to engage in the business, trade, practice, or work of a plumbing contractor as defined in Section 54-2611, Idaho Code, who does not possess a current and valid plumbing contractor certificate of competency issued by the Division of Building Safety, is in violation of the licensing provisions of Title 54, Chapter 26, Idaho Code. Such conduct is punishable as a misdemeanor as prescribed by Section 54-2628, Idaho Code, and subject to civil penalties in accordance with these rules. ()

a. For the purposes of this Section, advertising includes, but is not limited to: newspaper, telephone directory, community flier ads or notices; telephone, television, radio, internet, or door-to-door solicitations. ()

b. Any advertising, as defined in Subsection 204.08 of these rules, conducted by those persons or entities with a valid certificate of competency must include the contractor certificate of competency number. ()

205. APPLICATIONS.

All applications for licenses must be properly completed giving all pertinent information, and signatures must be notarized. Applications for plumbing contractor's license must be accompanied by a license fee in the amount prescribed by Section 54-2616, Idaho Code. An application for a journeyman license must be accompanied by a license fee in the amount prescribed by Section 54-2616, Idaho Code, and an examination fee as provided by Section 54-2614, Idaho Code. An application for a license must be submitted to the administrator of the Division and must be approved by an authorized representative of the Division before any examination is given and before any license is issued. The provisions of this section do not apply to renewal of licenses. ()

206. EXAMINATIONS.

01. Examinations for Journeyman Plumber. Written examinations for any journeyman plumber's license are formulated and approved by the Idaho Plumbing Board. Examination questions are based on the practical application of the Uniform Plumbing Code. No certificate of competency will be issued unless the applicant receives a final grade of seventy-five percent (75%) or higher on the written examination and passes the practical portion with no violations, as well as completes the work requirements described in Paragraph 202.03.a. of these rules. An applicant receiving a grade of less than seventy-five percent (75%) may apply for reexamination upon payment of the examination fee. An applicant has six (6) months to achieve a passing score. If an applicant does not achieve a passing score in six (6) months, the applicant must enroll in year four (4) in a, Idaho Plumbing Board-approved related training course, complete year four (4), be registered with the Division as an apprentice, and maintain registration as per Section 202 of these rules before the applicant will be eligible to apply for examination. A completion certificate for year four (4) and the proper application fee must accompany a new application for a journeyman examination. ()

02. Frequency of Conducting of Examinations. Examinations for all classifications under the Plumbing Laws and rules will be given a minimum of four (4) times each year in the Division's three office three (3) locations. ()

03. Professional Testing Services. In lieu of the administration by the Idaho Plumbing Board of the examination for licenses pursuant to this rule, the Idaho Plumbing Board may contract with a professional testing service to administer the examination, and require license applicants to pay to the testing service the fee that they

have set for the examination and to take such examination at the time set by such service. If the examination is conducted in this fashion, the Idaho Plumbing Board may charge and retain the application fee provided for by Section 54-2616, Idaho Code, to cover the cost of reviewing the applicant's application. ()

207. CERTIFICATES OF COMPETENCY -- ISSUANCE, RENEWAL, EXPIRATION, REVIVAL -- FEES.

01. Issuance. Certificates of competency will be issued in such a manner as to create a renewal date that coincides with the birthdate of the individual to whom the certificate is issued and allows for renewals every three (3) years. ()

a. Certificates of competency will be issued for a period of no less than one (1) year and no more than three (3) years. For example: a qualified applicant who applies for a certificate of competency in August of year one (1) but whose birthday will not occur until March of year two (2) will be issued a certificate of competency renewable on the anniversary of the applicant's birthdate. ()

b. The fee for issuance of certificates of competency will be prorated based on the number of months for which it is issued. ()

02. Renewal. Certificates of competency will be renewed in such a manner as will achieve a staggered system of certificate renewal using the birthdate of the individual to whom the certificate is issued as the expiration date. ()

a. Certificates of competency will be renewed for a period of no less than one (1) year and no more than three (3) years. ()

b. The fee for renewal of certificates of competency will be prorated based on the number of months for which it is issued. ()

c. Continuing Education. The Idaho Plumbing Board will establish criteria for approval of instruction and instructors and courses and instructors will be approved by the Division of Building Safety. Proof of completion of the following continuing education requirements must be submitted to the Division prior to, or with the application for, licensure renewal by any licensee in order to renew a journeyman or contractors plumbing license. ()

i. Journeymen must complete eight (8) hours of continuing education for every three-year license cycle, or complete an exam administered by the Division. Of the required eight (8) hours, four (4) hours must be plumbing code update related and the other four (4) hours may be industry related training. ()

ii. Contractors must complete sixteen (16) hours of continuing education for every three-year license cycle. Hours accrued obtaining journeyman education may be applied toward this requirement whenever applicable. ()

03. Expiration - Revival. ()

a. A certificate that has expired may be revived in accordance with Section 54-2617, Idaho Code by submitting a completed application and meeting all other certification requirements. ()

b. Revived certificates will be issued in such a manner as to create a renewal date that coincides with the birthdate of the applicant to achieve a staggered system of renewal. ()

208. SPECIALTY PLUMBING LICENSES.

The purpose of this section is to set out the special types of plumbing installations for which a specialty license is required; to set out the minimum experience requirements for such licenses; and to describe the procedure for securing such licenses. ()

01. Qualified Journeyman Plumbers. Qualified journeyman plumbers as defined in Section 54-2611(b), Idaho Code, are permitted to make installations as subsequently described herein without securing an

additional license for said installation. ()

02. Minimum Experience Requirements. ()

a. Experience gained by an individual while engaged in the practice of mobile home hook-ups is not considered towards the satisfaction of the minimum experience requirements for licensing as a journeyman plumber. ()

b. All installers must be licensed and be in the employ of a licensed plumbing contractor or specialty contractor limited to this category. ()

03. Mobile Home Set-Up or Installers. ()

a. Any person qualifying for and having in his possession a current license in this category may make the proper connections of sewer and water to existing facilities on site. All material and workmanship must comply with the requirements of the Uniform Plumbing Code. ()

b. All installers must be licensed and be in the employ of a licensed plumbing contractor or specialty contractor limited to this category. This specialty license does not permit any extension, alteration, or addition to the plumbing system within the mobile home or the installation of any underground plumbing outside the mobile home. ()

04. Applications for Specialty Licenses. Applications for the above specialty licenses may be obtained from the Division of Building Safety. The forms must be returned with the examination fee provided by Section 54-2614, Idaho Code, with proof of the required two (2) years' experience in the field of this specialty. ()

05. Examinations for Specialty Licenses. Written examinations for specialty plumbing licenses are formulated from the practical application of the sections of the Uniform Plumbing Code as adopted by the Idaho Plumbing Board under Section 54-2601, Idaho Code. ()

06. Fees. Fees for certificates are required in accordance with Section 54-2616, Idaho Code. ()

209. APPLIANCE PLUMBING SPECIALTY LICENSE.

The purpose of this section is to set out the special types of plumbing installations for which an appliance plumbing specialty license is required; to set out the minimum experience requirements for such licenses; and to describe the procedure for securing such licenses. ()

01. Qualified Journeyman Plumbers. Qualified journeyman plumbers as defined in Section 54-2611(b), Idaho Code, are permitted to make installations as subsequently described herein without securing an additional license for said installation. ()

02. Qualified Apprentice Plumbers. Qualified apprentice plumbers as defined in Section 54-2611(c), Idaho Code, are permitted to make installations as subsequently described herein without securing an additional license for said installation. ()

03. Minimum Experience Requirements. ()

a. Experience gained by an individual while engaged in the practice of appliance plumbing specialty is not considered towards the satisfaction of the minimum experience requirements for licensing as a journeyman plumber. ()

b. All qualified appliance plumbing specialty journeymen must be licensed and be in the employ of a licensed plumbing contractor or specialty contractor limited to this category. ()

c. Appliance plumbing specialty contractors must have a two thousand dollar (\$2,000) surety bond, thirty (30) months minimum journeyman experience, and successful completion of appliance plumbing specialty contractor's test. ()

d. Appliance plumbing specialty journeymen must have eighteen (18) months apprentice on-the-job experience, satisfactory completion of seventy-two (72) hours of Idaho Plumbing Board-approved, related training classes and successful completion of the appliance plumbing specialty journeyman's test. ()

e. Appliance plumbing specialty apprentices must be employed by a licensed contractor, under the supervision of a journeyman, be enrolled in or have completed Idaho Plumbing Board-approved related training classes and maintain state registration. ()

04. Special Grandfathering Provision. ()

a. Contractor: In lieu of the thirty (30) months minimum journeyman experience requirement, an individual may use five (5) years' experience of owning and operating a business where this specialty applies and satisfactory completion of seventy-two (72) hours of Idaho Plumbing Board-approved related training classes. For this purpose, a business is defined as an activity in which tax returns were required to be and have been filed for at least five (5) years. ()

b. Journeyman: In lieu of the eighteen (18) months apprentice on-the-job experience requirement, an individual may use five (5) years' experience working for a business where this specialty applies. For this purpose, working for a business is defined as being issued a W-2 earning form from a related business or businesses for at least five (5) years. ()

05. Applications for Specialty Licenses. Applications for the above specialty licenses may be obtained from the Division of Building Safety. The forms must be returned with the examination fee provided by Section 54-2614, Idaho Code, with proof of the required experience in the field of this specialty. ()

06. Examinations for Specialty Licenses. Written examinations for specialty plumbing licenses are formulated from the practical application of the sections of the Uniform Plumbing Code as adopted by the Idaho Plumbing Board under Section 54-2601, Idaho Code. ()

07. Fees. Fees for certificates are required in accordance with Section 54-2616, Idaho Code. ()

08. Scope of Work Permitted. Permitted to disconnect, cap, remove, and reinstall within sixty (60) inches of original location: water heating appliance, water treating or filtering devices; air or space temperature modifying equipment which involves potable water; humidifier; temperature and pressure relief valves; condensate drains and indirect drains in one-family and two-family residences only. Does not include installation, testing, or certifying of backflow prevention devices. Does NOT include any modification to the drain, waste or vent systems. Must comply with all Idaho plumbing laws and rules and the requirements of the Uniform Plumbing Code. ()

210. WATER PUMP PLUMBING SPECIALTY LICENSE.

The purpose of this section is to set out the special types of plumbing installations for which a water pump plumbing specialty license is required; to set out the minimum experience requirements for such licenses; and to describe the procedure for securing such licenses. ()

01. Qualified Journeyman Plumbers. Qualified journeyman plumbers as defined in Section 54-2611(b), Idaho Code, are permitted to make installations as subsequently described herein without securing an additional license for said installation. ()

02. Qualified Apprentice Plumbers. Qualified apprentice plumbers as defined in Section 54-2611(c), Idaho Code, are permitted to make installations as subsequently described herein without securing an additional license for said installation. ()

03. Minimum Experience Requirements. ()

a. Experience gained by an individual while engaged in the practice of water pump plumbing specialty is not considered towards the satisfaction of the minimum experience requirements for licensing as a journeyman plumber. ()

b. All qualified water pump plumbing specialty journeymen must be licensed and be in the employ of a licensed plumbing contractor or specialty contractor limited to this category. ()

c. Water pump plumbing specialty contractors must have a two thousand dollars (\$2,000) surety bond, thirty (30) months minimum journeyman experience, and successful completion of water pump plumbing specialty contractor's test. ()

d. Water pump specialty journeymen must have eighteen (18) months apprentice on-the-job experience, satisfactory completion of twelve (12) hours of Idaho Plumbing Board-approved, related training classes and successful completion of the water pump plumbing specialty journeyman's test. ()

e. Water pump plumbing specialty apprentices must be employed by a licensed contractor, under the supervision of a journeyman, be enrolled in or have completed Idaho Plumbing Board-approved related training classes and maintain state registration. ()

04. Special Grandfathering Provision. ()

a. Contractor: In lieu of the thirty (30) month minimum journeyman experience requirement, an individual may use three (3) years' experience of owning and operating a business where this specialty applies and satisfactory completion of twenty-four (24) hours of Idaho Plumbing Board-approved related training classes. For this purpose, a business is defined as an activity in which tax returns were required to be and have been filed for at least three (3) years. ()

b. Journeyman: In lieu of the eighteen (18) months apprentice on-the-job experience requirement, an individual may use three (3) years' experience working for a business where this specialty applies. For this purpose, working for a business is defined as being issued a W-2 earning form from a related business or businesses for at least three (3) years. ()

05. Applications for Specialty Licenses. Applications for the above specialty licenses may be obtained from the Division of Building Safety. The forms must be returned with the examination fee provided by Section 54-2614, Idaho Code, with proof of the required experience in the field of this specialty. ()

06. Examinations for Specialty Licenses. Written examinations for specialty plumbing licenses are formulated from the practical application of the sections of the Uniform Plumbing Code as adopted by the Idaho Plumbing Board under Section 54-2601, Idaho Code. ()

07. Fees. Fees for certificates are required in accordance with Section 54-2616, Idaho Code. ()

08. Scope of Work Permitted. Permitted to install and connect water service piping from pump to storage expansion pressure tank in one (1) and two (2) family residences only. Does not include installation, testing or certifying of backflow prevention devices. Must comply with all Idaho plumbing laws and rules and the requirements of the Uniform Plumbing Code. ()

211. -- 300. (RESERVED)

SUBCHAPTER C - IDAHO STATE PLUMBING CODE
(Rule 301)

301. ADOPTION AND INCORPORATION BY REFERENCE OF THE IDAHO STATE PLUMBING CODE.

The Idaho State Plumbing Code published in 2017, including Appendices "A, B, C, D, E, G, I, J, K and L," (herein ISPC) is adopted and incorporated by reference with amendments as prescribed by the Idaho Plumbing Board and contained in this Section. The Idaho State Plumbing Code is modeled after the 2015 Uniform Plumbing Code (UPC). ()

01. Section 105.3 Testing of Systems. ()

a. Delete and replace the following: Plumbing systems must be tested and approved in accordance with this code or the Authority Having Jurisdiction. Tests may be conducted in the presence of the Authority Having Jurisdiction or the Authority Having Jurisdiction’s duly appointed representative. ()

b. No test or inspection is required where a plumbing system, or part thereof, is set up for exhibition purposes and has no connection with a water or drainage system. In cases where it would be impractical to provide the required water or air tests, or the presences of the Authority Having Jurisdiction, or for minor installations and repairs, the Authority Having Jurisdiction, in accordance with procedures established thereby, is permitted to make such inspection as deemed advisable in accordance with the intent of this code. Joints and connections in the plumbing system must be gastight and watertight for the pressures required by the test. ()

02. Section 218 Definitions. Delete definition of “Plumbing System.” Incorporate definition of “Plumbing System” as set forth in Section 54-2604, Idaho Code. ()

03. Section 314.4 Excavations. Add: Where unsuitable or soft material is encountered, excavate to a depth not less than two (2) pipe diameters below the pipe and replace with select backfill. Such backfill must be sand, fine gravel, or stone and must provide lateral support for the pipe. Where rock is encountered, the trench must be excavated to a minimum depth of six (6) inches (152 mm) below the bottom of the pipe. Sand must be added to provide uniform bedding and support for the pipe. The pipe may not rest on any rock at any point, including joints. ()

04. Section 401.2 Qualities of Fixtures. Replace with the following: Plumbing fixtures must be constructed of dense, durable, non-absorbent materials and must have smooth, impervious surfaces, free from unnecessary concealed fouling surfaces. ()

05. Section 403.3 Exposed Pipes and Surfaces. Delete. ()

06. Section 407.4 Transient Public Lavatories. Self-closing or self-closing metering faucets may be installed on lavatories intended to serve the transient public, such as those in, but not limited to, service stations, train stations, airports, restaurants, convention halls, and rest stops. Installed metered faucets must deliver a maximum of zero point two six (0.26) gallons (one point zero (1.0) liter) of water per use. ()

07. Section 408.5 Finished Curb or Threshold. Delete the last sentences of the first paragraph and replace with the following: The finished floor of the receptor must slope uniformly from the sides toward the drain not less than one-eighth (1/8) inch per foot (20.8 mm/m), nor more than one-half (1/2) inch per foot (41.8 mm/m). ()

08. Section 408.7.5 Tests for Shower Receptors. Delete. ()

09. Section 409.4 Limitation of Hot Water in Bathtubs and Whirlpool Bathtubs. Delete. ()

10. Table 501.1(1) First Hour Rating. Delete Table 501.1(1) and replace with the following:

TABLE 501.1(1) FIRST HOUR RATING¹

Number of Bathrooms	1 to 1.5			2 to 2.5				3 to 3.5			
	1	2	3	2	3	4	5	3	4	5	6
First Hour Rating, ² Gallons	38	49	49	49	62	62	74	62	74	74	74

For SI units: one (1) gallon = 3.785 L

Notes:

1 The first hour rating is found on the “Energy Guide” label.

2 Solar water heaters must be sized to meet the appropriate first hour rating as shown in the table. ()

11. **Section 503.1 Inspection of Chimneys or Vents.** Add the following to the end of section 503.1: Water heating appliances using Category 3 or 4 exhaust venting must be tested in its entirety with five (5) pounds of air for fifteen (15) minutes. Plastic vents must be constructed using manufacturer's instructions. ()
12. **Section 507.2 Seismic Provisions.** Delete. ()
13. **Section 507.13 Installation in Garages.** Replace 507.13 with the following: Any plumbing appliance or appurtenance in residential garages and in adjacent spaces that open to the garage and are not part of the living space of a dwelling unit must be installed so that burners, burner-ignition devices or other sources of ignition are located not less than eighteen (18) inches (450 mm) above the floor unless listed as flammable vapor ignition resistant. ()
14. **Table 603.2 Backflow Prevention Devices, Assemblies and Methods.** ()
- a. Delete from the table the entire row related to freeze resistant sanitary yard hydrant devices. ()
- b. Delete the backflow preventer for Carbonated Beverage Dispensers text from the first column of the table and replace with the following: Backflow preventer for Carbonated Beverage Dispensers (Reduced Pressure Principle Backflow Prevention Assembly). ()
15. **Section 603.5.7 Outlets with Hose Attachments.** Delete and replace with the following: Potable water outlets with hose attachments, other than water heater drains, boiler drains, freeze resistant yard hydrants and clothes washer connections, must be protected by a nonremovable hose bibb-type backflow preventer, a nonremovable hose bibb-type vacuum breaker, or by an atmospheric vacuum breaker installed not less than six (6) inches (one hundred fifty-two (152) mm) above the highest point of usage located on the discharge side of the last valve. In climates where freezing temperatures occur, a listed self-draining frost-proof hose bibb with an integral backflow preventer or vacuum breaker must be used. ()
16. **Section 603.5.12 Beverage Dispensers.** Delete and replace with the following: Potable water supply to, carbonated beverage dispensers must be protected by an air gap or a Reduced Pressure Principle Backflow Prevention Assembly in accordance with ASSE 1013. For carbonated beverage dispensers, piping material installed downstream of the backflow preventer must not be affected by carbon dioxide gas. Potable water supply to beverage dispensers and coffee machines must be protected by an air gap or a vented backflow preventer in accordance with ASSE 1022. ()
17. **Section 603.5.17 Potable Water Outlets and Valves.** Delete. ()
18. **Section 603.5.21 Chemical Dispensers.** Add the following new section 603.5.21: The water supply to chemical dispensers must be protected against backflow. The chemical dispenser must comply with ASSE 1055 or the water supply must be protected by one of the following methods: ()
- a. Air gap; ()
- b. Atmospheric vacuum breaker (AVB); ()
- c. Pressure vacuum breaker backflow prevention assembly (PVB); ()
- d. Spill-resistant pressure vacuum breaker (SVB); or ()
- e. Reduced-pressure principle backflow prevention assembly (RP). ()
19. **Section 604.10.1 Tracer Wire.** Add the following exception: Where the electrical wiring for the pump is installed in the same trench as the water line, from the point of origin to the structure, a tracer wire is not required. ()
20. **Section 605.6.2 Mechanical Joints.** Add to the end of the section the following: Listed PE

(polyethylene), one hundred sixty (160) psi minimum, water service and yard piping may be installed within a building (above ground and below ground) with one (1) joint, provided that only listed and approved metallic transition fittings must be used. Polyethylene (PE) plastic pipe or tubing and fitting joining methods must be installed in accordance with the manufacturer's installation instructions. ()

21. Section 609.1 Installation. Delete the following sentence: Building supply yard piping must be not less than twelve (12) inches (305 mm) below the average local frost depth; and replace it with the following: The cover must be not less than forty-two (42) inches (1068mm) below grade. ()

22. Section 609.4 Testing. Deleting the phrase "Except for plastic piping," at the beginning of the third sentence and add the following sentence at the end of the section: Plastic piping is to be tested in accordance with manufacturer's installation standards. ()

23. Section 609.10 Water Hammer. Does not apply to residential construction. ()

24. Section 609.11 Pipe Insulation. Delete. ()

25. Table 610.3 and Appendix Table A 103.1. Change fixture unit loading value for both public and private for bathtub or combination bath/shower, and clothes washers to two (2) fixture units. ()

26. Section 610.2 Pressure Loss. Add the following: All new one (1) and two (2) family residences built slab on grade or that will have a finished basement at the time of final inspection must have a pre-plumbed water softener loop. The kitchen sink must have one (1) hot soft line and one (1) cold soft line and one (1) cold hard line. Exterior cold hose bibbs intended for irrigation purposes must be piped with hard water. ()

27. Table 611.4 Sizing of Residential Softeners. Amend Footnote 3 to read: Over four (4) bathroom groups, softeners must be sized according to the manufacturer's standards. ()

28. Section 612.0 Residential Sprinkler System. Add the following to the end of the first sentence in section 612.1: and the requirements of the Authority Having Jurisdiction (AHJ). ()

29. Table 702.1 Drainage Fixture Unit Valves (DFU). Change fixture unit loading value for clothes washers, domestic for private to two (2) fixture units. ()

30. Section 703.1 Minimum Size. Add the following at the end of section 703.1: No portion of the drainage or vent system installed underground, underground under concrete or below a basement or cellar be less than two (2) inches in diameter. ()

31. Section 704.2 Single Vertical Drainage Pipe. Two inch (2") and smaller double sanitary tees may be used for back to back or side by side fixture trap arms without increasing the barrel size. ()

32. Section 704.3 Commercial Sinks. Delete. ()

33. Table 703.2 Maximum Unit Loading and Maximum Length of Drainage and Vent Piping. Change fixture unit loading value for one and a half (1 1/2) inch horizontal drainage to two (2) fixture units. ()

34. Section 705.5.2 Solvent Cement Joints. Add to the end of the section the following: PVC DWV may be joined by the use of one-step solvent cement listed or labeled per U.P.C. Section 301.1.1. ()

35. Section 707.4 Locations. Add the following: A clean out must be installed for double sanitary tees two (2) inches (50 mm) or less in diameter that receive the discharge from fixture connections. Exception in Section 707.4 does not apply. A full-sized accessible cleanout must be installed in the vertical immediately above the floor or at the base of each waste or soil stack. A full-size cleanout extending to or above finished grade line must be installed at the junction of the building drain and the building sewer. Cleanouts must be installed at fifty (50) foot intervals in horizontal drain lines two (2) inches or smaller. ()

36. Section 710.3(4) Sewage Ejectors and Pumps. Add: Exception (4): One (1) pump is permitted for "public use" occupancies provided that such tank receives the discharge of not more than one (1) water closet and ten

(10) fixture units (See Section 710.9 Alarms). ()

37. Section 710.5 Size Building Drains and Sewers. Add the following exception: In single family dwellings, one (1) fixture unit may be allowed for each gallon per minute of flow from a pump or a sump ejector. ()

38. Section 712.1 Media. In the first sentence, delete the phrase “except that plastic pipe must not be tested with air.” ()

39. Section 717.0 Size of Building Sewers. Add the following to the end of section 717.1: Exception: The building drain and building sewer is not less than four (4) inches extending from its connection with the city or private sewer system and must run full size to inside the foundation or building lines. ()

40. Section 723.0 General. Delete the following sentence: “Plastic DWV piping systems must not be tested by the air test method.” ()

41. Section 801.3.3 Food Handling Fixtures. Add: Food preparation sinks, pot sinks, scullery sinks, dishwashing sinks, silverware sinks, commercial dishwashing machines, silverware-washing machines, steam kettles, potato peelers, ice cream dipper wells, and other similar equipment and fixtures must be indirectly connected to the drainage system by means of an air gap. The piping from the equipment to the receptor must not be smaller than the drain on the unit, but it must not be smaller than one (1) inch (twenty-five and four tenths (25.4) mm). ()

42. Section 805.41 General. Add to the end of the first paragraph the following: Provisions must be made for the discharge of the water softener to terminate in an approved location. The drain line for a water softener must be three-fourths (3/4) inch minimum. A washer box with a dual outlet is an approved location as long as it is on the same floor or one (1) floor below the softener unit and the water softener drain line is a minimum three-fourths (3/4) inch. ()

43. Section 807.3 Domestic Dishwashing Machines. A domestic dishwashing machine may be installed without the use of an airgap if the drain hose is looped to the bottom side of the counter top and secured properly. ()

44. Section 906.1 Roof Termination. Delete the existing provision and replace with the following: ()

a. Roof venting. When conventional roof venting is utilized, each vent pipe or stack must extend through its flashing and terminate vertically not less than six (6) inches (one hundred fifty-two (152) mm) above the roof nor less than one (1) foot (three hundred five (305) mm) from any vertical surface. ()

b. Sidewall venting. When sidewall venting is utilized, the vent must extend flush with the eaves/gable end, turn down using a ninety (90) degree ell, and terminate as close to the roof peak as possible. The vent end must be properly screened. Sidewall venting is acceptable on new or remodel construction on cabins, log homes, and residential or commercial buildings. ()

c. Sidewall venting must meet the intent of Section 906.2 of the ISPC. ()

45. Section 908.1 Vertical Wet Venting. Add to the end of the section the following: A horizontal wet vent may be created provided it is created in a vertical position and all other requirements of Section 908 of the ISPC are met. ()

46. Section 909.0 Special Venting for Island Fixtures. Add: Parameters for the limited use of Air Admittance Valves (A.A.V.). ()

a. An A.A.V. may be used only in residential buildings. ()

b. In remodels, an A.A.V. may be used with island fixtures or remotely located sinks such as in bar, kitchen, or laundry tray locations. An A.A.V. may not be used in bathroom groups. ()

- c. In new construction, an A.A.V. may be used on island fixture sinks. ()
 - d. Each A.A.V. may be used to vent only one (1) floor. ()
 - e. Each A.A.V. must be readily accessible. ()
 - f. The cross-sectional area of venting must remain the same and must meet the largest required building drain. ()
 - g. An A.A.V. may only be installed in accordance with the manufacturer's installation standards as per ASSE 1051. ()
 - h. An A.A.V. may not be used in an attic, crawl space, outside installation, or in connection with chemical or acid waste systems. ()
- 47. Section 1002.3 Change of Direction.** Trap arms may not exceed one hundred eighty (180) degrees of horizontal turn without the use of a cleanout. ()
- 48. Section 1007.0 Trap Seal Protection.** Delete section 1007.1 and replace with the following: Floor drains or similar traps directly connected to the drainage system and subject to infrequent use must be protected with a trap seal primer or other approved trap seal protection device, except where not deemed necessary for safety or sanitation by the Authority Having Jurisdiction. Trap seal primers must be accessible for maintenance. ()
- 49. Section 1016.1 Discharge.** Add the following to the end of section 1016.1: Floor drains installed in residential garages must be permitted to use the interceptor as the fixture trap. ()
- 50. Section 1502.1 General.** Add to this section the following paragraph: Plumbing for a gray water system from any fixture up to, but not to include the exterior irrigation system tank must be inspected by the Authority Having Jurisdiction. The Idaho Department of Environmental Quality (IDEQ) has jurisdiction to inspect and approve the installation of the exterior irrigation system tank and all piping therefrom to the point of disposal in accordance with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." Gray water system location and design criteria requirements related to irrigation and leaching is determined in accordance with the requirements as established by the IDEQ. ()

302. -- 400. (RESERVED)

SUBCHAPTER D - CIVIL PENALTIES
(Rule 401)

401. CIVIL PENALTIES.

Except for the acts described in Subsections 401.01 and 401.07 of this rule, the acts described in this section shall subject the violator to a civil penalty of not more than two hundred dollars (\$200) for the first offense and not more than one thousand dollars (\$1,000) for each offense that occurs thereafter. ()

01. Plumbing Contractor. Except as provided by Section 54-2602, Idaho Code, any person who acts, or purports to act as a plumbing contractor, as defined by Section 54-2611(a), Idaho Code, without a valid Idaho certificate of competency authorizing him to do so shall be subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and not more than one thousand dollars (\$1,000) for each offense that occurs thereafter. ()

02. Certification or Registration. Except as provided by Section 54-2602, Idaho Code, performing plumbing as defined in Section 54-2603, Idaho Code, without an appropriate certificate of competency or registration. ()

03. Failure to Disclose. Failure to disclose upon request any required information on an application for

a plumbing registration or certificate of competency, including complete licensure history or previous licensure as a journeyman or master plumber in another jurisdiction. ()

04. Performance Outside Scope of Specialty Certificate. Performance of any plumbing installation, alteration, or maintenance by a plumbing specialty contractor or specialty journeyman outside the scope of the specialty certificate of competency. ()

05. Fees, Permits, and Inspections. Failure to obtain a required permit, pay applicable fees, properly post a plumbing permit, or request an inspection of all pipes, fittings, valves, vents, fixtures, appliances, appurtenances, and water treatment installations or repairs. ()

06. Corrections. Failure to make corrections in the time allotted in the notice on any plumbing installation as set forth in Section 54-2625, Idaho Code. ()

07. Gross Violation. In the case of continued, repeated or gross violation of Title 54, Chapter 26, Idaho Code, or this chapter, disciplinary action shall be initiated against certificate holders under this chapter or the matter shall be referred for prosecution. ()

402. -- 999. (RESERVED)

07.03.01 – RULES OF BUILDING SAFETY (BUILDING CODE RULES)

000. LEGAL AUTHORITY.

The Idaho Building Code Board of the Division of Building Safety is authorized under Section 39-4107, Idaho Code, to promulgate rules concerning the enforcement and administration of the Idaho Building Code Act. (3-30-06)

001. TITLE AND SCOPE.

01. **Title.** These rules are titled IDAPA 07.03.01, “Rules of Building Safety (Building Code Rules).” (3-30-06)

02. **Scope.** These rules prescribe the criteria for enforcement and administration of the Idaho Building Code Act by the Idaho Building Code Board and the Division of Building Safety. (3-30-06)

002. -- 003. (RESERVED)

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 (Building Code Rules).” Pursuant to Section 39-4109, Idaho Code, the effective date of any edition of the codes adopted in this Section, or any amendments identified thereto, shall be January 1 of the succeeding year following legislative approval of the rulemaking establishing the edition or amendment. Copies of these documents may be reviewed at the office of the Division of Building Safety. The referenced codes may be obtained from International Code Council, 5360 Workman Mill Road, Whittier, California 90601-2298 or the International Code Council at <http://www.iccsafe.org>. (3-20-14)

01. **International Building Code.** 2015 Edition with the following amendments: (3-29-17)

a. Delete section 305.2.3 and replace with the following: Twelve (12) or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having twelve (12) or fewer children receiving such day care shall be classified as a Group R-3 occupancy or comply with the International Residential Code. (3-20-14)

b. Delete section 308.6.4 and replace with the following: Persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having twelve (12) or fewer children receiving day care or having five (5) or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or comply with the International Residential Code. (3-20-14)

c. Delete section 310.5 and replace with the following: Residential Group R-3. Residential Group R-3 occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4, E or I, including: (3-29-17)

i. Buildings that do not contain more than two (2) dwelling units; (3-20-14)

ii. Boarding houses (nontransient) with sixteen (16) or fewer occupants; (3-20-14)

iii. Boarding houses (transient) with ten (10) or fewer occupants; (3-20-14)

iv. Care facilities that provide accommodations for five (5) or fewer persons receiving care; (3-20-14)

v. Congregate living facilities (nontransient) with sixteen (16) or fewer occupants; (3-20-14)

vi. Congregate living facilities (transient) with ten (10) or fewer occupants; or (3-20-14)

vii. Dwelling units providing day care for twelve (12) or fewer children. (3-20-14)

viii. Lodging houses with five (5) or fewer guest rooms. (3-29-17)

d. Delete section 310.5.1 and replace with the following: Care facilities within a dwelling. Care facilities for twelve (12) or fewer children receiving day care or for five (5) or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the International Residential Code. (3-20-14)

e. Delete the last paragraph of section 2107.2.1 Lap Splices, and replace with the following: In regions of moment where the design tensile stresses in the reinforcement are greater than eighty percent (80%) of the

allowable steel tension stress, FS, the lap length of splices shall be increased not less than fifty percent (50%) of the minimum required length, but need not be greater than 72 db. Other equivalent means of stress transfer to accomplish the same fifty percent (50%) increase are permitted. Where epoxy coated bars are used, lap length shall be increased by fifty percent (50%). (3-28-18)

f. Add footnote (f) in the header row of the table column labeled “Drinking Fountains” of Table 2902.1 Minimum Number of Required Plumbing Fixtures, and add footnote (f) under Table 2902.1 to state the following: Drinking fountains are not required for an occupant load of thirty (30) or fewer. (3-29-17)

g. Delete footnote (e) contained under Table 2902.1 Minimum Number of Required Plumbing Fixtures and replace with the following: For business occupancies, excluding restaurants, and mercantile occupancies with an occupant load of thirty (30) or fewer, service sinks are not required. (3-29-17)

02. International Residential Code. 2012 Edition with the following amendments: (3-20-14)

a. Delete exception No. 1 contained under IRC section R101.2 - Scope. (3-20-14)

b. Delete exception No. 2 contained under IRC section R101.2 - Scope, and replace with the following: Owner-occupied lodging houses with five (5) or fewer guestrooms shall be permitted to be constructed in accordance with the International Residential Code for One- and Two-family Dwellings. (4-11-15)

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

d. Add the following item No. 11 at the end of the “Building” subsection of IRC section R105.2 - Work exempt from permit: Flag poles. (3-20-14)

e. 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)

f. IRC Table R302.1(1) Exterior Walls -- delete Table R302.1(1) and replace with the following:

TABLE R302.1(1)
EXTERIOR WALLS

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Walls	Fire-resistance rated	1 hour-tested in accordance with ASTM E 119 or UL263 with exposure from both sides	< 3 feet
	Not fire-resistance rated	0 hours	≥ 3 feet
Projections	Fire-resistance rated	1 hour on the underside	≥ 2 feet to < 3 feet
	Not fire-resistance rated	0 hours	≥ 3 feet
Openings in Walls	Not allowed	N/A	< 3 feet
	25% maximum of wall area	0 hours	≥ 3 feet to < 5 feet
	Unlimited	0 hours	5 feet

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Penetrations	All	Comply with Section R302.4	< 3 feet
		None required	≥ 3 feet

For SI: 1 foot = 304.8 mm.
 N/A = Not Applicable

(4-11-15)

g. Delete the exception contained under IRC section R302.2 -- Townhouses, and replace with the following two (2) exceptions: (3-25-16)

i. When provided with an automatic fire sprinkler system per section R313.1, a common one (1)-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 extend to and be tight against exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4. (3-25-16)

ii. Two (2) one (1)-hour fire-resistance-rated wall assemblies (as specified in Section R302.1) or a common two (2)-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 are permitted for townhouses. If two (2) one (1)-hour fire-resistance-rated walls are used, plumbing and electrical installations within the wall cavity shall conform to fire-resistance penetration requirements in accordance with section R302.4 through R302.4.2 for each of the two (2) one (1)-hour rated walls penetrated. The two (2)-hour fire-resistance-rated common wall shall not contain plumbing or mechanical equipment, ducts or vents within its wall cavity. 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. (3-25-16)

h. Delete IRC section R303.4 and replace with the following: R303.4 Mechanical Ventilation. Dwelling units shall be provided with whole-house mechanical ventilation in accordance with Section M1507.3

Exception: Where the air infiltration rate of a dwelling unit is equal to 5 air changes per hour or greater when tested with a blower door at a pressure of 0.2 inch w.c. (50 pa) in accordance with Section N1102.4.1.2. (4-11-15)

i. 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 are not required in townhouses where either two (2) one (1)-hour fire-resistance-rated walls or a common two (2)-hour fire-resistance rated wall, as specified in exception 2 of section R302.2 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. (3-25-16)

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

k. Add the following to IRC section R315.3 - Where required in existing dwellings: Exceptions: 1. Work involving the exterior surfaces of dwellings, such as, but not limited to, replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck or electrical permits, are exempt from the requirements of this section; and 2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems are exempt from the requirements of this section. (3-20-14)

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

m. Delete IRC section R322.2.2 subparagraph 2.2, and replace with the following: The total net area of all openings shall be at least one (1) square inch (645 mm²) for each square foot (0.093 m²) of enclosed area, or the opening shall be designed and the construction documents shall include a statement that the design and installation of

the openings will provide for equalization of hydrostatic flood forces on exterior walls by allowing the automatic entry and exit of floodwaters. (3-20-14)

- n. Delete IRC section R501.3 and its exceptions. (3-20-14)
- o. Delete IRC section R602.10 and replace with the following: Wall bracing. Buildings shall be braced in accordance with this section or, when applicable section R602.12, or the most current edition of APA System Report SR-102 as an alternate method. Where a building, or portion thereof, does not comply with one (1) or more of the bracing requirements in this section, those portions shall be designated and constructed in accordance with section R301.1. (3-20-14)
- p. Add an Appendix R, titled Tiny Homes to include the following provisions: (3-28-18)
 - i. Section AR101 Scope. This appendix is applicable to tiny houses used as single dwelling units. Tiny houses shall comply with this code except as otherwise stated in this appendix. (3-28-18)
 - ii. Section AR102 Definitions. The following words and terms, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of this code for general definitions. (3-28-18)
 - (1) Tiny House. A dwelling that is four hundred (400) square feet (thirty-seven (37) m) or less in floor area excluding lofts. (3-28-18)
 - (2) Escape and Rescue Roof Access Window. A skylight or roof window designed and installed to satisfy the emergency escape and rescue opening requirements in Section R310. (3-28-18)
 - (3) Landing Platform. A landing provided as the top step of a stairway accessing a loft. (3-28-18)
 - (4) Loft. A floor level located more than thirty (30) inches (762 mm) above the main floor and open to it on at least one (1) side with a ceiling height of less than six (6) feet eight (8) inches (2032 mm), used as a living or sleeping space. (3-28-18)
 - (iii) Section AR103 Minimum Ceiling Height. Habitable space and hallways in tiny houses shall have a ceiling height of not less than six (6) feet eight (8) inches (2032 mm). Bathrooms, toilet rooms, and kitchens shall have a ceiling height of not less than six (6) feet four (4) inches (1930 mm). Obstructions shall not extend below these minimum ceiling heights including beams, girders, ducts, lighting and other obstructions. Exception: Ceiling heights in lofts are permitted to be less than six (6) feet eight (8) inches (2032 mm) (3-28-18)
- iv. Section AR104 Lofts. (3-28-18)
 - (1) AR104.1 Minimum loft area and dimensions. Lofts used as a sleeping or living space shall meet the minimum area and dimension requirements of Sections AR104.1.1 through AR104.1.3. (3-28-18)
 - (a) AR104.1.1 Minimum area. Lofts shall have a floor area of not less than thirty-five (35) square feet (3.25 m). (3-28-18)
 - (b) AR104.1.2 Minimum dimensions. Lofts shall be not less than five (5) feet (1524 mm) in any horizontal dimension. (3-28-18)
 - (c) AR104.1.3 Height effect on loft area. Portions of a loft with a sloping ceiling measuring less than three (3) feet (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft. Exception: Under gable roofs with a minimum slope of 6:12, portions of a loft with a sloping ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft. (3-28-18)
 - (2) AR104.2 Loft Access. The access to and primary egress from lofts shall be any type described in Sections AR104.3 through AR104.6. (3-28-18)

(3) AR104.3. Stairways. Stairways accessing lofts shall comply with this code or with Sections AR104.3.1 through AR104.3.5. (3-28-18)

(a) AR104.3.1 Width. Stairways accessing a loft shall not be less than seventeen (17) inches (432 mm) in clear width at or above the handrail. The minimum width below the handrail shall be not less than twenty (20) inches (508 mm). (3-28-18)

(b) AR104.3.2 Headroom. The headroom in stairways accessing a loft shall be not less than six (6) feet two (2) inches (1880 mm), as measured vertically, from a sloped line connecting the tread or landing platform nosings in the middle of their width. Exception: The headroom for a landing platform, where stairways access lofts, shall be not less than four (4) feet six (6) inches (1372 mm). (3-28-18)

(c) AR104.3.3 Treads and Risers. Risers for stairs accessing a loft shall be not less than seven (7) inches (178 mm) and not more than twelve (12) inches (305 mm) in height. Tread depth and riser height shall be calculated in accordance with one of the following formulas: (3-28-18)

(i) The tread depth shall be twenty (20) inches (508 mm) minus $\frac{4}{3}$ of the riser height, or (3-28-18)

(ii) The riser height shall be fifteen (15) inches (381 mm) minus $\frac{3}{4}$ of the tread depth. (3-28-18)

(d) AR104.3.4 Landing Platforms. The top tread and riser of stairways accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than six (6) feet two (2) inches (1880 mm) where the stairway meets the loft. The landing platform shall be eighteen (18) inches to twenty-two (22) inches (457 to 559 mm) in depth measured from the nosing of the landing platform to the edge of the loft, and sixteen (16) to eighteen (18) inches (406 to 457 mm) in height measured from the landing platform to the loft floor. (3-28-18)

(e) AR104.3.5 Stairway Handrails. Handrails shall comply with Section R311.7.8. (3-28-18)

(f) AR104.3.6 Stairway Guards. Guards at open sides of stairways shall comply with Section R312.1. (3-28-18)

(4) AR104.4 Ladders. Ladders accessing lofts shall comply with Sections AR104.4.1 and AR104.4.2. (3-28-18)

(a) AR104.4.1 Ladder Size and Capacity. Ladders accessing lofts shall have a rung width of not less than twelve (12) inches (305 mm) and ten (10) inches (254 mm) to fourteen (14) inches (356 mm) spacing between rungs. Ladders shall be capable of supporting a two hundred (200) pound (75 kg) load on any rung. Rung spacing shall be uniform within $\frac{3}{8}$ -inch (9.5 mm). (3-28-18)

(b) AR104.4.2 Ladder Incline. Ladders shall be installed at seventy (70) to eighty (80) degrees from horizontal. (3-28-18)

(5) AR104.5 Alternating Tread Devices. Alternating tread devices accessing lofts, and handrails of alternating tread devices shall comply with sections 1011.14.1 and 1011.14.2 of the International Building Code, excluding the exception. The clear width at and below the handrails shall be not less than twenty (20) inches (508 mm). (3-28-18)

(6) AR104.6. Ships Ladders. Ships ladders accessing lofts, and treads and handrails of ships ladders shall comply with sections 1011.15.1 and 1011.15.2 of the International Building Code. The clear width at and below handrails shall be not less than twenty (20) inches (508 mm). (3-28-18)

(7) AR104.7 Loft Guards. Loft guards shall be located along the open side of lofts. Loft guards shall not be less than thirty-six (36) inches (914 mm) in height or one (1)-half of the clear height to the ceiling, whichever is less. (3-28-18)

v. SECTION AR105. Emergency Escape and Rescue Openings. Tiny houses shall meet the requirements of Section R310 for emergency escape and rescue openings. Exception: Escape and rescue roof access

windows in lofts used as sleeping rooms shall be deemed to meet three (3) requirements of Section R310 where installed such that the bottom of the opening is not more than forty-four (44) inches (1118 mm) above the loft floor, provided the escape and rescue roof access window complies with the minimum opening area requirements of Section R310. (3-28-18)

03. International Existing Building Code. 2015 Edition. (3-29-17)

04. International Energy Conservation Code. 2015 Edition with the following amendments: (3-29-17)

a. Delete the Residential Provisions of the 2015 International Energy Conservation Code (IECC) set forth in chapters 1 [RE] through 6 [RE], including Appendix RA (pages R-1 through R-57), and replace with the Residential Provisions of the 2012 IECC set forth therein in chapters 1 [RE] through 5 [RE] (pages R-1 through R-47) and as such provisions may be further amended herein these rules. (3-29-17)

b. Add the following as new subsection C101.5.3: Industrial, electronic, and manufacturing equipment. Buildings or portions thereof that are heated or cooled exclusively to maintain the required operating temperature of industrial, electronic, or manufacturing equipment shall be exempt from the provisions of this code. Such buildings or portions thereof shall be separated from connected conditioned space by building thermal envelope assemblies complying with this code. (3-25-16)

c. Add the following exception No. (10) under section C403.3 Economizers (Prescriptive): Unusual outdoor air contaminate conditions – Systems where special outside air filtration and treatment for the reduction and treatment of unusual outdoor contaminants, makes an air economizer infeasible. (3-29-17)

d. Delete Table C404.5.1 and replace with the following:

TABLE C404.5.1			
PIPING VOLUME AND MAXIMUM PIPING LENGTHS			
NOMINAL PIPE SIZE (inches)	VOLUME (liquid ounces per foot length)	MAXIMUM PIPING LENGTH (feet)	
		Public lavatory faucets	Other fixtures and appliances
1/4	0.33	31	50
5/16	0.5	N/A - non-standard size	50
3/8	0.75	17	50
1/2	1.5	10	43
5/8	2	7	32
3/4	3	5	21
7/8	4	N/A - non-standard size	16

TABLE C404.5.1 PIPING VOLUME AND MAXIMUM PIPING LENGTHS			
NOMINAL PIPE SIZE (inches)	VOLUME (liquid ounces per foot length)	MAXIMUM PIPING LENGTH (feet)	
		Public lavatory faucets	Other fixtures and appliances
1	5	3	13
1 1/4	8	2	8
1 1/2	11	1	6
2 or larger	18	1	4

For SI: 1 inch = 25.4 mm; 1 foot = 304.8 mm; 1 liquid ounce = 0.030 L; 1 gallon = 128 ounces. (4-11-19)

e. Delete the values contained in Table R402.1.1 for climate zone “5 and Marine 4” and climate zone “6” and replace with the following:

TABLE R402.1.1 INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT										
Climate Zone	Fenestration U- Factor	Skylight U-factor	Glazed Fenestration SHGC	Ceiling R-Value	Wood Frame Wall R-Value	Mass Wall R-Value	Floor R-Value	Basement Wall R-Value	Slab R-Value	Crawlspace Wall R-Value
5 and Marine 4	0.35	0.60	NR	38	20 or 13+5 ^h	13/17	30 ^g	10/13	10, 2 ft	10/13
6	0.35	0.60	NR	49	20 or 13+5 ^h	15/19	30 ^g	15/19	10, 4 ft	10/13

(4-11-19)

f. Add the following footnote to the title of Table R402.1.1 - Insulation and Fenestration Requirements by Component: ^k For residential log home building thermal envelope construction requirements see section R402.6. (3-25-16)

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

TABLE R402.1.3 EQUIVALENT U-FACTORS								
Climate Zone	Fenestration U-factor	Skylight U-factor	Ceiling R-Value	Wood Frame Wall R-Value	Mass Wall R-Value	Floor R-Value	Basement Wall R-Value	Crawlspace Wall R-Value
5 and Marine 4	0.35	0.60	0.030	0.057	0.082	0.033	0.059	0.065
6	0.35	0.60	0.026	0.057	0.060	0.033	0.050	0.065

(4-11-19)

- h. Delete Table R402.2.6 and replace with the following:

TABLE R402.2.6 STEEL-FRAME CEILING, WALL AND FLOOR INSULATION (R-VALUE)	
Wood Frame R-value Requirement	Cold-formed Steel Equivalent R-value ^a
Steel Truss Ceilings^b	
R-30	R-38 or R-30 + 3 or R-26 + 5
R-38	R-49 or R-38 + 3
R-49	R-38 + 5
Steel Joist Ceilings^b	
R-30	R-38 in 2 x 4 or 2 x 6 or 2 x 8 R-49 in any framing
R-38	R-49 in 2 x 4 or 2 x 6 or 2 x 8 or 2 x 10
Steel-Framed Wall	
R-13	R-13 + 5 or R-15 + 4 or R-21 + 3 or R-0 + 10
R-19	R-13 + 9 or R-19 + 8 or R-25 + 7
R-21	R-13 + 10 or R-19 + 9 or R-25 + 8
Steel Joist Floor	
R-13	R-19 in 2 x 6 R-19 + 6 in 2 x 8 or 2 x 10
R-19	R-19 + 6 in 2 x 6 R-19 + 12 in 2 x 8 or 2 x 10
a. Cavity insulation R-value is listed first, followed by continuous insulation R-value. b. Insulation exceeding the height of the framing shall cover the framing.	

(4-11-19)

- i. Delete section R402.4.1 and replace with the following: Building thermal envelope. The building thermal envelope shall comply with sections R402.1.1 and either section R402.4.1.2 or R402.4.1.3. The sealing methods between dissimilar materials shall allow for differential expansion and contraction. (4-11-19)

j. Delete section R402.4.1.1 and replace with the following: Installation. The components of the building thermal envelope as listed in Table R402.4.1.1 shall be installed in accordance with the manufacturer's instructions and the criteria listed in Table R402.4.1.1, as applicable to the method of construction. (4-11-19)

k. Delete the criteria requirement for the "Fireplace" component of Table R402.4.1.1 - Air Barrier and Insulation Installation, and replace with the following: An air barrier shall be installed on fireplace walls. (4-11-19)

l. Delete section R402.4.1.2 and replace with the following: Testing option, Building envelope tightness and insulation installation shall be considered acceptable when tested air leakage is less than seven (7) air changes per hour (ACH) when tested with a blower door at a pressure of 33.5 psf (50 Pa). Testing shall occur after rough in and after installation of penetrations of the building envelope, including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances. During testing: (4-11-19)

- i. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed; (3-20-14)
- ii. Dampers shall be closed, but not sealed, including exhaust, intake, makeup air, backdraft and flue dampers; (3-20-14)
- iii. Interior doors shall be open; (3-20-14)
- iv. Exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed; (3-20-14)
- v. Heating and cooling system(s) shall be turned off; (3-20-14)
- vi. HVAC ducts shall not be sealed; and (3-20-14)
- vii. Supply and return registers shall not be sealed. (3-20-14)

m. Add the following as section R402.4.1.3: Visual inspection option, Building envelope tightness and insulation installation shall be considered acceptable when the items listed in Table R402.4.1.1, applicable to the method of construction, are field verified. Where required by code official an approved party independent from the installer of the insulation shall inspect the air barrier and insulation. (4-11-19)

n. Add the following section: R402.6 Residential Log Home Thermal Envelope. Residential log home construction shall comply with sections R401 (General), R402.4 (Air Leakage), R402.5 (Maximum Fenestration U-Factor and SHGC), R403.1 (Controls), R403.2.2 (Sealing), R403.2.3 (Building Cavities), sections R403.3 through R403.9 (referred to as the mandatory provisions), Section R404 (Electrical Power and Lighting Systems), and either i., ii., or iii. as follows: (4-11-19)

- i. Sections R402.2 through R402.3, R403.2.1, R404.1 and Table R402.6; (3-25-16)
- ii. Section R405 Simulated Performance Alternative (Performance); or (3-25-16)
- iii. REScheck (U.S. Department of Energy Building Codes Program). (4-7-11)

o. Add Table R402.6 Log Home Prescriptive Thermal Envelope Requirements By Component to be used only in accordance with item i. of section R402.6 above to appear as follows:

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

For SI: 1 foot = 304.8 mm.

Climate Zone	Fenestration U-factor ^a	Skylight U-factor	Glazed Fenestration SHGC	Ceiling R-value	Min. Average Log Size In Inches	Floor R-value	Basement Wall R-value ^d	Slab R-value & Depth ^b	Crawl Space Wall R-value ^d
5, 6 - High efficiency equipment path ^c	0.32	0.60	NR	49	5	30	15/19	10, 4 ft.	10/13
5	0.32	0.60	NR	49	8	30	10/13	10, 2 ft.	10/13
6	0.30	0.60	NR	49	8	30	15/19	10, 4 ft.	10/13

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

(4-11-19)

p. Delete section R404.1 and replace with the following: Lighting equipment (Mandatory). A minimum of fifty percent (50%) of the lamps in permanently installed lighting fixtures shall be high-efficacy lamps or a minimum of fifty percent (50%) of the permanently installed lighting fixtures shall contain only high efficacy lamps. (4-11-19)

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)

005. -- 025. (RESERVED)

026. DEFINITIONS.

The terms defined in this section have the following meaning for all parts of this chapter, unless the context clearly indicates another meaning: (3-30-06)

01. Act. The Idaho Building Code Act, Title 39, Chapter 41, Idaho Code. (3-30-06)

02. Administrator. The administrator of the Division of Building Safety for the state of Idaho. (3-30-06)

03. Alterations or Conversions of Modular Buildings and Commercial Coaches. Any change from the approved plans or installation instructions which would affect the structural, mechanical, electrical or plumbing systems of modular buildings or commercial coaches bearing a Division insignia of approval and includes the replacement, addition, modification or removal of any structural member, plumbing, heat-producing or electrical equipment, or installation which may affect such systems prior to first occupancy. Any such alteration or conversion shall first be approved by testing and inspection in the same manner as original systems or component parts. The following do not constitute alteration or conversion: ()

- a. Repairs with approved replacement parts; (3-30-06)
- b. Conversion of listed fuel-burning appliances in accordance with the terms of their listing;(3-30-06)
- c. Replacement of equipment and appliances in kind; (3-30-06)
- d. Adjustment and maintenance of equipment. (3-30-06)

04. Alterations to Manufactured Homes. The replacement, addition, and modification, or removal of any equipment or installation after sale by a manufacturer to a dealer but prior to sale by a dealer to a purchaser which may affect the construction, fire safety, occupancy, plumbing, heat-producing or electrical system. It includes any modification made in a manufactured home which may affect the compliance of the home with the standards, but it does not include the repair or replacement of a component or appliance “plug-in” to an electrical receptacle where the replaced item is of the same configuration and rating as the one being replaced. It also does not include the addition of an appliance requiring “plug-in” to an electrical receptacle, which appliance was not provided with the manufactured home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which it is connected. (3-30-06)

05. Board. The Idaho Building Code Board created under the provisions of Title 39, Chapter 41, Idaho Code. (3-30-06)

06. Commercial Coach. In order to further clarify the definition of “commercial coach” as cited in Section 39-4105(5), Idaho Code, the phrase “made so as to be readily movable as a unit on its own running gear” means that the running gear shall be a permanent part of the unit and not intended to be removed or replaced, and such modular structure is used for commercial purposes. (3-30-06)

07. Division. The Division of Building Safety of the state of Idaho. (3-30-06)

08. Equipment. All equipment, materials, appliances, devices, fixtures, fittings or accessories installed in the manufacture and assembly of modular buildings. (3-30-06)

09. Field Technical Service. Interpretation and clarification of the technical data relating to the application of these rules, but not including inspection. (3-30-06)

10. First Purchaser. The first purchaser of a commercial coach for other than resale. (3-30-06)

11. Insignia. A label, tab or tag issued by the Division to indicate compliance with the codes, standards, rules and regulations established for manufactured building systems, subsystems, or building elements, modular buildings, and commercial coaches. (3-30-06)

12. Labeled. Equipment or other building components bearing a label or other approved marking authorized or issued for use by a recognized testing/listing or evaluation agency. (3-30-06)

13. Listed. Equipment or other building components included within a current list published by a recognized testing/listing agency that maintains periodic inspection on current production of listed equipment or other building components and whose listing states either that the equipment or component complies with recognized standards or has been tested and determined to be suitable for the use intended. (3-30-06)

14. Listing Agency. A person, firm, association, partnership or corporation which is in the business of

listing or labeling and which maintains a periodic inspection program on current production of listed materials, and which makes available, not less frequently than annually, a published report of such listing in which specific information is included that the product has been tested to nationally approved standards and found safe for use in a specified manner. (3-30-06)

15. Minor Alteration. The following definition is used for the purpose of administering annual permits. (3-24-16)

a. Minor alterations shall include, but are not limited to, the following: partition walls constructed within a defined room; relocation of or existing openings or installation of new doors and windows in non-load bearing walls and not in construction meant to compartmentalize fire; window replacement in unaltered existing openings; roof repairs involving installation of less than one hundred (100) square feet of new roof covering; and new suspended ceilings that are not part of a required fire resistive assembly. (3-24-16)

b. Minor alterations shall not include: work that alters the fire resistive characteristics of the building or fire suppression systems; work that creates new openings in construction meant to compartmentalize fire such as fire walls, fire barriers, fire partitions, smoke barriers, smoke partitions, horizontal assemblies, shaft enclosures, stair enclosures; work that increases the floor area or height of the building; work that changes the structural load path of the building for gravity or horizontal loads; work that reduces the thermal resistant capacity of the building envelop; changes in the occupancy classification of the building or space; increases in the floor loads. (3-24-16)

16. Model. As referred to in Section 39-4113(3), Idaho Code, for modular buildings and commercial coaches shall mean a specific outside dimension and floor plan with specific structural, plumbing, electrical, and mechanical systems as designated by the manufacturer to be the standard for imitation reproduction. (3-30-06)

17. Testing/Listing Agency. A person, firm, association, partnership or corporation that is: (3-30-06)

a. In the business of testing equipment or other building components; and (3-30-06)

b. Recognized by the Division as being qualified and equipped to conduct experimental testing in accordance with recognized standards; and (3-30-06)

c. Not under the jurisdiction or control of any single manufacturer or supplier for an affected industry; and (3-30-06)

d. Making available, not less frequently than annually, a published report in which specific information is included stating that the equipment and systems have been tested and found safe for use in a specified manner. (3-30-06)

18. Transit Damage. Application to manufactured home means that damage encountered en route from the place of manufacture to the dealer or first owner involving structural integrity or any repair that does not result in return to the same construction or assembly as specified in the manufacturer's design approval without additional reinforcement or change. (3-30-06)

19. State Buildings. All buildings to be constructed, altered, or repaired by or for any state of Idaho agency or entity, without regard to purpose, occupancy, or the source of funding for such construction, alteration, or repair. (3-30-06)

20. Running Gear. Springs, spring hangers, axles, bearings, wheels, brakes, rims and tires and their related hardware. (3-30-06)

21. Substantially Prefabricated or Assembled. The module or major portion of modular buildings or commercial coaches assembled in such manner that all portions may not be inspected without disassembly or destruction of the part. ()

22. Systems Plan. A design plan concept that allows the interchanging of various approved construction systems to include structural, electrical, plumbing, and mechanical aspects of the system. (3-30-06)

23. Technical Service. Conducting research, evaluation, consultation, model and systems plan reviews, interpretation and clarification by the Division of technical data relating to the application of these rules, and also includes special field inspections that are not covered in other portions of these rules. (3-30-06)

027. PERMITS.

01. Building Permits. Building permits shall be obtained from the Division prior to the construction of structures governed by the act or rules promulgated by the Board. (3-24-16)

02. Annual Permit. In lieu of an individual permit for each minor alteration to an already approved building, the Division may issue an annual permit upon application therefor to any state agency or state governmental organization regularly employing one (1) or more qualified trade persons in the building, structure or on the premises or campus owned or operated by the applicant for the permit. The agency to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The Division shall be allowed access to such records at all times or such records shall be filed with the Division as designated. The permit holder shall request inspections and make the work accessible for inspection as required by the adopted codes and this rule. (3-24-16)

028. PLAN REVIEW.

01. Jurisdiction. The Division shall have exclusive jurisdiction and authority to conduct plan reviews of the construction, additions, repairs, and occupancy of all state buildings of any agency of government at the state level for any purposes or occupancy regardless of the source of funding for such construction, addition, repair, or occupancy. ()

02. Plans Specifications. Construction documents shall be dimensioned and drawn upon suitable material. Plans may be submitted electronically or in digital format as approved by the Division. Drawing format shall be equivalent to the paper format. Construction documents shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that the installations will conform to the provisions of the building code and applicable laws, rules, and policies of the Division. (4-7-11)

03. Plans Not Required. Plans are not required for group U occupancies of Type V conventional light-frame wood construction. ()

04. Addenda and Change Orders. (3-30-06)

a. Documents enforcing changes or modifications. Addenda, contract change orders, changes-in-work requests, and other similar written documents enforcing changes or modifications to plans or specifications, already approved by the Division, which addenda, change orders, or change-in-work requests deal with structural or fire resistance changes, or such other changes affecting code conformance, shall be submitted to the Division for approval. The use of the terms “addenda,” “change orders,” and “changes-in-work requests” are not be limited exclusively to such phraseology, but may include such other language used in the professions which essentially have the same meaning. ()

b. Application provisions. The provisions of this Section apply to that work which will be accomplished. ()

029. FEES.

The following fees apply to the functions cited: ()

01. Document Fees. (3-30-06)

a. Reasonable and suitable fees necessary for copies of any record, plan approval, permit, map, sketch, drawing or other instrument. ()

b. Charges for copies of separate published documents will be actual cost to the Division plus postage. (3-30-06)

02. Technical Service Fee. One hundred dollars (\$100) per hour. (4-7-11)

03. Modular Building and Commercial Coaches Fees. Other than as herein specified in this Section, the fee schedule for modular buildings and commercial coaches are as provided herein in Table 1-A, and such fees are based on the Freight On Board (FOB) cost to the dealer at the point of manufacture. ()

04. Insignia Tag Fee. In instances where building permit fees are not charged for modular buildings, a one hundred dollar (\$100) fee will be charged for an insignia. (3-30-06)

05. Building Permit Fees. The building permit fee for each permit are established in the following table. The determination of value or valuation will be made by the administrator and includes the total value of all construction work for which a permit is issued.

TABLE 1-A - BUILDING PERMIT FEES	
Total Valuation	Fee
\$1 to \$500	= \$23.50
\$501 to \$2,000	= \$23.50 for the first \$500 plus \$3.05 for each additional \$100, or fraction thereof, to and including \$2,000
\$2,001 to \$25,000	= \$69.25 for the first \$2,000 plus \$14 for each additional \$1,000, or fraction thereof, to and including \$25,000
\$25,001 to \$50,000	= \$391.75 for the first \$25,000 plus \$10.10 for each additional \$1,000, or fraction thereof, to and including \$50,000
\$50,001 to \$100,000	= \$643.75 for the first \$50,000 plus \$7 for each additional \$1,000, or fraction thereof, to and including \$100,000
\$100,001 to \$500,000	= \$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000, or fraction thereof, to and including \$500,000
\$500,001 to \$1,000,000	= \$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1,000, or fraction thereof, to and including \$1,000,000
\$1,000,001 to \$5,000,000	= \$5,608.75 for the first \$1,000,000 plus \$3.65 for each additional \$1,000, or fraction thereof, to and including \$5,000,000
\$5,000,001 to \$10,000,000	= \$20,208.75 for the first \$5,000,000 plus \$2.75 for each additional \$1,000, or fraction thereof, to and including \$10,000,000
\$10,000,001 and up	= \$33,958.75 for the first \$10,000,000 plus \$2 for each additional \$1,000, or fraction thereof

()

06. Fees for Annual Permits. A fee for inspections performed on annual permits shall be charged at the rate of one hundred dollars (\$100) per hour. The Division shall bill the applicant for annual permits and failure of the applicant to pay the fee within sixty (60) days may result in cancellation of the annual permit. (3-24-16)

07. Plan Review Fees. Plan review fees shall be charged at an hourly rate of one hundred dollars (\$100) per hour up to a maximum of sixty-five percent (65%) of the calculated building permit fee with a minimum required fee of forty percent (40%) of the calculated building permit fee. All requests for plan review services shall at such time be accompanied by a payment in the amount of at least forty percent (40%) of the calculated building permit fee. Upon completion of the plan review, any additional fees, above the minimum required, are due to the Division by the requesting party. (4-7-11)

08. Refund of Plan Review Fees. Plan review fees are non-refundable. ()

09. Refund of Permit Fees. The Administrator may authorize a refund of any permit fee paid which was erroneously paid or collected. The Administrator may authorize a refund of not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with these rules. The Administrator may not authorize a refund of any permit fee paid except upon written application filed by the original applicant not later than one hundred eighty (180) days after the date of permit issuance. ()

030. RIGHT OF ENTRY.

Whenever necessary to make an inspection to enforce any of the provisions of Title 39, Chapters 40 and 41, Idaho Code, or whenever the administrator or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises unsafe, the administrator or his authorized representative shall enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Division by Title 39, Chapters 40 and 41, Idaho Code; provided that if such building or premises is occupied, he shall first present proper credentials and demand entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the administrator shall have recourse to every remedy provided by law to secure entry. (3-30-06)

031. WORK PROCEEDING WITHOUT PERMIT OR APPROVAL.

Where any work for which a permit or approval, to include plan or system approval, is required by these rules, or by the codes enumerated in Title 39, Chapter 41, Idaho Code, is started or proceeded prior to obtaining said approval or permit, and after notice to such person doing or causing such work to be done, and such person continues or causes to continue such work, the fees specified in these rules shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of Title 39, Chapters 40 or 41, or both, Idaho Code, or these rules in the execution of the work nor from any other penalties prescribed by law. (3-30-06)

032. STOP WORK ORDERS.

Whenever any work is being done contrary to any provisions of the codes enumerated in Title 39, Chapters 40 or 41, or both, Idaho Code, or contrary to these rules, the administrator or his authorized representative may order the work stopped by notice in writing to any persons engaged in such work, and any such persons shall forthwith stop such work until authorized by the administrator or his representative to proceed with the work. Stop work orders shall be accompanied by a notice of violation that states the specific violation and code reference. ()

033. PROHIBITED SALE OR OCCUPANCY NOTICE.

Whenever any mobile/manufactured home, commercial coach or other modular building is in violation of any of the provisions of Title 39, Chapter 40 or 41, or both, Idaho Code, or these rules, the administrator may prohibit the sale or occupancy of such building. Prohibited sale or occupancy notices shall be removed only on authority of the administrator or his authorized representative. ()

034. REMOVAL OF ORDERS AND NOTICES; SALE, RENT, LEASE OR OCCUPANCY OF A UNIT BEARING SUCH ORDER OR NOTICE.

Removal of stop work orders, prohibited sale or occupancy notices, or the sale, rent, lease or occupancy of a building or structure, bearing such order or notice by any person not authorized by the administrator or his authorized representative, constitutes a violation under the provisions of Section 39-4126, Idaho Code, and falls under the provisions of Section 18-317, Idaho Code. (3-30-06)

035. MODULAR BUILDINGS.

01. Alternates and Equivalentents. (3-30-06)

a. Alternatives Acceptable. The provisions of these rules are not intended to prevent the use of alternate designs, materials, appliances, systems, devices, arrangements, or methods of construction not specifically prescribed by Title 39, Chapter 41, Idaho Code, or of these rules; provided, any such alternate has first been recognized by the Division. (3-30-06)

b. Satisfactory Alternatives. The Division shall recognize any such alternate if it finds that the

proposed design is satisfactory and that the material, appliance, device, arrangement, method, system or method of construction is at least the equivalent in performance in quality, strength, effectiveness, fire resistance, durability and adequate for the protection of the health, safety and general welfare of the people of the state of Idaho. (3-30-06)

c. Unsatisfactory Alternatives. Recognition by the Division shall not be given if there is substantial evidence that any design, material, appliance, device, arrangement, system or method of construction does not conform to the provisions or requirements of prescribed standards or these rules; provided, however, the Division may, in order to substantiate claims for alternates, upon written request cause tests or proof of compliance to be made at the expense of the manufacturer, his agent, or the seller. (3-30-06)

d. Test Methods. Test methods shall be as specified in the standards of the codes listed in Title 39, Chapter 41, Idaho Code, or by other nationally recognized standards recognized by the Division. If there are no appropriate test methods specified in the standards listed above, the Division shall determine the test procedure. (3-30-06)

02. Permits. Prior to construction of modular buildings, appropriate building permits shall first be obtained from the Division. (3-30-06)

03. Plans. (3-30-06)

a. Specifications for Submittal. Plans shall be submitted in accordance with Subsection 028.03 of these rules. (3-30-06)

b. Nonconformance. Should the plan submittal not conform to the requirements of these rules, the applicant shall be notified in writing within fifteen (15) work days of the date they are received by the Division. Should the applicant fail to submit a completely corrected plan submittal in accordance with the information supplied by the Division within ninety (90) days of such notice, the plan submittal will be deemed abandoned and all fees submitted shall be forfeited to the Division. Subsequent submission thereafter shall be processed as a new plan submittal. (3-30-06)

c. Distribution of Approved Copies. An approved copy of the plan submittal shall be returned to the manufacturer. An approved copy shall be retained at each place of manufacture, and a copy shall be retained by the Division. (3-30-06)

d. Proprietary Information. All material submitted by the manufacturer in the form of design plans, engineering data, test results, and other design information relating to their application will be considered proprietary information and will not be released for public scrutiny except when so ordered by a court of competent jurisdiction. (3-30-06)

e. Changes to Approved Modular Building Plans. Where the manufacturer proposes to change his submitted designs or the Division rule is amended to necessitate such a change, the manufacturer shall submit changed plans for examination and approval. (3-30-06)

04. Inspections. (3-30-06)

a. Inspections at Manufacturing Plants. The Division shall conduct inspections at the manufacturing plant to determine compliance with the provisions of these rules and with Title 39, Chapter 41, Idaho Code. (3-30-06)

b. Field Inspection for Alterations and Conversions. Any alteration or conversion of Division approved modular buildings after leaving the manufacturing facility shall be field inspected in accordance with this section by the local unit of government having jurisdiction. (3-30-06)

c. In-Plant Inspection in Sister States. Where there is evidence that the in-plant inspectional controls in out-of-state plants in states having reciprocal agreements with the state of Idaho are not being maintained for units to be sold or placed in Idaho, the Division reserves the right to make out-of-state inspections, and fees for such inspection as set forth in these rules shall be paid by the manufacturer. (3-30-06)

05. Insignia. (3-30-06)

a. Insignia Location. Single units shall have the insignia permanently attached below the electrical service entrance. Multiple section units shall have the insignia permanently attached on all perimeter sections to the outside wall next to the major access opening. For interior units and second story units the insignia shall be permanently attached on the interior wall next to the major access opening. (3-30-06)

b. Application for Insignia. The manufacturer shall make application for an insignia for each unit to be manufactured as required by Subsection 035.03 of this rule. The permit/insignia application shall be submitted to the Division in accordance with this section and include the appropriate fees. Applications shall include the serial number of each unit for which an insignia is requested. (3-30-06)

c. Alteration or Conversion. Factory alterations or conversions of an approved modular building prior to first occupancy shall NOT take place until a permit under the provisions of this section has been obtained. The jurisdiction for non-factory produced additions, repairs or alterations to modular buildings and commercial coaches built in conformance with and as prescribed in the Idaho Building Code Act, Section 39-4109, Idaho Code, once such unit has left the manufacturing facility or a dealer's lot, and bears an appropriate insignia of compliance, rests with the local unit of government having the jurisdiction for the administration and enforcement of locally adopted codes prescribed within the Idaho Building Code Act. (3-30-06)

d. Denial of Insignia. Should inspection reveal that a manufacturer is not manufacturing units according to the codes specified in Title 39, Chapter 41, Idaho Code, and these rules, and such manufacturer after having been served with a notice setting forth in what respect the provisions of the codes or rules have been violated continues to manufacture units in violation of the codes or rules, applications for new insignia shall be denied and insignia issued for units in noncompliance such manufacturer may resubmit an application for insignia. (3-30-06)

e. Removal of Insignia. In the event any unit bearing an insignia is found to be in violation of the codes enumerated in Title 39, Chapter 41, Idaho Code, or these rules, the Division may remove the insignia and shall furnish the owner or his agent with a written statement of violations. The owner or his agent shall request an inspection after making corrections to bring the unit into compliance before the Division will issue a replacement insignia. (3-30-06)

f. Serial Number. Each commercial coach rented, leased or sold, or offered for rent, lease or sale in Idaho shall bear a legible identifying serial number in accordance with the provisions of this section and include the state of manufacture. Each section of a multiple modular building shall have the same identifying serial number followed by a numerical sequence identifier and letter suffix. (3-30-06)

g. Stamp of Serial Number and State of Manufacture. The unit serial number and the state of manufacture shall be stamped into the foremost cross member of all commercial coaches. Letters and numbers shall be three-eighths (3/8) inch minimum height. Numbers shall not be stamped into a hitch assembly or draw bar. The insignia shall be made of etched brass, stainless steel, anodized or alclad aluminum, or other approved material, not less than two hundredths (0.02) inches thick, and three (3) inches by one and three-fourths (1 3/4) inches minimum size, with lettering not less than one-eighth (1/8) inch high. (3-30-06)

h. Multiple Commercial Coaches. Each section of multiple commercial coaches shall have the same identifying serial number followed by a numerical sequence identifier and letter suffix. (3-30-06)

i. Data on Insignia. The date of manufacture, showing month, week and year will be shown on the insignia. Such data will be provided by the manufacturer on the application for insignia. (3-30-06)

036. MANUFACTURED HOMES.

01. Construction and Safety Standards. Effective June 15, 1976, the latest published edition of the Federal Manufactured Home Construction and Safety Standards and Manufactured Home Procedural and Enforcement Regulations shall be in effect for all manufactured homes manufactured within the state of Idaho, and for all new manufactured homes for sale within the state of Idaho. All new manufactured homes offered for sale

within Idaho after the effective date of this section shall bear the Housing and Urban Development (H.U.D.) label as authorized in the Federal Manufactured Home procedural and enforcement regulations. Mobile homes manufactured between March 8, 1971 and June 15, 1976 offered for rent, lease, or sale within Idaho shall bear an Idaho insignia of approval. (3-30-06)

02. Inspections. (3-30-06)

a. Special Inspection. Whenever there is a transit damage or any alteration made to a certified manufactured home, or both, a special inspection shall be required of any person offering for rent, lease, or sale said manufactured home. The purpose of the inspection is to insure that the repairs or alteration, or both, do not result in the failure of the manufactured home to comply with the standards. (3-30-06)

b. Installation Inspection. Installation inspections shall be conducted by local jurisdictions in accordance with Title 44, Chapter 22, Idaho Code and the state adopted Idaho Manufactured Home Installation Standard as incorporated by reference in IDAPA 07.03.12, "Rules Governing Manufactured Home Installations," Section 004. (3-30-06)

03. Fees. (3-30-06)

a. Payment of Fees. Fees shall be paid to and collected by the Division. (3-30-06)

b. In-Plant Inspections. The charge for routine in-plant inspections shall be equal to the latest fees approved by the Department of Housing and Urban Development-Office of Manufactured Home Standards: Forty-five dollars (\$45) per floor. (4-9-09)

c. Other Inspections. For all inspections other than routine whether they be in-plant or in the field (for models produced after June 15, 1976): Seventy dollars (\$70) per hour minimum for inspection and travel time, prorated to the nearest quarter hour, per diem and lodging where applicable, plus the current state rate for mileage, as approved by the State Board of Examiners and listed in the Idaho State Travel Policies and Procedures, Appendix "A," based on the round-trip distance from point of inspection and the inspector's office location. (4-9-09)

037. (RESERVED)

038. INTEGRATED DESIGN AND FUNDAMENTAL COMMISSIONING OF PUBLIC SCHOOL FACILITIES.

01. Definitions. The following definitions are intended to supplement, and should be read in conjunction with the definitions contained in Section 33-356, Idaho Code. (3-29-10)

a. Fundamental Commissioning. A quality-focused process for enhancing the delivery of a project. It makes use of a qualified third party employed directly by the building owner. (3-29-10)

b. Integrated Design. Integrated design refers to a collaborative design effort in which each of the individual architectural or engineering professionals focuses on the whole building approach, with an emphasis on optimizing the building's performance, environmental sustainability, and cost-savings, to include climate, use, loads and systems resulting in a more comfortable and productive environment, and a building that is more energy-efficient than would be realized using current best practices. (3-29-10)

02. Technical and Educational Information. Technical and educational information related to integrated design and fundamental commissioning in the form of the American Institute of Architects Integrated Project Delivery Guide; Portland Energy Conservation, Inc. (PECI) Commissioning Guides; ASHRAE Guideline 0-2005-The Commissioning Process; and the Northwest Energy Efficiency Alliance Integrated Design Special Focus on Energy Performance Guide is available at the Division office locations including 1090 E. Watertower St., Meridian, Idaho 83642, and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814. A building commissioned under the prescriptive approaches defined by any of the above-named national organizations is deemed to have completed the Fundamental Commissioning process. (3-29-10)

03. Commissioning Agents. The Division has compiled and made available for public examination a list of all known third party building commissioning agents in Idaho and its contiguous states. The Division has ensured that all such commissioning agents appearing on this list have been certified by the Building Commissioning Association (BCA) or other similar certifying entity. (3-29-10)

04. Annual Optimization Review. (3-29-10)

a. A public school building that qualifies for the school building replacement value calculation pursuant to Section 33-356(5)(a), Idaho Code, shall undergo an annual optimization review each year following the first year of operations that the involved school district seeks to qualify such building for the building replacement value calculation. (3-29-10)

b. The systems within a building required to undergo annual optimization review, as well as any relevant measuring criteria for such systems, shall be formulated by the third party commissioning agent that performs the initial fundamental commissioning. The school district shall be provided with a written report from the commissioning agent identifying the systems which will be subject to the annual optimization review along with any other requirements. (3-29-10)

c. The report required above in Paragraph 038.04.b. of these rules shall include, but is not limited to, at least the following: (3-29-10)

i. Verification that the heating, ventilation, and air conditioning (HVAC) controls, dampers, valves, sensors and other equipment used to control the system are functioning as they were at the commissioning of the building. (3-29-10)

ii. Verification that the lighting controls are functioning as they were at the commissioning of the building. (3-29-10)

iii. The requirement that any changes made to any of the controls contained on the agent's list after the initial commissioning be re-set back to the commissioned settings unless it can be demonstrated that the new settings result in greater energy efficiency. (3-29-10)

d. The annual optimization review shall be performed by persons qualified to make the required determinations and adjustments. (3-29-10)

e. The school district shall submit to the Division written verification indicating that the systems identified by the commissioning agent, including those identified in this Section are functioning as they were at the initial commissioning. Such written verification shall also identify the persons performing the optimization and their qualifications. (3-29-10)

05. Commissioning Anniversary Date. The date upon which the commissioning agent provides the school district with the required written report described in Paragraph 038.04.b. of these rules shall be the commissioning anniversary date for purposes of this Section. If a school district seeks to qualify a building for the building replacement value calculation, the annual optimization review shall be performed within thirty (30) days of the annual commissioning anniversary date following the first year the building is in operation. The written verification required by Paragraph 038.03.e. of these rules is due to the Division not later than sixty (60) days after the annual commissioning anniversary date. (3-29-10)

06. Fundamental Building Commissioning Requirements. (3-29-10)

a. School districts seeking to qualify a building for the building replacement value calculation shall engage a building commissioning agent. (3-29-10)

b. The commissioning agent must document the owner's requirements for each commissioned system in the facility. All HVAC and controls systems, duct work and piping, renewable and alternative technologies, lighting controls and day lighting, waste heat recovery, and any other advanced technologies incorporated in the building must be commissioned. Building envelope systems must also be verified. The owner's requirements for

these systems may include efficiency targets and other performance criteria such as temperature and lighting levels that will define the performance criteria for the functional performance testing that occurs prior to acceptance. (3-29-10)

c. The commissioning agent shall include commissioning requirements in the project construction documents. This includes the scope of commissioning for the project, the systems to be commissioned, and the various requirements related to schedule, submittal reviews, testing, training, O & M manuals, and warranty reviews. (3-29-10)

d. The commissioning agent shall develop and utilize a commissioning plan. This plan must include an overview of the commissioning process for the project, a list of commissioned systems, primary commissioning participants and their roles, a communication and management plan, an outline of the scope of commissioning tasks, a list of work products, a schedule, and a description of any commissioning testing activities. (3-29-10)

e. The commissioning agent must submit a report to the owner once the commissioning plan has been executed. (3-29-10)

039. -- 999. (RESERVED)

07.03.03 – RULES FOR MODULAR BUILDINGS

000. LEGAL AUTHORITY.

The Factory Built Structures Advisory Board of the Division of Building Safety is authorized under Section 39-4302, Idaho Code, to promulgate rules concerning the enforcement and administration of Title 39, Chapter 43, Idaho Code, for Modular Buildings. ()

001. TITLE AND SCOPE.

01. **Title.** These rules are titled IDAPA 07.03.03, “Rules for Modular Buildings.” (3-26-08)

02. **Scope.** These rules prescribe the criteria for enforcement and administration of the Idaho Modular Buildings Act by the Factory Built Structures Advisory Board and the Division of Building Safety. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

The terms defined in this section have the following meaning, unless the context clearly indicates another meaning. ()

01. **Administrator.** The Administrator of the Division of Building Safety for the state of Idaho. (3-26-08)

02. **Alterations or Conversions of Modular Buildings.** Any change from the approved plans or installation instructions that would affect the structural, mechanical, electrical or plumbing systems of Modular Buildings bearing a Division Insignia of approval, including the replacement, addition, modification, or removal of any structural member; plumbing, heat-producing or electrical equipment, or installation that may effect such systems prior to first occupancy. Any such alteration or conversion must first be approved by testing and inspection in the same manner as original systems or component parts. The following do not constitute alteration or conversion: (3-26-08)

a. Repairs with approved replacement parts; (3-26-08)

b. Conversion of listed fuel-burning appliances in accordance with the terms of their listing;(3-26-08)

c. Replacement of equipment and appliances in kind; (3-26-08)

d. Adjustment and maintenance of equipment. (3-26-08)

03. **Commercial Coach.** A Modular Building with permanent running gear and a hitch assembly that is designed and constructed for nonresidential occupancy classifications only. Permanent running gear includes springs, spring hangers, axles, bearings, wheels, brakes, rims and tires and their related hardware. (3-26-08)

04. **Insignia.** A label or tag issued by the Division to indicate compliance with the codes, standards, rules, and regulations established for manufactured building systems, subsystems, or building elements, Modular Buildings, and Commercial Coaches. (3-26-08)

05. **Technical Service.** Conducting research, evaluation, consultation, interpretation, and clarification by the Division of technical data relating to the application of these rules, and also include special field inspections that are not covered in other portions of these rules. (3-26-08)

011. -- 026. (RESERVED)

027. PERMITS.

Building permits must be obtained from the Division prior to the construction of structures governed by Title 39, Chapter 43, Idaho Code, or Board rules. ()

028. PLAN REVIEW.

01. **Jurisdiction.** The Division has exclusive jurisdiction and authority to conduct plan reviews of the in-plant construction of Modular Buildings. (3-26-08)

02. Plans Not Required. Plans are not required for group U occupancies of Type V conventional light-frame wood construction. (3-26-08)

03. Non-conformance. Should the plan submittal not conform to the requirements of these rules, the applicant will be notified in writing within fifteen (15) work days of the date they are received by the Division. Should the applicant fail to submit a completely corrected plan submittal in accordance with the information supplied by the Division within ninety (90) days of such notice, the plan submittal will be deemed abandoned. Subsequent submission thereafter will be processed as a new plan submittal. (3-26-08)

04. Distribution of Approved Copies. An approved copy of the plan submittal will be returned to and retained by the manufacturer and a copy will be retained by the Division. When necessary, an additional copy may be distributed for use by third party or contract inspectors. (3-26-08)

05. Proprietary Information. All material submitted by the manufacturer in the form of design plans, engineering data, test results, and other design information relating to their application will be considered proprietary information and will not be released for public scrutiny except when so ordered by a court of competent jurisdiction. (3-26-08)

06. Revisions to Approved Modular Building Plans. Where the manufacturer proposes to revise his submitted designs, or Division adopted rules or codes are amended to necessitate such a change, the manufacturer must submit revised plans for examination and approval. (3-26-08)

07. Application Provisions. The provisions of this section applies only to plans for work that will be accomplished at the place of manufacture. (3-26-08)

029. FEES.
 Fees are paid to the Division, and the following fee schedule is applicable for the functions cited: ()

01. Modular Building Permit Fees. Other than as herein specified in this section, the permit fee schedule for Modular Buildings is as provided herein in Table 1-A plus ninety dollars (\$90) and two and one-half percent (2.5%) of the plumbing, electrical, and HVAC installation costs. The determination of value or valuation is based on the total value of all construction work for which a permit is issued.

TABLE 1-A – MODULAR BUILDING PERMIT FEES	
TOTAL VALUATION	FEE
\$1 to \$500	= \$23.50
\$501 to \$2,000	= \$23.50 for the first \$500 plus \$3.05 for each additional \$100, or fraction thereof, to and including \$2,000
\$2,001 to \$25,000	= \$69.25 for the first \$2,000 plus \$14 for each additional \$1,000, or fraction thereof, to and including \$25,000
\$25,001 to \$50,000	= \$391.75 for the first \$25,000 plus \$10.10 for each additional \$1,000, or fraction thereof, to and including \$50,000
\$50,001 to \$100,000	= \$643.75 for the first \$50,000 plus \$7 for each additional \$1,000, or fraction thereof, to and including \$100,000
\$100,001 to \$500,000	= \$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000, or fraction thereof, to and including \$500,000

\$500,001 to \$1,000,000	=	\$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1,000, or fraction thereof, to and including \$1,000,000
\$1,000,001 and up	=	\$5,608.75 for the first \$1,000,000 plus \$3.65 for each additional \$1,000, or fraction thereof

- ()
- 02. Other Inspections and Fees.** (3-26-08)
- a.** Inspections outside of normal business hours: sixty-five dollars (\$65) per hour (minimum charge - one (1) hour). ()
- b.** Re-inspection fees: sixty-five dollars (\$65) per hour. (3-26-08)
- c.** Inspections for which no fee is specifically indicated: sixty-five dollars (\$65) per hour (minimum charge - one half (1/2) hour). (3-26-08)
- d.** Additional plan review required by changes, additions, or revisions to plans: sixty-five dollars (\$65) per hour (minimum charge - one-half (1/2) hour). (3-26-08)
- e.** For use of outside consultants for plan checking and inspections or both: actual costs. (3-26-08)
- 03. Insignia Tag Fee.** In instances where building permit fees are not charged for Modular Buildings, a one hundred dollar (\$100) fee will be charged for an Insignia. (3-26-08)
- 04. Investigation Fee.** Whenever any work for which a permit is required by these rules has been commenced without first obtaining said permit, a special investigation must be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, must be collected whether or not a permit is then or subsequently issued. The investigation fee is equal to the amount of the permit fee required by these rules. The minimum investigation fee is the same as the minimum fee set forth in Table 1-A. The payment of such investigation fee does not exempt any person from compliance with all other provisions of these rules nor from any penalty prescribed by law. (3-26-08)
- 05. Plan Review.** Where the Modular Building plans have not been previously approved, the Modular Building fee includes an additional amount equal to sixty-five percent (65%) of the permit fee calculated in accordance with Table 1-A. (3-26-08)
- 06. Refund of Permit Fees.** The Administrator may authorize refunding of any permit fee paid that was erroneously paid or collected. The Administrator may authorize refunding of not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with these rules. The Administrator will not authorize refunding of any permit fee paid except on written application filed by the original applicant not later than one hundred eighty (180) days after the date of fee payment. (3-26-08)
- 07. Refund of Plan Review Fees.** There is no refund of plan review fees. (3-26-08)

030. RIGHT OF ENTRY.

Whenever necessary to make an inspection to enforce any of the provisions of Title 39, Chapter 43, Idaho Code, or whenever the Administrator or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition that makes such building or premises unsafe, the Administrator or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Division by Title 39, Chapter 43, Idaho Code; provided that if such building or premises is occupied, he must first present proper credentials and demand entry; and if such building or premises be unoccupied, he must first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Administrator has recourse to every remedy provided by law to secure entry. (3-26-08)

031. REMOVAL OF ORDERS AND NOTICES PROHIBITED.

Removal of stop work or prohibited occupancy orders or notices from a building or structure, bearing such order or notice by any person or persons not authorized by the Administrator or his authorized representative, constitute a violation under the provisions of Section 39-4126, Idaho Code, and falls under the provisions of Section 18-317, Idaho Code. (3-26-08)

032. MODULAR BUILDINGS.

01. Enforcement and Administration. The Administrator administers and enforces all the provisions of these rules. Any officer, agent, or employee of the Division is authorized to enter any premises during any normal or operational hours where Modular Buildings are manufactured for the purpose of examining any records pertaining to quality control and inspection and may inspect any such units, equipment, or installations to insure compliance with the provisions of these rules and codes enumerated in Title 39, Chapters 41 and 43, Idaho Code. When it becomes necessary, he may require that a portion or portions of such Modular Building units be removed in order that an inspection may be made to determine compliance. Every manufacturer of Modular Buildings must obtain prior approval and an Insignia for each Modular Building unit to be installed in the state of Idaho. (3-26-08)

02. Inspections. (3-26-08)

a. Inspections at Manufacturing Plants. The Division conducts inspections at the manufacturing plant to determine compliance with the provisions of these rules and with codes adopted by Title 39, Chapter 41, Idaho Code, and Title 54, Chapters 10, 26, and 50, Idaho Code. (3-26-08)

b. In-Plant Inspections. Due to the repetitive nature of the manufacturing process, the required inspections outlined in the International Building Code or Idaho Residential Code may not be required if, in the opinion of the Division, compliance can be obtained by periodic inspections. The Division conducts periodic unannounced inspections at any manufacturing site to review any or all aspects of a manufacturer's production and inspectional control procedures. Each unit, however, must be inspected at least once during the course of production for compliance with the adopted standards. No unit manufactured to be installed in the state of Idaho will be shipped from the point of manufacture without inspection and attached Insignia. ()

c. Field Inspections. All existing Modular Buildings to be installed in the state of Idaho not bearing the Division's Insignia may not be used or occupied until required Idaho Insignia has been issued by the Division and properly affixed in accordance with these rules. Applicants for Insignia must obtain permits, plan approvals, and inspections as required by these rules. (3-26-08)

d. Qualifications of Inspectors. All inspectors performing inspections of modular buildings must be properly certified for the type of inspection being conducted. The Factory Built Structures Board recognizes certifications granted through the National Certification Program Construction Code Inspector program (NCPCCI), the National Inspection Testing Certification program (NITC), the International Association of Electrical Inspectors (IAEI), and the International Code Council (ICC). Certifications must be current and of the proper classification for the structure or subsystem being inspected. ()

03. Installation Inspection. In order to complete the installation of the Modular Building, approval and inspection of said installation by the enforcement agency having jurisdiction over the site location is required. (3-26-08)

04. Field Technical Service. Any person may request field Technical Service and requests for such service must be submitted to the Division in writing. (3-26-08)

05. Local Enforcement Agencies. (3-26-08)

a. Rights of Local Enforcement Agency. A local enforcement agency has the right to require a complete set of plans and specifications approved by the Division for each Modular Building to be installed within its jurisdiction, to require that all permits be obtained before delivery of any unit to a Building Site. After leaving the manufacturing facility, future alterations or conversions of Division approved Modular Buildings must be field inspected by the local unit of government having jurisdiction. (3-26-08)

b. Limitations of Rights of Local Enforcement Agency. A local enforcement agency does not have the right to: open for inspection any Modular Building or component bearing an Insignia to determine compliance with any codes or ordinances; require by ordinance or otherwise that Modular Buildings meet any requirements not equally applicable to on-site construction; or to charge permit or plan review fees for any portion of the structure prefabricated or assembled at a place other than the Building Site. (3-26-08)

06. Insignia. (3-26-08)

a. Required Insignia. Each Modular Building section must bear a Division Insignia on the front, left-hand side of the building prior to leaving the manufacturing facility. Assigned Insignia are not transferable and are void when not affixed as assigned. All such voided Insignia must be returned to, or may be confiscated by, the Division. Insignia remain the property of the Division and may be confiscated in the event of violation of conditions of approval. Assigned Insignia affixed in the field must be under the direction of the Division's authorized agent. ()

b. Serial Number. Each Modular Building must bear a legible identifying serial number and include the state of manufacture. Each section of a multiple Modular Building must have the same identifying serial number followed by a numerical sequence identifier or a letter suffix, or both. Characters for serial numbers must be three-eighths (3/8) inch minimum height. Numbers may not be stamped into a hitch assembly or draw bar. The date of manufacture, showing month and year will be shown on the Insignia. Such data will be provided by the manufacturer on the application for Insignia. ()

07. Reciprocal Agreements. The provisions for Insignia of compliance as specified in a written and signed reciprocal agreement between the Division and any other state takes precedence over the provisions of these rules. Where there is evidence that the in-plant inspection controls in out-of-state plants within states having reciprocal agreements with the state of Idaho are not being maintained for units to be placed in Idaho, the Division reserves the right to make out-of-state inspections, and fees for such inspection as set forth in these rules must be paid by the manufacturer. (3-26-08)

033. CIVIL PENALTIES.

The following acts subject the violator to penalties of not more than two hundred dollars (\$200) for the first offense and not more than one thousand dollars (\$1,000) for each offense thereafter based on the following schedule. ()

01. Installation. Any person who transports a modular building to or installs a modular building on a building site in this state without first receiving approval and securing to the structure insignia evidencing such approval from the Division. ()

02. Modification. Any person who in any way modifies or alters a modular building prior to its initial occupancy which has previously been approved by the Division without first having received approval to do so from the Division. ()

03. Removal of Orders. Any person who removes a stop work or prohibited occupancy order or notice from a building or structure bearing such order or notice. ()

04. Lawful Orders. Any person who fails, neglects, or refuses to obey any lawful order issued by the Administrator or his representative, or who refuses to perform any duty lawfully enjoined upon him by the Administrator or his representative. ()

034. -- 999. (RESERVED)

07.03.11 – RULES GOVERNING MANUFACTURED/MOBILE HOME INDUSTRY LICENSING

000. LEGAL AUTHORITY.

The administrator of the Idaho Division of Building Safety and the Factory Built Structures Advisory Board are authorized to promulgate rules necessary to implement the provisions of Title 44, Chapters 21 and 22, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 07.03.11, “Rules Governing Manufactured/Mobile Home Industry Licensing.” (3-24-05)

02. Scope. These rules apply to persons engaged in the business of manufacturing, selling, or installing manufactured or mobile homes for purposes of human habitation in Idaho. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

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

01. Administrator. The administrator of the Division of Building Safety of the state of Idaho. (3-24-05)

02. Board. The Factory Built Structures Advisory Board. ()

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

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

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

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

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

b. Misrepresents any of the products or services sold or provided by a manufacturer, manufactured/mobile home retailer, salesman, or installation company. (3-20-14)

07. Division. The Division of Building Safety. ()

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

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

10. Manufactured Home. A structure, constructed after June 15, 1976, in accordance with the HUD manufactured home construction and safety standards, and is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term must include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of Housing and Urban Development and complies with the standards established under 42 U.S.C. Section 5401, et seq. (3-20-14)

- 11. Manufactured Home Retailer.** Except as otherwise provided in these rules: (3-29-10)
- a.** Any person engaged in the business of selling or exchanging new and used units; or (5-25-94)
 - b.** Any person or who buys, sells, lists, or exchanges three (3) or more new and used units in any one (1) calendar year. (5-25-94)
- 12. Manufactured/Mobile Home Salesman.** Any person employed by a manufactured/mobile home retailer or resale broker for a salary, commission, or compensation of any kind to sell, list, purchase, or exchange or to negotiate for the sale, listing, purchase, or exchange of new, used, brokered, or third-party owned units, except as otherwise provided in Title 44, Chapter 21, Idaho Code. (3-20-14)
- 13. Manufacturer.** Any person engaged in the business of manufacturing manufactured homes that are offered for sale, lease, or exchange in the state of Idaho. (3-20-14)
- 14. Mobile Home.** A factory-assembled structure or structures generally constructed prior to June 15, 1976, the date of enactment of the Federal Manufactured Housing and Safety Standards Act (HUD Code), and equipped with the necessary service connections and made so as to be readily movable as a unit or units on their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation. (3-20-14)
- 15. Person.** A natural person, corporation, partnership, trust, society, club, association, or other organization. (5-25-94)
- 16. Principal Place of Business.** The primary physical location at which the business of a manufactured home retailer or resale broker is lawfully conducted. Each of the following requirements must be met to qualify as the principal place of business: (3-20-14)
- a.** The business of the manufactured or mobile home retailer or resale broker is lawfully conducted here; (3-20-14)
 - b.** The office or offices of the retailer or resale broker is or are located here; (3-20-14)
 - c.** The public may contact the retailer, resale broker, or salesman here; (3-20-14)
 - d.** The offices are accessible and open to the public; and (3-20-14)
 - e.** The greatest portion of the retailer's business is conducted here. The books and other records of a retailer must be kept and maintained at the retailer's principal place of business and be open to inspection during normal business hours by any authorized agent of the Division. Moreover, there must be displayed on the exterior a sign permanently affixed to the land or building with letters providing the business name of the retailer clearly visible to the major avenue of traffic. ()
- 17. Responsible Managing Employee (RME).** The person designated by the employer to supervise other employees. ()
- 18. Used Manufactured Home or Mobile Home.** A manufactured home or mobile home, respectively, which has been: (5-25-94)
- a.** Sold, rented, or leased and occupied prior to or after the sale, rental, or lease; or (5-25-94)
 - b.** Registered with or been the subject of a certificate of title issued by the Idaho Department of Transportation or the appropriate authority of any state, the District of Columbia, or foreign state or country. (5-25-94)
- 011. (RESERVED)**

012. LICENSE REQUIRED.

It is unlawful to engage in business as a manufacturer, manufactured/mobile home retailer, resale broker, manufactured/mobile home salesman, responsible managing employee, or installer without being duly licensed by the Division pursuant to Title 44, Chapter 21, Idaho Code, and these rules. No issued licenses are transferable.

(3-20-14)

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

(5-25-94)

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

(3-24-05)

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

(5-25-94)

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

(5-25-94)

c. The applicant and the person designated under Subsection 012.02 of these rules agree by acceptance of the designation that the designated person acts as agent of the applicant for all purposes under Title 44, Chapters 21 and 22, Idaho Code, and all rules promulgated thereunder.

(5-25-94)

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

(3-20-14)

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

(3-24-05)

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

(3-24-05)

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

(3-29-10)

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

(3-29-10)

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

(3-29-10)

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

the Division. (3-29-10)

07. License to Engage in Business as Manufactured/Mobile Home Retailer, Resale Broker, Manufacturer, or Installer; Application; Bond; Issuance, Expiration, and Renewal. (3-20-14)

- a. Applicants for a manufacturer's, retailers, resale brokers, or installer's license must furnish: ()
 - i. Any proof the Division may deem necessary that the applicant is a manufacturer, retailer, resale broker, or installer; (3-20-14)
 - ii. Any proof the Division may require that the applicant has a principal place of business; (5-25-94)
 - iii. Any proof the Division may require of the applicant's good character and reputation and of his fitness to engage in the activities for which the license is sought; (5-25-94)
 - iv. In the case of a retailer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise dealer for the make concerned; (3-29-10)
 - v. The fee and proof of bond fixed by rule; and ()
 - vi. Proof of passing the examination required by these rules, as applicable. ()
- b. Within thirty (30) days after receipt of a completed application, the Division will issue or deny the license. (5-25-94)
- c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. (5-25-94)
- d. If any installer's working relationship with his employer is terminated, the employer must immediately deliver the license of the terminated installer to the Division. (3-20-14)

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

- a. A person may not act as a salesman in this state for a person who sells or leases any manufactured/mobile home subject to the provisions of Title 44, Chapters 21 or 22, Idaho Code, without having first received a license from the Division. Before issuing such a license, the Division requires: (1) an application, signed by the applicant and verified by his employer, providing his residential address and the name and address of his employer; (2) a statement as to whether any previous application of the applicant has been denied or license revoked; (3) payment of the license fee established by rule; and (4) any other relevant information the Division deems necessary. ()
- b. Within thirty (30) days after receipt of a completed application, the Division will issue or deny the license. (5-25-94)
- c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. (5-25-94)
- d. A person licensed pursuant to Subsection 012.08 of these rules may not engage in sales activity other than for the account of, or for and on behalf of, a single employer who is a licensed retailer or resale broker. (3-29-10)
- e. If a salesman ceases to be employed by a licensed retailer or resale broker, his license to act as a salesman is automatically suspended and his right to act in that capacity immediately ceases. He may not engage in such activity until reemployed by a licensed retailer or resale broker. If the salesman's working relationship with his employer is terminated, the employer must immediately deliver his license to the Division. (3-29-10)

- 09. License for Responsible Managing Employee.** (5-25-94)
- a.** A person may not act as a responsible managing employee for an installer without first having been issued a license by the Division. Before issuing such a license the Division requires: (3-20-14)
- i.** An application, signed by the applicant and verified by his employer, providing his residential address and the name and address of his employer; ()
- ii.** A statement as to whether any previous application of the applicant has been denied or license revoked; (5-25-94)
- iii.** Payment of the license fee established by rule; and (5-25-94)
- iv.** Any other relevant information the Division deems necessary. (5-25-94)
- b.** Within thirty (30) days after receipt of a completed application, the Division will issue or deny the license. (5-25-94)
- c.** Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. (5-25-94)
- d.** A person licensed pursuant to these rules may not engage in such activity other than for the account of, or for and on behalf of, a single employer who is a licensed installer. ()
- e.** If a responsible managing employee ceases to be employed by an installer, his license to act as a responsible managing employee is automatically suspended and his right to act in that capacity immediately ceases. He may not engage in such activity until reemployed by a licensed installer. (3-20-14)
- f.** If the responsible managing employee's working relationship with his employer is terminated, the employer must immediately deliver his license to the Division. (5-25-94)

013. THE DIVISION'S MAILING ADDRESS.

Any correspondence or notices required by these rules or Title 44, Chapters 21 or 22, Idaho Code, may be addressed to the Division of Building Safety, 1090 E. Watertower Street, Suite 150 Meridian, Idaho 83642. (3-20-14)

014. PROOF OF EDUCATION REQUIRED.

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

- a.** Installers and retailers who are installers: eight (8) hours. (3-20-14)
- b.** The course of initial education must be approved by the Division and must include information relating to the provisions of these rules, Title 44, Chapters 21 and 22, Idaho Code, and the Manufactured Housing Construction Safety Standards Act of 1974. (4-7-11)

02. Satisfactory Proof for License Renewal. The Division will not renew any installer license, or retailer license of any retailer 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 the three (3) years immediately preceding the renewal of the license, completed at least eight (8) hours of continuing education. ()

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

- a.** Manufactured housing or mobile home parks; ()

b. The construction, including components and accessories, rebuilding, servicing, installation, or sale of manufactured/mobile homes; (4-7-11)

c. Legislative issues concerning manufactured/mobile home housing and manufactured/mobile home parks, including pending and recently enacted state or federal legislation; and (4-7-11)

d. These rules, Title 44, Chapters 21 or 22, Idaho Code, and the Manufactured Housing Safety Standards Act of 1974. (4-7-11)

015. EXAMINATION OF APPLICANT FOR LICENSE.

01. Required Examinations. The Division requires a written examination of each applicant for an initial license as a manufactured/mobile home retailer, resale broker, or installer. To avoid the requirement of an examination and be considered a renewal, any licensee must renew his license within six (6) months of its expiration date. ()

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

016. DISCIPLINARY ACTION AGAINST LICENSEES.

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

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

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

03. Revocation of License. The revocation of the license of the employer of a responsible managing employee or salesman is grounds for the revocation of the license of the installer, responsible managing employee or salesman. (3-29-10)

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

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

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

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

08. Failure to Provide Business Name. Failure to include in any advertising the name of the licensed retailer, resale broker, or installer, or the name under which he is doing business. (3-20-14)

09. Encouraging Falsification. Intentionally inducing an applicant or licensee to falsify an application. ()

10. Poor Workmanship. Performing workmanship which is grossly incompetent or repeatedly below the standards adopted by Title 44, Chapters 21 and 22, these rules, IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," the Federal Manufactured Housing and Safety Standards Act of 1974, or the latest

Idaho adopted editions of the International Building Code, the National Electrical Code, the Idaho State Plumbing Code, and the International Mechanical Code, then in effect. ()

11. Installation Supervisor Required. Failure to have a licensed responsible managing employee personally supervise any installation of a manufactured/mobile home. (3-20-14)

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

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

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

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

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

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

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

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

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

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

017. PROCEDURES FOR LICENSING SUSPENSION, REVOCATION OR NONRENEWAL.
Any proceeding to suspend, revoke, or not renew any license will be conducted as a contested case in accordance with the provisions of Title 67, Chapter 52, Idaho Code, and the "Idaho Rules of Administrative Procedure of the Attorney General," IDAPA 04.11.01.000, et seq. ()

018. APPLICATION FOR NEW LICENSE.
Any person whose license has been revoked may not apply for a new license until the expiration of one (1) year from the date of such revocation. (5-25-94)

019. FEES.

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

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

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

- c. Manufactured/mobile home installer license: two hundred twenty dollars (\$220); (3-20-14)
 - d. Manufactured/mobile home salesman's license: forty-five dollars (\$45). (3-24-05)
 - e. Responsible managing employee license: forty-five dollars (\$45). (3-29-10)
- 02. Performance Bonding Requirements.** No application for licensing pursuant to these rules will be accepted unless it is accompanied by evidence of the following performance bond: (3-24-05)
- a. Manufacturer: twenty thousand dollar (\$20,000) bond; (5-25-94)
 - b. Manufactured/mobile home retailer: twenty thousand dollar (\$20,000) bond; (3-29-10)
 - c. Manufactured/mobile home resale broker: thirty thousand dollar (\$30,000) bond; (3-29-10)
 - d. Manufactured/mobile home installer: five thousand dollar (\$5,000) bond. Retailers who are also installers will not be required to post an installer's bond in order to hold both licenses. (3-20-14)
 - e. Responsible managing employee. No bond. (3-29-10)
- 03. Money or Securities Deposit in Lieu of Performance Bond.** A money or securities deposit will be accepted by the Division in lieu of the performance bonding requirement as set forth at Title 44, Chapter 21, Idaho Code, and Subsection 019.02 of these rules, under the following circumstances: (3-29-10)
- a. Any such money or securities deposit is in a principal sum equal to the face amount of the performance bond required for the applicable licensing category; (3-29-10)
 - b. Any such money deposit is deposited in a time certificate of deposit that provides on its face that the principal amount of such certificate of deposit is payable to the Division upon presentment and surrender of the instrument; (7-1-96)
 - c. Any such time certificate of deposit has a maturity date of one (1) year from the effective date of licensure and has an automatic renewal provision for subsequent years; (7-1-96)
 - d. Any such time certificate of deposit must be provided to the Division at the time of application for licensure and be retained by the Division during the effective period of licensure unless otherwise expended by the Division to insure completion of the licensee's performance; (7-1-96)
 - e. Any such time certificate of deposit will be returned to an unsuccessful applicant for licensure; (7-1-96)
 - f. The principal amount of any such time certificate of deposit, to the extent not otherwise expended to insure completion of the licensee's performance, will be returned to the depositor by the Division on or before ninety (90) days subsequent to the occurrence of any of the following events: voluntary surrender or return of a license; expiration of a license; lapse of a license; or revocation or suspension of a license; and (7-1-96)
 - g. Any interest income earned by reason of the principal amount of the time certificate of deposit is the property of the licensee. (7-1-96)

020. LICENSING COMPLAINTS.

Persons who wish to submit complaints to the Division for its consideration regarding the fitness to hold a license of anyone currently licensed or applying for a license under these rules must do so in writing and signed, dated, provide the name of the licensee or applicant, specific details giving rise to the complaint, and contain the complainant's valid address and telephone number. ()

021. CIVIL PENALTIES.

The following acts subject the violator to penalties based on the following schedule: (3-29-10)

01. Industry Licensing. Except as provided for by Section 44-2106, Idaho Code, any person who engages in the business of a manufacturer, retailer, resale broker, salesman, installer, or responsible managing employee (RME) as defined in Section 44-2101A, Idaho Code, without being duly licensed by the Division is subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-20-14)

02. Deceptive Practice. In accordance with Section 44-2106(2), Idaho Code, any retailer, resale broker, installer, salesman, or RME who intentionally publishes or circulates any advertising that is misleading or inaccurate in any material respect or that misrepresents any of the products or service sold or provided by a manufacturer, retailer, resale broker, installer, or RME, is subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-20-14)

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

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

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

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

022. MANUFACTURED HOME BUYER'S INFORMATION AND DISCLOSURE FORM.
The Manufactured Home Buyer's Information and Disclosure Form must be presented by manufactured home retailers to each purchaser of a new manufactured home, and must be executed by the retailer and purchaser at the time the initial purchase order is signed for the sale of a new manufactured home. The form is available at the Division office. (3-29-10)

023. -- 999. (RESERVED)

07.03.12 – RULES GOVERNING MANUFACTURED OR MOBILE HOME INSTALLATIONS

000. LEGAL AUTHORITY.

In accordance with Section 44-2201, Idaho Code, the administrator of the Idaho Division of Building Safety is authorized to promulgate rules necessary to implement the provisions of Title 44, Chapters 21 and 22, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. These rules are IDAPA 07.03.12, “Rules Governing Manufactured or Mobile Home Installations.” (5-3-03)

02. Scope. These rules apply to the installation of manufactured or mobile homes used for purposes of human habitation in Idaho. ()

002. -- 003. (RESERVED)

004. ADOPTION AND INCORPORATION BY REFERENCE.

The Idaho Manufactured Home Installation Standard (January 1, 2018 edition), as adopted by the administrator, is hereby adopted and incorporated by reference into these rules. A current copy is available for review or copying at the office of the Division of Building Safety offices. ()

005. APPLICATION -- COMPLIANCE.

01. Application -- State Preemption. The standards referred to in this chapter are a comprehensive statement of all applicable standards which apply to the installation, alteration or repair of manufactured or mobile homes in Idaho. Cities and counties may not adopt or enforce more or less stringent standards, except as permitted by Section 67-6509(a), Idaho Code, as it pertains to the siting of manufactured homes in residential areas. ()

02. Compliance -- Disciplinary Action Against Licensees. Failure to comply with these standards constitutes grounds for discipline as provided in Title 44, Chapters 21 and 22, Idaho Code, and IDAPA 07.03.11, “Rules Governing Manufactured/Mobile Home Licensing,” and these rules. ()

006. -- 011. (RESERVED)

012. USE OF MANUFACTURERS’ INSTALLATION INSTRUCTIONS.

All new HUD manufactured homes must be installed in accordance with the manufacturer’s Design Approval Primary Inspection Agency (DAPIA) approved installation instructions. All used mobile and manufactured homes must be installed in accordance with the Idaho Manufactured Home Installation Standard. In any instance in which there is a conflict between the DAPIA installation instructions and the Idaho Manufactured Home Installation Standards, the DAPIA installation instructions supersede and serve as the controlling authority. All manufactured or mobile homes must be installed in accordance with all other applicable state laws pertaining to utility connection requirements. ()

013. INSTALLATION PERMITS AND INSPECTIONS REQUIRED.

The owner or the installer of a manufactured or mobile home must obtain an installation permit in accordance with the requirements of Section 44-2202, Idaho Code. Installation permits must be obtained from the Division for installations in areas where there is no approved local program, or from a city or county that has by ordinance adopted building codes pursuant to Section 39-4116, Idaho Code, and whose installation program has been approved by the Division. Installation permits will only be issued to the owner of the manufactured home or to a licensed installer. The installer must have a current and valid license in effect at the time of the application for the installation permit. All installations must be inspected and approved by the authority having jurisdiction before the manufactured home is occupied. (3-27-13)

014. INSTALLATION PERMIT FEES.

A city or county whose installation inspection program has been approved by the Division establishes their own fee schedule for installation permits within their jurisdiction. Permits obtained from the Division must be accompanied by a fee in accordance with the following schedule: (3-27-13)

01. Single Section Unit. The permit fee is one hundred fifty dollars (\$150). ()

02. Double Section Unit. The permit fee is two hundred dollars (\$200). ()

03. More Than Two Sections. The permit fee for a home consisting of more than two (2) sections is two hundred fifty dollars (\$250). (3-27-13)

04. Electrical and Plumbing Permits. Electrical and plumbing permits are administered separately from installation permits, and fees for such are separate from the fees identified in Section 014. Such fees are paid to the Division or other jurisdiction in accordance with the rules promulgated by the governing boards or local ordinance. (3-27-13)

015. INSTALLATION TAGS REQUIRED.

The owner or installer of a new manufactured home must purchase an installation tag for fifty dollars (\$50) from the Division prior to commencing the installation of a manufactured home in Idaho. Such tag is required regardless of which jurisdiction has authority to perform the installation inspection. ()

016. APPROVAL OF LOCAL MANUFACTURED HOME INSTALLATION INSPECTION PROGRAMS.

01. Division Approval. A city or county that has by ordinance adopted a building code pursuant to Section 39-4116, Idaho Code, is eligible to participate in the inspection of manufactured and mobile homes. Such local installation inspection program must be approved by the Division to provide inspection services if the following minimum criteria is met: (3-27-13)

a. Inspections are conducted by the city or county employing inspectors holding a valid certification as residential building inspector from the International Code Council; (3-27-13)

b. Inspectors have attended annual training sessions provided or approved by the Division and received a certificate evidencing successful completion thereof; and (3-27-13)

c. Approval of a city or county's inspection program has not been withdrawn by the Administrator of the Division. (3-27-13)

02. Voluntary Withdrawal. A city or county may voluntarily withdraw from participation in the program to inspect manufactured homes upon providing to the Administrator of the Division ninety (90) days written notice of its intention to do so. (3-27-13)

017. WITHDRAWAL OF APPROVAL OF PROGRAMS.

01. Division Withdrawal. Approval of city or county manufactured home installation program may be withdrawn by the Division if it determines that the city or county's program has failed, upon notification of the program deficiencies, to adequately remedy such deficiencies within a period of time specified by the Administrator. (3-27-13)

02. Re-Approval. Re-approval of a program may be made by the Division when it determines that the reasons for the withdrawal have been remedied. (3-27-13)

018. MINIMUM TRAINING REQUIREMENTS FOR INSPECTORS.

01. Annual Training or Instruction. All installation inspectors employed by the Division or a city or county must complete eight (8) hours of training or instruction approved by the Division every three (3) years dedicated to the installation and inspection of manufactured and mobile homes. ()

02. Revocation of Approval. Training or instruction approval is subject to revocation by the Division if in its discretion it determines that for any reason the training or instruction fails to meet the intent of furthering the education of manufactured home installation inspectors including, but not limited to, inadequacies in course content or methods of delivery. (3-27-13)

019. QUALITY ASSURANCE.

01. Inspected Installations. Any inspected installation is subject to quality assurance reviews by Division of Building Safety at its discretion. Findings made by the Division pursuant to such reviews will be forwarded to the inspection authority having jurisdiction. (3-27-13)

02. Inspectors and Programs. All inspectors and approved programs, including the Division, are subject to review. (3-27-13)

03. Reviews by Division Personnel. Quality assurance reviews must be performed by Division supervisory personnel who are experienced in and knowledgeable about the installation requirements for manufactured homes. (3-27-13)

04. Division Personnel Training and Certification. Supervisory personnel as identified in Section 019 of these rules, must meet minimum training and certification requirements for inspectors of manufactured home installations. (3-27-13)

020. MINIMUM SCOPE OF INSTALLATION INSPECTION.

01. Scope. At a minimum, the inspection of the installation of a manufactured home by an installer includes the following: (3-27-13)

a. Completion of an inspection record document as required by Section 44-2202(5), Idaho Code. The inspection record document must verify that the installer has visually inspected the installation and certify that the exterior and interior close-up processes, including the marriage line and other covered-up components, have been completed; (3-27-13)

b. Delivery of a copy of the completed inspection record document to the homeowner and the authority having jurisdiction; (3-27-13)

c. Verification that all installed ductwork, plumbing, electrical and fuel supply systems are operating properly; and (3-27-13)

d. If applicable, verification that skirting has been installed correctly. (3-27-13)

02. Inspection Minimum Requirements. At a minimum, the inspection of the installation of a manufactured home must include the following by an inspector: (3-27-13)

a. Verification that site location is suitable for home design and construction, and inspection of site-specific conditions, including preparation and grading for drainage; (3-27-13)

b. Inspection of the foundation construction; (3-27-13)

c. Verification that installed anchorage meets minimum requirements; and (3-27-13)

d. Verification of receipt of a completed inspection record document from the installer. (3-27-13)

021. SUPERVISION BY RESPONSIBLE MANAGING EMPLOYEE.

A responsible managing employee, as defined in IDAPA 07.03.11, "Rules Governing Manufactured/ Mobile Home Licensing," must personally supervise any installation of a manufactured or mobile home at its place of occupancy unless the licensed installer personally supervises such installation. ()

022. -- 999. (RESERVED)

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

000. LEGAL AUTHORITY.

This chapter is adopted by the administrator of the Division of Building Safety in accordance with Section 39-8605, Idaho Code. (4-6-05)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 07.04.02, “Safety Rules for Elevators, Escalators, and Moving Walks.” (4-6-05)

02. Scope. These rules govern the design, construction, installation, operation, inspection, testing, maintenance, alteration, or repair of elevators, escalators, moving walks, platform lifts, material lifts, and dumbwaiters. (4-6-05)

002. ADOPTION AND INCORPORATION BY REFERENCE.

01. Documents. The following codes, amendments, and updates are hereby adopted and incorporated by reference into these rules for all conveyances subject to this chapter. (4-2-08)

a. ANSI/ASME A17.1 2016, Safety Code for Elevators and Escalators with the following exceptions: (3-28-18)

i. Compliance with section 2.8.3.3.2 requires that the means for disconnecting the main power, as required by this section, to be within sight of controller for all conveyances with an elevator machine room or control room. (3-28-18)

ii. Compliance with section 8.11.2.1.5(c) Car and Counterweight Buffer testing must be conducted at slow speed in accordance with Item 5.9.2.1(a) in ANSI/ASME A17.2 2014. (3-28-18)

iii. Compliance with Section 2.2.2.5, which requires a sump pump or drain in the elevator pit, is optional. If a sump pump or drain is installed, it must meet the requirements of this section. A sump with a cover must be provided in each elevator pit. (3-29-12)

b. ANSI/ASME A17.2 2014 Guide for Inspection of Elevators, Escalators, and Moving Walks. (3-28-18)

c. ANSI/ASME A17.3 2015 Safety Code for Existing Elevators and Escalators. (3-28-18)

d. ANSI/ASME A17.4 1999 Guide for Emergency Personnel. (4-2-08)

e. ANSI/ASME A17.5 2014 Elevator and Escalator Electrical Equipment. (3-28-18)

f. ANSI/ASME A17.6 2010 Standard for Elevator Suspension, and Governor Systems. (3-29-12)

g. ANSI/ASME A17.7 2012 Performance-based Safety Code for Elevators and Escalators. (3-28-18)

h. ICC/ANSI A117.1 2009 Accessible and Usable Buildings and Facilities. (3-28-18)

i. ANSI/ASME A18.1 2014 Safety Standards for Platform Lifts and Chairlifts. (3-28-18)

j. ASME QE-1 2013 Standard for the Qualification of Elevator Inspectors. (3-28-18)

02. Copies. Copies of the codes, amendments, and updates listed in Subsection 004.01 of these rules are available for review at the Division of Building Safety offices. ()

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Administrator. The administrator of the Division of Building Safety. (4-6-05)

02. Division. The Idaho Division of Building Safety. (4-6-05)

011. INSPECTION REQUIREMENTS.

For an inspection may to take place: ()

01. Access. All machine rooms and spaces must be free of dirt and debris and have any obstacles to access 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. (4-7-11)

04. Inspection Fees. Inspection fees for elevators are assessed and collected according to the schedule listed in Section 39-8616, Idaho Code, except that reinspection fees for all types of conveyances is 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)

012. APPROVAL OF NEW OR ALTERNATIVE TECHNOLOGY.

01. Administrator Approval Required. If, due to construction or technological impediments, an elevator or conveyance cannot comply with applicable code requirements, approval of new or alternative construction or technology may be requested from the administrator. Approval must be obtained before commencement of construction. ()

02. Submission Deadline. Details of the proposed construction or technology, including design, material specifications and calculations, and such other information as may be requested, must be submitted to the administrator at least thirty (30) days in advance of the anticipated construction start date. (4-6-05)

a. The manufacturer of the new product or system must provide the administrator with an Accredited Elevator/Escalator Certification Organization (AECO) approval and certification in accordance with ANSI/ASME A17.7 Performance-based Safety Code for Elevators and Escalators or engineering and test data demonstrating that the proposed technology is safe for the intended purpose. (3-29-12)

b. The owner of the new product or system must provide the administrator with a document in which the owner acknowledges that the proposed technology is not governed by the applicable safety code and assures the administrator that, at such time as the code is revised to include the product or system, the owner will modify the product or system to bring it into compliance. The owner must assure the administrator that if the product or system cannot be modified or altered to bring it into compliance with the applicable code it will be removed and replaced with code-compliant equipment. (4-6-05)

c. The manufacturer of the new product or system must provide training to Division personnel on the proposed technology and any related products or systems at no cost to the Division. (4-6-05)

03. Engineer Approval. The information provided in compliance with the foregoing requirements must be approved by an Accredited Elevator/Escalator Certification Organization (AECO) or a registered professional engineer experienced in elevator or conveyance design prior to submission to the administrator. (3-29-12)

013. -- 999. (RESERVED)

07.05.01 – RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to Section 54-1907, Idaho Code, as amended. (3-20-04)

001. TITLE.

These rules are titled IDAPA 07.05.01, “Rules of the Public Works Contractors License Board.” (3-20-04)

002. -- 009. (RESERVED)

010. DEFINITIONS.

As used in these rules. (7-1-93)

01. Administrator. The administrator of the Division of Building Safety. ()

02. Applicant. Any person who has filed an application with the administrator. ()

03. Board. The Public Works Contractors License Board. ()

04. Compiled. A type of financial statement in which the information presented is based solely upon representations by an organization’s management. ()

05. Estimated Cost. For the purposes of the application of Section 54-1903(i), Idaho Code, the term “estimated cost” refers to the total aggregate amount of the value of all the separate or individual jobs, parts, components, or undertakings involved in the construction of a single project when combined and considered as a whole, regardless of the types of trades, sub-contracts, work, or other individual aspects involved, and without regard to the number of trades or crafts that are involved. (3-29-10)

06. Financial Statement. A balance sheet and income statement prepared in accordance with generally accepted accounting principles. (3-20-04)

07. Incidental Work. Work, the nature of which does not require any additional trade licenses and which may be carried out in conjunction with an activity for which the licensee is licensed, but is not intended to produce an amount of income over ten percent (10%) of the total bid amount. ()

08. Independent Audit Report. A report prepared by an independent certified public accountant presenting such auditor’s opinion on the fairness of the organization’s financial statements and prepared in accordance with generally accepted auditing standards. (3-20-04)

09. Licensee. Includes any individual proprietor, partnership, limited liability partnership, limited liability company, corporation, joint venture, or other business organization holding a current, unrevoked public works contractor license. (3-20-04)

10. Qualified Individual. The person qualifying by examination as to the experience and knowledge required by Section 54-1910(a), Idaho Code. (4-11-19)

11. Reviewed. Refers to a financial statement that is accompanied by the opinion of a certified public accountant stating that, based upon representations by the organization’s management, the reviewer has a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements in order for the statements to be in accordance with generally accepted accounting principles. (3-20-04)

011. -- 101. (RESERVED)

102. COMMUNICATION.

All communications are deemed officially received only when delivered to the office of the administrator. ()

103. PETITIONS.

An applicant or licensee seeking an order or decision of the administrator or the Board on any matter, or disciplinary proceeding, must file a written petition. ()

104. FORM AND CONTENT OF PETITION.

01. Form. The petition, including the heading, the name of the petitioner or person making the request, and the purpose of the petition must contain the following: ()

- a.** The petitioner's name, address, and license number. ()
- b.** The petitioner's request in brief, precise and specific terms, including references to any pertinent statutes or rules, and a detailed explanation of the purpose for the request. ()
- c.** Statements of fact to support the request. Briefs and supporting documents may accompany petitions. ()

02. Service. The petition must be dated and signed by the petitioner, and filed as set forth in Section 102 of these rules. ()

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

01. Filing Deadline. Applications for renewal of a license must be filed by the last working day of the month in which the license expires. (3-20-04)

02. Extension of Time. A petition for an extension of time in which to renew must be filed by the last working day of the month in which the license expires. The petition must be accompanied by a fee in the amount of the prorated portion of the annual license fee for the class of license applied for, with a minimum fee of at least fifty dollars (\$50). The fee for this service is required in addition to the licensing and renewal fees provided for in Section 201 of these rules and paid to the Division at the time of application for licensure. Petitions not accompanied by the required fees or filed after the license has expired will not be honored. (3-21-12)

a. The petition must specify the number of days for which the extension is being requested; however under no circumstances may an extension exceed sixty (60) days. ()

03. Approval of Petition. Approval of a petition for an extension of time authorizes operation as a contractor until the administrator completes action on the renewal application, provided the application for renewal is filed with the Administrator within the extended time specified. ()

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

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

106. SPECIAL PROVISIONS COVERED IN A PETITION TO CHANGE OR ADD TYPES OF CONSTRUCTION.

A petition to change or add types of construction must be supported by evidence, satisfactory to the administrator, of work history, job performance, experience, equipment, financial responsibility, and a minimum of three (3) letters of reference. The evidence of work history, job performance, experience, and financial responsibility must comply with the requirements of Subsections 110.01 and 110.02 of these rules. All of the evidence must specifically pertain to work that is similar in scope and value to that for which the change or addition is being requested. (3-20-04)

107. -- 108. (RESERVED)

109. NOTICE.
In any contested case or other matter of Board business, written notification, mailed to the licensee or the applicant at

the most current address on record with the Board, constitutes sufficient notification for all purposes within Title 54, Chapter 19, Idaho Code, and these rules. (3-20-04)

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

01. Application Documentation. To obtain a license, the applicant must submit to the administrator, on such forms and in a format as the administrator prescribes, including electronically, accompanied by the required fee for the class of license applied for, a complete written application for such license. All of the information submitted by the applicant must specifically pertain to work that is similar in scope and value to that for which licensure is being requested or that is being requested in a petition to change or add types of construction. The information contained in such application forms must include: (3-20-14)

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

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

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

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

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

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

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

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

g. Applicants requesting a licensing class higher than that for which the applicant is currently licensed must provide documentation, satisfactory to the administrator, of having performed projects, similar in scope and character to those for which license is requested. The monetary value of those jobs must fall within a range not less than thirty percent (30%) below that for which the applicant is currently licensed. (3-20-14)

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

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

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

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

111. FINANCIAL REQUIREMENTS.

The financial requirements for obtaining and maintaining a heavy, highway, building, and specialty construction license under this act must be as described in this section for each respective class. An applicant requesting a license for each class identified in this section must have a minimum net worth and possess an amount of working capital as provided in Table 111.01:

TABLE 111.01 – FINANCIAL REQUIREMENTS		
LICENSE CLASS	NET WORTH	WORKING CAPITAL
Unlimited	\$1,000,000	\$600,000
AAA	\$600,000	\$200,000
AA	\$450,000	\$150,000
A	\$300,000	\$100,000
B	\$150,000	\$50,000
CC	\$75,000	\$25,000
C	\$25,000	\$7,500
D	\$10,000	\$3,000

()

112. EXAMINATION.

The Board approves all subject areas and topics to be included in the public works contractor license examination.

()

01. Frequency of Conducting of Examinations.

(4-9-09)

a. Examinations for all classes of licenses under the Public Contractors laws and rules will be given a minimum of four (4) times each year in the Division's three (3) office locations. ()

b. The applicant will be notified in writing of the date, time, and location at which the examinations will be given, following approval of the application. (4-9-09)

02. Professional Testing Services. In lieu of the administration by the administrator of the examination for licenses, the administrator may contract with a professional testing service to administer the examination, and require all license applicants, with the exception of Class D applicants, to pay to the testing service the fee that they have set for the examination, to take such examination at the time set by such service, and provide the Division acceptable verification of the test score in such instances, the Division may charge and retain the application fee provided for by Section 54-1911, Idaho Code, to cover the cost of reviewing the applicant's application. ()

a. Class D applicants will utilize the existing in-house, open-book examination. (4-9-09)

b. Class D licensees pursuing an upgrade must reapply and pass the examination administered by the professional testing service. (4-9-09)

03. Required Score. The applicant must receive a final grade of seventy percent (70%) or higher prior to issuance of the appropriate license. (4-9-09)

04. Failed Examinations. (4-9-09)

a. An applicant receiving less than a passing score on a first or second examination may be reexamined without reapplication. (4-9-09)

b. Before being reexamined after failing an examination the third time, an applicant must resubmit the application and fee. (4-9-09)

c. Before being reexamined after any further failures, an applicant for reexamination must wait until the expiration of sixty (60) days from the date of the failed examination and resubmit the application and fee for each subsequent examination. (4-9-09)

113. INDIVIDUAL QUALIFIED BY EXAMINATION.

01. Written Notice. Written notice, required by Section 54-1910(a), Idaho Code, that the Qualified Individual of a public works contractor has ceased to be connected with the contractor must be provided to the Administrator on forms prescribed by the Administrator indicating the date the Qualified Individual ceased to be connected with the contractor. ()

02. Reasonable Length of Time. If a public works contractor notifies the Administrator that the contractor's Qualified Individual has ceased to be connected with the contractor, the contractor's license will remain in force for ninety (90) days from the date of the notice. (4-11-19)

114. -- 198. (RESERVED)

199. LIMITATIONS.

01. One License. A licensee will be permitted to hold only one (1) class of license at any given time. (3-20-04)

02. Previous License Null and Void. When a licensee of one class has been issued a license of another class, the previous license is null and void. (3-20-04)

03. Total Bid Cost. The total of any single bid on a given public works project, or the aggregate total of any split bids, or the aggregate total of any base bid and any alternate bid items, or the aggregate total of any separate bid by a licensee of any class, except Class Unlimited, may not exceed the estimated cost or bid limit of the class of license held by the licensee. The aggregate total of bids must include all bids of the subcontractors. Subcontractor bids are not considered a separate bid for the purposes of computing the bid on a given public works project. (5-8-09)

04. Two or More Licensees. Two (2) or more licensees of the same class or of different classes are not permitted to combine the estimated cost or bid limit of their licenses to submit a bid in excess of the license held by either licensee. (3-20-04)

05. Type 4 License Holder. The holder of a license for Type 4, Specialty Construction, are entitled to bid a public works project as a prime contractor or as a subcontractor, if more than fifty percent (50%) of the work to be performed by him on such project is covered by a category or categories listed on the license held by the licensee. (3-20-04)

200. TYPE 4-SPECIALTY CONSTRUCTION CATEGORIES.

A license for Type 4-Specialty Construction must list one (1) or more specialty construction categories to which the license is restricted. Categories and their definitions are: (4-6-05)

01. 01107 Engineering. A specialty contractor whose primary business includes providing engineering and design services such as civil, electrical, mechanical, and structural. (4-6-05)

02. 01541 Scaffolding and Shoring. A specialty contractor whose primary business is the installation of any temporary elevated platform and its supporting structure used for supporting workmen or materials or both, and props or posts of timber or other material in compression used for the temporary support of excavations, formwork or unsafe structures; the process of erecting shoring. (4-6-05)

03. 01542 Craning and Erection. A specialty contractor whose primary business includes the art, ability and skill to safely control the workings of a crane in such a manner that building materials, supplies, equipment and structural work can be raised and set in a final position. (4-6-05)

04. 01550 Construction Zone Traffic Control. A specialty contractor whose primary business is the installation or removal of temporary lane closures, flagging or traffic diversions, utilizing pilot cars, portable devices such as cones, delineators, barricades, sign stands, flashing beacons, flashing arrow trailers, and changeable message signs on roadways, public streets and highways or public conveyances. (4-6-05)

05. 01570 Temporary Erosion and Sediment Controls. A specialty contractor whose primary business includes the ability and expertise to install silt fencing or other similar devices to prevent erosion and contain silt. (4-6-05)

06. 02110 Excavation, Removal and Handling of Hazardous Material. A specialty contractor whose primary business includes the excavation and removal of toxic and hazardous site materials. Contractors must be properly licensed and certified if required. (4-6-05)

07. 02115 Removal of Underground Storage Tanks. A specialty contractor whose primary business includes, but is not limited to, the excavation, removal, cleanup, and disposal of underground storage tanks that have contained petrochemical type fuels. This work should include the sampling and testing of surrounding materials and filing of closure documents. (4-6-05)

08. 02195 Environmental Remediation, Restoration and Soil Stabilization. A specialty contractor whose primary business is the remediation and restoration of contaminated environmental sites. (4-6-05)

09. 02210 Drilling. A specialty contractor whose primary business includes practical elementary knowledge of geology and hydrology; the art, ability, knowledge, science and expertise to bore, drill, excavate, case, pack or cement by use of standard practices, including the use of diamond bits, cable tools, percussion, air percussion, rotary, air rotary, reverse circulation rotary methods or jetting. (4-6-05)

10. 02220 Demolition. A specialty contractor whose primary business includes the ability and expertise to demolish all types of buildings or structures and to remove all of such buildings or structures from the premises, and maintain the premises surrounding demolition site safely for passing public. (4-6-05)

11. 02230 Site Clearing. A specialty contractor whose primary business includes the ability and expertise to remove and dispose of all trees, brush, shrubs, logs, windfalls, stumps, roots, debris and other obstacles in

preparation for excavation of a construction site or other uses. (4-6-05)

12. 02231 Logging. A specialty contractor whose primary business and expertise includes the clearing, cutting, removal and transportation of logs and trees and the construction of temporary roads and structures for such operations along with any reclamation work associated with such operations. (4-6-05)

13. 02232 Tree Removal and Trimming. A specialty contractor whose primary business includes pruning, removal, or guying of trees, limbs, stumps, and bushes including grinding and removal of such items. (4-6-05)

14. 02240 Dewatering and Subsurface Drainage. A specialty contractor whose primary business is to control the level and flow of subsurface water. (4-6-05)

15. 02260 Earth Retention Systems, Mechanical Stabilized Earth Walls and Retaining Walls. A specialty contractor whose primary business includes the building of earth retention systems, mechanical stabilized earth walls and retaining walls. (4-6-05)

16. 02265 Slurry Walls. A specialty contractor whose primary business is the construction of below ground structural diaphragm walls or containment walls through the combined use of trench excavation, mud slurry and tremie concrete. (4-6-05)

17. 02270 Rockfall Mitigation and High Scaling. A specialty contractor whose primary business is rockfall mitigation and high scaling. (4-6-05)

18. 02310 Excavation and Grading. A specialty contractor whose primary business includes such work as digging, moving and placing material forming the surface of the earth in such manner that a cut, fill, excavation and any similar excavating operation can be done with the use of hand and power tools and machines that are used to dig, move and place that material forming the earth's surface. (4-6-05)

19. 02312 Dust Control, Dust Abatement and Dust Oiling. A specialty contractor whose primary business is dust control, dust abatement and dust oiling. (4-6-05)

20. 02317 Rock Trenching. A specialty contractor whose primary business is rock trenching. (4-6-05)

21. 02318 Hauling. A specialty contractor whose primary business includes the ability and expertise to obtain or move specified materials by transportation in a vehicle. (4-6-05)

22. 02319 Blasting. A specialty contractor whose primary business includes the use of conventional and high explosives for pre-splitting, surface, underground and underwater blasting, drill, trench, or excavate for use of explosives; priming and loading drilled, trenched or excavated areas by pipe tamping, pneumatic loading, injector loading, mud capping, slurry loading, combination of pneumatic and injector loading or hand loading; use of volt, ohms and milliampere meter (VOM) in testing blasting machine output voltage, power line voltage, measuring electric blasting cap or blasting circuit resistance, testing for current leakage, testing for AC-DC stray current and voltage, leading wires for open or short circuits, rack bar blasting machine for running short or galvanometer output voltage; use of blasting caps, electric blasting caps, delay electric blasting caps, primacord and all other detonating devices. (4-6-05)

23. 02325 Dredging. A specialty contractor whose primary business includes the excavation or removal of earth, rock, silt, or sediment from bodies of water including but not limited to streams, lakes, rivers or bays by means of specialized equipment. (4-6-05)

24. 02404 Horizontal and Directional Earth Boring, Trenching and Tunneling. A specialty contractor whose primary business and expertise includes boring, trenching or tunneling. (4-6-05)

25. 02450 Drilled Piers, Pile Driving, Caisson Drilling, Geopier and Helical Piers. A specialty contractor whose primary business includes drilling piers, pile driving, caisson drilling, Geopier and helical piers. (4-6-05)

26. 02500 Utilities. A specialty contractor whose primary business includes the construction and installation of pipe lines for the transmission of sewage, gas and water, including minor facilities incidental thereto; installation of electrical poles, towers, arms, transformers, fixtures, conduits, conductors, switch gear, grounding devices, panels, appliances and apparatus installed outside of buildings; including excavating, trenching, grading, back fill, asphalt patching as well as all necessary work and installation of appurtenances in connection therewith. (4-6-05)

27. 02520 Well Drilling. A specialty contractor whose primary business includes the practical elementary knowledge of geology, hydrology, the occurrence of water in the ground, water levels in wells, the prevention of surface and sub-surface contamination and pollution of the ground water supply; and the art, ability, experience, knowledge, science, and expertise to bore, drill, excavate, case, screen, cement, clean and repair water wells; or to do any or any combination of any or all such boring, drilling, excavating, casing, cementing, cleaning and repairing with hand or power tools or rigs, including the installation and repair of pumps. (4-6-05)

28. 02580 Installation of Communication Towers. A specialty contractor whose primary business and expertise is the installation of communication towers. (4-6-05)

29. 02660 Membrane Liners for Ponds and Reservoirs. A specialty contractor whose primary business includes the installation of liners for the purpose of containment of liquids. (4-6-05)

30. 02720 Crushing. A specialty contractor whose primary business includes the ability and expertise to reduce rocks and aggregates to a smaller and uniform size and gradation to meet an agreed specification. (4-6-05)

31. 02740 Asphalt Paving. A specialty contractor whose primary business includes the installation of aggregate base course, cement treated base, bitumen treated base, asphalt concrete and the application of asphalt surfacing and surface repairs of streets, intersections, driveways, parking lots, tennis courts, running tracks, play areas; including the application or installation of primer coat, asphalt binder course, tack coating, seal coating and chips, slurry seal and chips, flush or flog coats, asphalt curbs, concrete bumper curbs, redwood headers, asphalt surface binder emulsion, asbestos and sand and acrylic color systems. (Synthetic and athletic surfacing are category 02790 Athletic and Recreational Surfaces.) Also includes crack sealing, asphalt maintenance repair and soil pulverization. (4-6-05)

32. 02761 Traffic Marking and Striping. A specialty contractor whose primary business includes the art, ability and expertise to apply markings to streets, roadways, or parking surfaces pre-designed for the use of parking or passage of vehicles by the application of directional lines, buttons, markers, and signs made of but not limited to plastic, paint, epoxies and rubber, in such manner as to provide for the channeling and controlling of the traffic flow. Also includes temporary striping. (4-6-05)

33. 02785 Asphalt Maintenance and Repair, Seal Coating, Crack Sealing and Chip Sealing. A specialty contractor whose primary business is asphalt maintenance and repair, seal coating, crack sealing and chip sealing. (4-6-05)

34. 02790 Athletic and Recreational Surfaces. A specialty contractor whose primary business is the installation of specialty surfaces including but not limited to non-wood athletic floors, tennis courts, running tracks and artificial turf. This would include any subsurface preparation such as leveling, excavation, fill and compaction or grading. The application of surfacing, mixing, spreading or placing of emulsions, binders, sand and acrylic color systems is also included along with the installation of modular, plastic athletic floors such as "Sport Court" type floors. This category does not include any type of structure required for the installation of these surfaces. (4-6-05)

35. 02810 Sprinkler and Irrigation Systems. A specialty contractor whose primary business includes the installation of types and kinds of water distribution systems for complete artificial water or irrigation of gardens, lawns, shrubs, vines, bushes, trees and other vegetation, including the trenching, excavating and backfilling in connection therewith. (Low voltage only.) (4-6-05)

36. 02820 Fencing. A specialty contractor whose primary business includes the installation and repair of any type of fencing. (4-6-05)

37. **02840 Guardrails and Safety Barriers.** A specialty contractor whose primary business includes the installation of guardrails and safety barriers (including cattle guards). (4-6-05)
38. **02850 Bridges and Structures.** A specialty contractor whose primary business includes the installation, alteration and repair of bridges and related structures, including culverts. (4-6-05)
39. **02855 Bridge Crossings and Box Culverts.** A specialty contractor whose primary business is the installation or construction, or both, of any bridge or crossing structure shorter than twenty (20) feet measured on the centerline of the roadway or trail. (4-6-05)
40. **02880 Installation of School Playground Equipment.** A specialty contractor whose primary business is the installation of school playground equipment. (4-6-05)
41. **02890 Traffic Signs and Signals.** A specialty contractor whose primary business includes the art, ability, knowledge, experience, science and expertise to fabricate, install and erect signs, including electrical signs and including the wiring of such signs. A licensed electrician must perform all the electrical work. (4-6-05)
42. **02900 Landscaping, Seeding and Mulching.** A specialty contractor whose primary business includes the preparation of plots of land for architectural, horticulture and provisions of decorative treatment and arrangement of gardens, lawns, shrubs, vines, bushes, trees and other decorative vegetation; construction of conservatories, hot and green houses, drainage and sprinkler systems, and ornamental pools, tanks, fountains, walls, fences and walks, arrange, fabricate and place garden furniture, statuary and monuments in connection therewith. (4-6-05)
43. **02910 Slope Stabilization, Hydroseeding, Hydromulching, Native Plant Revegetation for Erosion Control.** A specialty contractor whose primary business is slope stabilization, including necessary tillage and plant bed preparation using hydroseeding, hydromulching and native plant revegetation for erosion control. (4-6-05)
44. **02935 Landscape Maintenance.** A specialty contractor whose primary business and expertise includes the maintenance of existing lawns, gardens, and sprinkler systems. This would include mowing, weeding, fertilization, pest control and minor repair or relocation of sprinkler systems. (4-6-05)
45. **02937 Pest Control, Sterilization and Herbicide Applications.** A specialty contractor whose primary business includes the mixing, transportation and application of fertilizers, pesticides, herbicides, and sterilization chemicals for the control of insects, pests and weeds. (4-6-05)
46. **02955 Pipeline Cleaning, Sealing, Lining and Bursting.** A specialty contractor whose primary business and expertise includes cleaning, sealing, lining and bursting pipelines. (4-6-05)
47. **02965 Cold Milling, Rumble Strip Milling, Asphalt Reclaiming and Pavement Surface Grinding.** A specialty contractor whose primary business includes cold milling, rumble strip milling, asphalt reclaiming and pavement surface grinding. (4-6-05)
48. **02990 Structural Moving.** A specialty contractor whose primary business includes but is not limited to raising, lowering, cribbing, underpinning and moving of buildings or structures. This does not include the alterations, additions, repairs or rehabilitation of the retained portion of the structure. (4-6-05)
49. **03200 Concrete Reinforcing Rebar Installation.** A specialty contractor whose primary business includes the ability and expertise to fabricate, place and tie steel mesh or steel reinforcing bars or rods of any profile, perimeter or cross-section that are or may be used to reinforce concrete. (4-6-05)
50. **03300 Concrete.** A specialty contractor whose primary business includes the ability and expertise to process, proportion, batch and mix aggregates consisting of sand, gravel, crushed rock or other inert materials having clean uncoated grains of strong and durable minerals, cement and water or to do any part or any combination of any thereof, in such a manner that acceptable mass, pavement, flat and other cement and concrete work can be

poured, placed, finished and installed, including the placing, forming and setting of screeds for pavement or flat work. Also includes concrete sidewalks, driveways, curbs and gutters. (4-6-05)

51. 03370 Specially Placed Concrete, Concrete Pumping and Shotcreting. A specialty contractor whose primary business includes the ability and equipment necessary to deliver and install concrete, and similar materials to their final destination in buildings and structures. (4-6-05)

52. 03380 Post-Tensioned Concrete Structures or Structural Members. A specialty contractor whose primary business is the post-tensioning of structural elements using sleeved tendons of high-strength prestressing steel. (4-6-05)

53. 03500 Gypcrete. A specialty contractor whose primary business includes the ability and expertise to mix and apply gypsum concrete. (4-6-05)

54. 03600 Concrete Grouting. A specialty contractor whose primary business includes the ability and the equipment necessary to place concrete grouts. Concrete grouts are thin, fluid, shrink resistant, mortar-like materials used for filling joints and cavities and setting and anchoring items in masonry and concrete. (4-6-05)

55. 03650 Pressure Grouting and Slab Jacking. A specialty contractor whose primary business includes pressure foundation grouting and jacking and the injection of concrete or mortar into foundations for stabilization. (4-6-05)

56. 03900 Concrete Demolition, Concrete Sawing and Cutting, Core Drilling, Joint Sealing and Hydrocutting. A specialty contractor whose primary business includes concrete cutting, drilling, sawing, cracking, breaking, chipping or removal of concrete. This category also includes the caulking or sealing of joints or cracks caused by such operations. (4-6-05)

57. 04000 Masonry. A specialty contractor whose primary business includes the installation with or without the use of mortar or adhesives of brick, concrete block, adobe units, gypsum partition tile, pumice block or other lightweight and facsimile units and products common to the masonry industry. (4-6-05)

58. 04900 Chemical Cleaning and Masonry Restoration. A specialty contractor whose primary business includes the cleaning or restoration of masonry through the use of chemicals, pressure washing, sand blasting or other methods. (4-6-05)

59. 05090 Welding. A specialty contractor whose primary business causes metal to become permanently attached, joined and fabricated by the use of gases or electrical energy, developing sufficient heat to create molten metal, fusing the elements together. (4-6-05)

60. 05100 Steel Fabrication, Erection and Installation. A specialty contractor whose primary business includes the ability and expertise to fabricate, place and tie steel reinforcing bars, erect structural steel shapes and plates, of any profile, perimeter or cross-section, that are or may be used to reinforce concrete or as structural members for buildings and structures, including riveting, welding and rigging only in connection therewith, in such a manner that steel reinforcing and structural work can be fabricated and erected. (4-6-05)

61. 05700 Ornamental Metals. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to assemble, case, cut, shape, stamp, forage, fabricate and install sheet, rolled and cast, brass, bronze, copper, cast iron, wrought iron, monel metal, stainless steel, and any other metal or any combination thereof, as have been or are now used in the building and construction industry for the architectural treatment and ornamental decoration of buildings and structures, in such a manner that, under an agreed specification, acceptable ornamental metal work can be executed, fabricated and installed; but does not include the work of a sheet metal contractor. (4-6-05)

62. 05830 Bridge Expansion Joints and Repair. A specialty contractor whose primary business and expertise is the repair of bridge expansion joints. (4-6-05)

63. 06100 Carpentry, Framing and Remodeling. A specialty contractor whose primary business

includes the placing and erection of floor systems, walls, sheeting, siding, trusses, roof decking of either wood or light gauge metal framing. This contractor also installs finish items such as running trim, sashes, doors, casing, cabinets, cases and other pre-manufactured finished items. (4-6-05)

64. 06130 Log and Heavy Timber Construction. A specialty contractor whose primary business includes the ability and expertise to build and erect log or heavy timber structures. (4-6-05)

65. 06139 Docks - Log and Wood Structures. A specialty contractor whose primary business includes the ability and expertise to construct log and wood structured docks. (4-6-05)

66. 06200 Finish Carpentry and Millwork. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to cut, surface, join, stick, glue and frame wood and wood products, in such a manner that, under an agreed specification, acceptable cabinet, case, sash, door, trim, nonbearing partition, and such other mill products as are by custom and usage accepted in the building and construction industry as millwork and fixtures, can be executed; including the placing, erecting, fabricating and finishing in buildings, structures and elsewhere of such millwork and fixtures or to do any part or any combination of any thereof. (4-6-05)

67. 07100 Waterproofing and Dampproofing. A specialty contractor whose primary business includes the ability and expertise to apply waterproofing membranes, coatings of rubber, latex, asphaltum, pitch, tar or other materials or any combination of these materials, to surfaces to prevent, hold, keep and stop water, air or steam from penetrating and passing such materials, thereby keeping moisture from gaining access to material or space beyond such waterproofing. (4-6-05)

68. 07200 Thermal Insulation. A specialty contractor whose primary business includes the installation of any insulating media in buildings and structures for the purpose of temperature control. (4-6-05)

69. 07240 Stucco and Exterior Insulation Finish Systems (EIFS). A specialty contractor whose primary business includes the ability and expertise to install Stucco and EIFS. (4-6-05)

70. 07400 Roofing and Siding. A specialty contractor whose primary business includes the ability and expertise to examine surfaces and to bring such surfaces to a condition where asphaltum, pitch, tar, felt, flax, shakes, shingles, roof tile, slate and any other material or materials or any combination thereof, that use and custom has established as usable for, or which material or materials are now used as, such waterproof, weatherproof or watertight seal for such membranes, roof and surfaces; but does not include a contractor whose sole contracting business is the installation of devices or stripping for the internal control of external weather conditions. (4-6-05)

71. 07450 Siding and Decking. A specialty contractor whose primary business includes the application or installation of exterior siding, decking or gutters including wood, wood products, vinyl, aluminum and metal to new or existing buildings and includes wooden decks and related handrails. (This category does not include the construction or installation of covers or enclosures of any kind.) (4-6-05)

72. 07700 Sheet Metal Flashings, Roof Specialties and Accessories. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to select, cut, shape, fabricate and install sheet metal such as cornices, flashings, gutters, leaders, rainwater down spouts, pans, etc., or to do any part or any combination thereof, in such a manner that sheet metal work can be executed, fabricated and installed. (4-6-05)

73. 07800 Sprayed on Fireproofing. A specialty contractor whose primary business includes the mixing, transportation, and installation of fire proofing materials for buildings and structures. (4-6-05)

74. 07920 Caulking and Joint Sealants. A specialty contractor whose primary business includes the ability and expertise for installation of elastomeric and rigid joint sealants, caulking compounds, and related accessories. (4-6-05)

75. 08100 Doors, Gates, Specialty Doors and Activating Devices. A specialty contractor whose primary business is the installation, modification or repair of residential, commercial or industrial doors and door

hardware. This includes but is not necessarily limited to wood, metal clad or hollow metal, glass, automatic, revolving, folding and sliding doors, power activated gates, or movable sun shades/shutters. Card activated equipment and other access control devices and any low voltage electronic or manually operated door hardware devices are also a part of this category. (4-6-05)

76. 08500 Windows, Glass and Glazing. A specialty contractor whose primary business includes the art, ability, experience, knowledge and expertise to select, cut, assemble and install all makes and kinds of glass and glass work, and execute the glazing of frames, panels, sash and doors, in such a manner that under an agreed specification, acceptable glass work and glazing can be executed, fabricated and installed, and may include the fabrication or installation in any building or structure of frames, glazed-in panels, sash or doors, upon or within which such frames, glazed-in panels, sash or doors, such glass work or glazing has been or can be executed or installed. (4-6-05)

77. 09110 Steel Stud Framing. A specialty contractor whose primary business includes the ability and expertise to build or assemble steel stud framing systems. (4-6-05)

78. 09200 Lath and Plaster. A specialty contractor whose primary business includes the ability and expertise to prepare mixtures of sand, gypsum, plaster, quick-lime or hydrated lime and water or sand and cement and water or a combination of such other materials as create a permanent surface coating; including coloring for same and to apply such mixtures by use of a plaster's trowel, brush or spray gun to any surface which offers a mechanical key for the support of such mixture or to which such mixture will adhere by suction; and to apply wood or metal lath or any other materials which provide a key or suction base for the support of plaster coatings; including the light gauge metal shapes for the support of metal or other fire proof lath. Includes metal stud framing. (4-6-05)

79. 09250 Drywall. A specialty contractor whose primary business includes the ability and expertise to install unfinished and prefinished gypsum board on wood and metal framing and on solid substates; gypsum and cementitious backing board for other finishes; accessories and trim; and joint taping and finishing. (4-6-05)

80. 09300 Tile and Terrazzo. A specialty contractor whose primary business includes the ability and expertise to examine surfaces and bring such surfaces to a condition where acceptable work can be executed and fabricated thereon by the setting of chips or marble, stone, tile or other material in a pattern with the use of cement, and to grind or polish the same. (4-6-05)

81. 09500 Acoustical Treatment. A specialty contractor whose primary business includes the installation, application, alteration and repair of all types of acoustical systems, to include acoustical ceilings, wall panels, sound control blocks and curtains, hangers, clips, inserts, nails, staples, related hardware and adhesive, lightweight framing systems and related accessories (electrical excluded), installation and repair of gypsum wall board, painting, accessories, taping and texturing. (4-6-05)

82. 09600 Flooring. A specialty contractor whose primary business includes the ability and expertise to examine surfaces, specify and execute the preliminary and preparatory work necessary for the installation of flooring, wherever installed, including wood floors and flooring (including the selection, cutting, laying, finishing, repairing, scraping, sanding, filling, staining, shellacking and waxing) and all flooring of any nature either developed as or established through custom and usage as flooring. (4-6-05)

83. 09680 Floor Covering and Carpeting. A specialty contractor whose primary business includes the installation, replacement and repair of floor covering materials, including laminates and including preparation of surface to be covered, using tools and accessories and industry accepted procedures of the craft. (4-6-05)

84. 09900 Painting and Decorating. A specialty contractor whose primary business includes the ability and expertise to examine surfaces and execute the preliminary and preparatory work necessary to bring such surfaces to a condition where acceptable work can be executed thereon with the use of paints, varnishes, shellacs, stains, waxes, paper, oilcloth, fabrics, plastics and any other vehicles, mediums and materials that may be mixed, used and applied to the surface of buildings, and the appurtenances thereto, of every description in their natural condition or constructed of any material or materials whatsoever that can be painted or hung as are by custom and usage accepted in the building and construction industry as painting and decorating. (4-6-05)

85. 09950 Sand Blasting. A specialty contractor whose primary business includes the ability and expertise to sand blast surfaces through the use of equipment designed to clean, grind, cut or decorate surfaces with a blast of sand or other abrasive applied to such surfaces with steam or compressed air. (4-6-05)

86. 09960 Specialty Coatings. A specialty contractor whose primary business includes the surface preparation and installation of specialty coatings. (4-6-05)

87. 10150 Institutional Equipment. A specialty contractor whose primary business includes the installation, maintenance and repair of booths, shelves, laboratory equipment, food service equipment, toilet partitions, and such other equipment and materials as are by custom and usage accepted in the construction industry as institutional equipment. (4-6-05)

88. 10270 Raised Access Flooring. A specialty contractor whose primary business includes the installation of wood or metal-framed elevated computer-flooring systems. This does not include the structural floor on which the computer floor is supported or mezzanines. (4-6-05)

89. 10445 Non-Electrical Signs. A specialty contractor whose primary business includes the installation of all types of non-electrical signs, including but not limited to traffic delineators, mile post markers, post or pole supported signs, signs attached to structures, painted wall signs, and modifications to existing signs. (4-6-05)

90. 11001 Specialty Machinery and Equipment Installation and Servicing. A specialty contractor whose primary business is the installation, removal, modification or repair of pumps, water and waste water equipment, conveyors, cranes, dock levelers, various hoisting and material handling equipment, trash compactors and weighing scales installation and servicing. This does not include the construction of buildings or roof structures for this equipment. (4-6-05)

91. 11140 Petroleum and Vehicle Service Equipment, Installation and Repair. A specialty contractor whose primary business includes the installation and repair of underground fuel storage tanks used for dispensing gasoline, diesel, oil or kerosene fuels. This includes installation of all incidental tank-related piping, leak line detectors, vapor recovery lines, vapor probes, low voltage electrical work, associated calibration, testing and adjustment of leak detection and vapor recovery equipment, and in-station diagnostics. This contractor may also install auto hoisting equipment, grease racks, compressors, air hoses and other equipment related to service stations. (4-6-05)

92. 11200 Water/Wastewater and Chemical Treatment. A specialty contractor whose primary business is the supply, installation and operational startup of equipment and chemicals for chemical treatment of water, wastewater or other liquid systems. (4-6-05)

93. 11485 Climbing Wall Structures and Products. A specialty contractor whose primary business includes the ability and expertise to design, fabricate and install climbing wall structures and equipment. This does not include concrete foundations or buildings in which the climbing walls may be supported or housed. (4-6-05)

94. 12011 Prefabricated Equipment and Furnishings. A specialty contractor whose primary business includes the installation of prefabricated products or equipment including but not limited to the following: theater stage equipment, school classroom equipment, bleachers or seats, store fixtures, display cases, toilet or shower room partitions or accessories, closet systems, dust collecting systems, appliances, bus stop shelters, telephone booths, sound or clean rooms, refrigerated boxes, office furniture, all types of pre-finished, pre-wired components, detention equipment and other such equipment and materials as are by custom and usage accepted in the construction industry as prefabricated equipment. (4-6-05)

95. 12490 Window, Wall Coverings, Drapes and Blinds. A specialty contractor whose primary business includes the installation of decorative, architectural or functional window glass treatments or covering products or treatments for temperature control or as a screening device. (4-6-05)

96. 13110 Cathodic Protection. A specialty contractor whose primary business is the prevention of corrosion by using special cathodes and anodes to circumvent corrosive damage by electric current. (4-6-05)

97. 13121 Pre-Manufactured Components and Modular Structures. A specialty contractor whose primary business includes the moving, setup, alteration or repair of pre-manufactured components, houses or similar modular structures. (4-6-05)

98. 13125 Pre-Engineered Building Kits. A specialty contractor whose primary business includes the assembly of pre-engineered building kits or structures obtained from a single source. This category is limited to assembly only of pre-engineered metal buildings, pole buildings, sunrooms, geodesic structures, aluminum domes, air supported structures, manufactured built greenhouses or similar structures. This does not include any other categories such as concrete foundations, carpentry, plumbing, heating or cooling, or electrical work. (4-6-05)

99. 13150 Swimming Pools and Spas. A specialty contractor whose primary business includes the ability to construct swimming pools, spas or hot tubs including excavation and backfill of material, installation of concrete, Gunitite, tile, pavers or other special materials used in pool construction. This category also includes the installation of heating and filtration equipment, using those trades or skills necessary for installing the equipment, which may require other licenses including electrical and plumbing. (4-6-05)

100. 13165 Aquatic Recreational Equipment. A specialty contractor whose primary business includes the ability and expertise to design, fabricate and erect water slides and water park equipment and structures. This does not include any other categories such as concrete foundations, carpentry, plumbing, heating, cooling or electrical work. (4-6-05)

101. 13201 Circular Prestressed Concrete Storage Tanks (Liquid and Bulk). A specialty contractor whose primary business is the construction of circular prestressed concrete structures post-tensioned with circumferential tendons or wrapped circular prestressing. (4-6-05)

102. 13280 Hazardous Material Remediation. A specialty contractor whose primary business includes the ability and expertise to safely encapsulate, remove, handle or dispose of hazardous materials within buildings, including but not limited to asbestos, lead and chemicals. Contractors must be properly licensed and certified. (4-6-05)

103. 13290 Radon Mitigation. A specialty contractor whose primary business and expertise includes the detection and mitigation of Radon gas. (4-6-05)

104. 13800 Instrumentation and Controls. A specialty contractor whose primary business includes the installation, alteration or repair of instrumentation and control systems used to integrate equipment, sensors, monitors' controls and mechanical operators for industrial processes, building equipment, mechanical devices and related equipment. (4-6-05)

105. 13850 Alarm Systems. A specialty contractor whose primary business includes the installation, alteration and repair of communication and alarm systems, including the mechanical apparatus, devices, piping and equipment appurtenant thereto (except electrical). (4-6-05)

106. 13930 Fire Suppression Systems (Wet and Dry-Pipe Sprinklers). A specialty contractor whose primary business includes the ability and expertise to lay out, fabricate and install approved types of Wet-Pipe and Dry-Pipe fire suppression systems, charged with water, including all mechanical apparatus, devices, piping and equipment appurtenant thereto. Licensure with State Fire Marshal is required. (4-6-05)

107. 13970 Fire Extinguisher and Fire Suppression Systems. A specialty contractor whose primary business is the installation of pre-engineered or pre-manufactured fixed chemical extinguishing systems primarily used for protecting kitchen-cooking equipment and electrical devices. Contractor also furnishes, installs and maintains portable fire extinguishers. (4-6-05)

108. 14200 Elevators, Lifts and Hoists. A specialty contractor whose primary business includes the ability to safely and efficiently install, service and repair all elevators, lifts, hoists, including the fabrication, erection and installation of sheave beams, sheave motors, cable and wire rope, guides, cabs, counterweights, doors, sidewalk elevators, automatic and manual controls, signal systems and other devices, apparatus and equipment appurtenant to the installation. (4-6-05)

109. 15100 Pipe Fitter and Process Piping. A specialty contractor whose primary business is the installation of piping for fluids and gases or materials. This category does not include domestic water, sewage, fire protection and utilities as they are covered under other categories. (4-6-05)

110. 15400 Plumbing. A specialty contractor whose primary business includes the ability to create and maintain sanitary conditions in buildings, by providing a permanent means for a supply of safe, pure and wholesome water, ample in volume and of suitable temperatures for drinking, cooking, bathing, washing, cleaning, and to cleanse all waste receptacles and like means for the reception, speedy and complete removal from the premises of all fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, including a safe and adequate supply of gases for lighting, heating, and industrial purposes. (Licensure with State Plumbing Bureau is required). (4-6-05)

111. 15510 Boiler and Steam Fitting. A specialty contractor who installs, services and repairs boilers and associated steam distribution systems. This category is limited to work not requiring a heating, ventilating, and air conditioning (HVAC) license issued by the Division of Building Safety. (4-2-08)

112. 15550 Chimney Repair. A specialty contractor whose primary business includes the cleaning or repair of multi-type chimneys, flues or emission control devices used to conduct smoke and gases of combustion from above a fire to the outside area. (4-6-05)

113. 15600 Refrigeration. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to construct, erect, install, maintain, service and repair devices, machinery and units for the control of air temperatures below fifty (50) degrees Fahrenheit in refrigerators, refrigerator rooms, and insulated refrigerated spaces and the construction, erection, fabrication and installation of such refrigerators, refrigerator rooms, and insulated refrigerator spaces, temperature insulation, air conditioning units, ducts, blowers, registers, humidity and thermostatic controls of any part or any combination thereof, in such a manner that, under an agreed specification acceptable refrigeration plants and units can be executed, fabricated, installed, maintained, serviced and repaired, but does not include those contractors who install gas fuel or electric power services for such refrigerator plants or other units. (4-6-05)

114. 15700 Heating, Ventilation, and Air Conditioning (HVAC). A specialty contractor whose primary business includes the installation, alteration and repair of heating, ventilating, and air conditioning (HVAC) systems. Licensure by the Division of Building Safety as an HVAC contractor is required. (4-2-08)

115. 15950 Testing and Balancing of Systems. A specialty contractor whose primary business includes the installation of devices and performs any work related to providing for a specified flow of air or water in all types of heating, cooling or piping systems. (4-6-05)

116. 16000 Electrical. A contractor engaging in, conducting, or carrying on the business of installing wires or equipment to carry electric current or installing electrical apparatus to be operated by such current. A contractor licensed in this category may perform all work covered in categories defined in Subsection 200.118 of these rules. A contractor in this category must be an electrical contractor, licensed pursuant to Section 54-1007(1), Idaho Code. (3-30-07)

117. 16700 Communication. A specialty contractor whose primary business includes the installation, alteration or repair of communication systems (voice, data, television, microwave, and other communication systems). (4-6-05)

118. 16800 Limited Electrical Contractor. A contractor engaging in, conducting, or carrying on the business of installing, altering, or repairing special classes of electrical wiring, apparatus, or equipment. A contractor in this category must be an electrical specialty contractor, licensed pursuant to Section 54-1007(1), Idaho Code, and may perform only that work included within the specialty license. Electrical specialty categories include, but are not limited to: ()

- a. Elevator, Dumbwaiter, Escalator or Moving-walk Electrical; (3-30-07)

- b. Sign Electrical; (3-30-07)
- c. Manufacturing or Assembling Equipment; (3-30-07)
- d. Limited Energy Electrical License (low voltage); (3-30-07)
- e. Irrigation Sprinkler Electrical; (3-30-07)
- f. Well Driller and Water Pump Installer Electrical; and (3-30-07)
- g. Refrigeration, Heating and Air Conditioning Electrical Installer. (3-30-07)

119. 18100 Golf Course Construction. A specialty contractor whose primary business includes the construction, modification, and maintenance of golf courses. This includes clearing, excavation, grading, landscaping, sprinkler systems and associated work. This does not include the construction of buildings or structures such as clubhouses, maintenance or storage sheds. (4-6-05)

120. 18200 Underwater Installation and Diving. A specialty contractor whose primary business is marine construction under and above water. (4-6-05)

121. 18300 Develop Gas and Oil Wells. A specialty contractor whose primary business includes the ability and expertise to perform oil well drilling and other oil field related specialty work. This does not include water well drilling. (4-6-05)

122. 18400 Nonstructural Restoration After Fire or Flood. A specialty contractor whose primary business includes cleaning and nonstructural restoration after fire, flood or natural disasters. (4-6-05)

123. 18600 Building Cleaning and Maintenance. A specialty contractor whose primary business includes the cleaning and maintenance of a structure designed for the shelter, enclosure and support of persons, chattels, personal and moveable property of any kind. (4-6-05)

124. 18700 Snow Removal. A specialty contractor whose primary business includes the plowing, removal or disposal of snow from roads, streets, parking lots and other areas of the public rights-of-way. (4-6-05)

125. 18800 Roadway Cleaning, Sweeping and Mowing. A specialty contractor whose primary business includes the clearing of trash and debris by manual or automated means from public thoroughfares. This category also includes cutting or mowing of grasses, plants, or weeds from public rights-of-way. (4-6-05)

201. FEES.

01. Public Works Contractor Licensing Fees. In accordance with Section 54-1904, Idaho Code, initial licensing and renewal fees for each class of public works contractor licenses are as provided in Table 201.01, Initial and Renewal Licensing Fees.

TABLE 201.01 – INITIAL AND RENEWAL LICENSING FEES		
License Class	Initial Fee	Renewal Fee
Unlimited	\$550	\$550
AAA	\$450	\$450
AA	\$350	\$350
A	\$250	\$250
B	\$150	\$150
CC	\$125	\$125

TABLE 201.01 – INITIAL AND RENEWAL LICENSING FEES		
License Class	Initial Fee	Renewal Fee
C	\$100	\$100
D	\$50	\$50

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02. Construction Manager Licensing Fees. Initial licensing and renewal fees for construction manager licenses are, in accordance with Section 54-4510, Idaho Code, as follows:

TABLE 201.02 – CONSTRUCTION MANAGER LICENSING FEES	
License Activity	Fee
Initial Licensing	\$200
License Renewal	\$200
Inactive License	\$50
License Reinstatement	\$200
Exam Administration	Fee established by testing agency
Certificate of Authority	\$100

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03. Application Filed With Fees. Required fees must accompany all applications. An application filed without the required fees is deemed incomplete and returned to the applicant. (3-20-04)

202. COMPLAINTS.

Complaints alleging a violation of Title 54, Chapter 19, Idaho Code, or these rules must be in writing and filed with the administrator. All complaints must be verified and submitted on forms provided by the Board. ()

203. -- 299. (RESERVED)

300. BUSINESS ORGANIZATION -- CHANGES IN ORGANIZATION OR STRUCTURE -- MEMBERS OF JOINT VENTURES - CHANGES FOR REASONS OTHER THAN DEATH.

A licensed public works contractor or construction manager who undergoes a change in business organization or structure (such as a change from an individual proprietor to a partnership, corporation, limited liability partnership, limited liability company, joint venture, or other combination thereof), or where there is a change in ownership, must file an application for a new license on behalf of such successor organization or new owners within sixty (60) days after such change occurs. The administrator may authorize the continuous operation of the licensee as a contractor during the interim period until the application of the successor organization is reviewed; provided written notice of such change is filed within thirty (30) days after such change occurs. Each participant in a joint venture must be licensed at the time of bidding. Where there is a change in the surviving members of a licensed partnership, limited liability company, or limited liability partnership, due to a reason other than the death of one (1) of the partners, the remaining or succeeding member or members are required to file an application for an original license. (3-20-04)

301. -- 399. (RESERVED)

400. CERTIFICATES -- DISPLAY AND POSSESSION.

Licensee must sign and display the license certificate issued to him in his main office or chief place of business and must furnish satisfactory evidence of the possession of a current license upon the administrator's demand. ()

401. LICENSE NUMBER ON BIDS.

Licensee must place his license number on any and all bids submitted or contracts entered into, for any public works projects in the state of Idaho. (7-1-93)

402. CHANGES IN LICENSE CERTIFICATE.

When any change in the license certificate has been approved by the Board, a new license certificate will be issued. (3-19-99)

403. -- 501. (RESERVED)

502. TECHNICALITIES OF FORM.

The administrator may, during any hearing or proceeding waive any technicalities of form not deemed necessary in the circumstances. (3-20-04)

503. HEARINGS.

The general procedure for hearings before the administrator and the Board is as prescribed in these rules and Title 67, Chapter 52, Idaho Code. (3-20-04)

01. Notes. Any interested persons may request, in writing, five (5) days before any scheduled hearing in a contested case that the oral proceedings thereof be taken in the form of stenographic notes to be transcribed at his own expense. (7-1-93)

02. Procedure. The Board reserves the right to amend, modify or repeal all or any part of the above procedure or to dispense with any part thereof, at any hearing before the Board, as it may deem necessary in the circumstances. (7-1-93)

504. -- 599. (RESERVED)

600. CONSTRUCTION MANAGER EXAMINATIONS.

If the applicant fails an examination, the applicant may take the examination a second time. A grade of at least seventy-five percent (75%) is required to pass each section of the examination. If the applicant fails to score a passing grade, the applicant must pass all failed sections within one (1) year of the initial test date. If the applicant fails to achieve a passing grade in each individual section on the second examination, the applicant must wait one (1) full year before taking the examination again. The applicant must then take and pass all sections of the examination (receiving no credit for sections successfully completed during the previous year). (3-20-04)

601. -- 999. (RESERVED)

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

000. LEGAL AUTHORITY.

This chapter is adopted in accordance with Sections 54-5001 and 54-5005(2), Idaho Code. (4-11-06)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 07.07.01, “Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems” (HVAC Rules). (3-16-04)

02. Scope. These rules establish the minimum standards for heating, ventilation, and air conditioning (HVAC) installation practice, certification, registration, and educational programs. (3-16-04)

002. – 003. (RESERVED)

004. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL MECHANICAL CODE, 2012 EDITION.

01. International Mechanical Code. The 2012 Edition, including appendix “A,” (herein IMC) is adopted and incorporated by reference with the following amendments: (3-20-14)

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 apply. (4-11-06)

b. All references to the International Plumbing Code (IPC) are construed as referring to the Idaho State Plumbing Code (ISPC) as adopted and amended by the Idaho State Plumbing Board. (3-20-14)

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

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

e. Section 202 Definitions. Delete the definitions provided in the code for the terms identified herein this paragraph and replace with the following: (3-29-17)

i. Light-Duty Cooking Appliance. Light-duty cooking appliances include gas and electric ovens (including standard, bake, roasting, revolving, retherm, convection, combination convection/steamer, countertop conveyORIZED baking/finishing, deck, pastry, and electric and gas conveyor pizza ovens), electric and gas steam jacketed kettles, electric and gas pasta cookers, electric and gas compartment steamers (both pressure and atmospheric) and electric and gas cheesemelters. (3-29-17)

ii. Medium-Duty Cooking Appliance. Medium-duty cooking appliances include electric discrete element ranges (with or without oven), electric and gas hot-top ranges, electric and gas griddles, electric and gas double sided griddles, electric and gas fryers (including open deep fat fryers, donut fryers, kettle fryers and pressure fryers), electric and gas tilting skillets (braising pans) and electric and gas rotisseries. (3-29-17)

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. (4-7-11)

g. Section 504.6.1 Material and size. Add the following exception: Dryer duct may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

h. Table 603.4 Duct Construction Minimum Sheet Metal Thickness for Single Dwelling Units. Add the following exception to the Table: Round duct, enclosed rectangular ducts and fittings less than fourteen (14) inches may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

02. Availability of the International Mechanical Code. The 2012 Edition is available at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150, Meridian, Idaho 83642, 1250 Ironwood Dr.,

Ste. 220, Coeur d'Alene, Idaho 83814, and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. (3-20-14)

005. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL FUEL GAS CODE, 2012 EDITION.

01. International Fuel Gas Code. The 2012 Edition, including appendixes “A, B, C, and D,” (herein IFGC) is adopted and incorporated by reference with the following amendments: (3-20-14)

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 apply. (4-11-06)

b. All references to the International Plumbing Code (IPC) are construed as referring to the Idaho State Plumbing Code (ISPC) as adopted and amended by the Idaho State Plumbing Board. (3-20-14)

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

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

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

f. Section 406.4.1. Test Pressure. Not less than twenty (20) psig (140kPa gauge) test pressure is 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 is required. For systems over ten (10) psig (70kPa gauge) working pressure, minimum test pressure may be no less than six (6) times working pressure. (4-11-06)

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

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

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

j. Section 505.1.1. Addition. An interlock between the cooking appliance and the exhaust hood system is 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 2012 Edition is available at the Division of Building Safety offices. ()

006. ADOPTION AND INCORPORATION BY REFERENCE OF PART V (MECHANICAL) AND PART VI (FUEL GAS) OF THE INTERNATIONAL RESIDENTIAL CODE FOR ONE (1)- AND TWO (2)-FAMILY DWELLINGS, 2012 EDITION.

01. Part V (Mechanical) and Part VI (Fuel Gas) of the International Residential Code for One (1)- and Two (2)-Family Dwellings. The 2012 Edition, including appendixes “A, B, C, and D,” (herein IRC) is adopted and incorporated by reference with the following amendments: (3-20-14)

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 apply. (4-7-11)

b. All references to the International Plumbing Code (IPC) are construed as referring to the Idaho State Plumbing Code (ISPC) as adopted and amended by the Idaho State Plumbing Board. (3-20-14)

c. All references to the International Code Council Electrical Code (ICC EC) are construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. (4-7-11)

d. Add the following as section M1201.3 and section G2402.4 (201.4): Alternative materials, design and methods of construction equipment. The provisions of this part of the code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction must be approved where the authority having jurisdiction finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code. Compliance with the specific performance-based provisions of this part of the code in lieu of specific requirements of this code will also be permitted as an alternate. (4-4-13)

e. Add the following as section M1201.3.1 and section G2402.4.1 (201.4.1): Tests. Whenever there is insufficient evidence of compliance with the provisions of this part of the code, or evidence that a material or method does not conform to the requirements of this part of the code, or in order to substantiate claims for alternative materials or methods, the authority having jurisdiction has the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods are as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the authority having jurisdiction approves the testing procedures. Tests must be performed by an approved agency. Reports of such tests must be retained by the authority having jurisdiction for the period required for retention of public records. (4-4-13)

f. Add the following as section M1203.1: Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm must be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages. (4-4-13)

g. Add the following as section M1203.2: Where required in existing dwellings. Where work requiring a permit occurs in existing dwellings that have attached garages or in existing dwellings within which fuel-fired appliances exist, carbon monoxide alarms must be provided in accordance with Subsection 006.01.f. of these rules. (4-4-13)

h. Add the following as section M1203.3: Alarm requirements. Single station carbon monoxide alarms must be listed as complying with UL 2034 and be installed in accordance with this code and the manufacturer's installation instructions. (4-4-13)

i. Section M1502.4.1 Material and size. Add the following exception: Dryer duct may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

j. Delete Section M1502.4.2 Duct Installation and replace with the following: Exhaust ducts must be supported at four (4) foot (1,219 mm) intervals and secured in place. The insert end of the duct must extend into the adjoining duct or fitting in the direction of airflow. Ducts must not be joined with screws or similar fasteners that protrude into the inside of the duct. (3-20-14)

k. Table M1601.1.1 (2) Gauges of Metal Ducts and Plenums Used for Heating or Cooling. Add the following exception: Round duct, enclosed rectangular ducts and fittings less than fourteen (14) inches may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

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

m. Section G2417.4.1 (406.4.1). Test Pressure. Not less than twenty (20) psig (one hundred forty (140) kPa gauge) test pressure is 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 is required. For systems over ten (10) psig (seventy (70) kPa gauge) working pressure, minimum test pressure may be no less than six (6) times working pressure. (4-7-11)

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

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

02. Availability of the International Residential Code for One- and Two-Family Dwellings. The 2012 Edition is available at the Division of Building Safety offices. ()

007. FILING OF DOCUMENTS.

All written communications and documents that are intended to be part of an official record for decision in a rulemaking or contested case, must be filed with the administrator of the Division. Communications and documents must be filed by mail, hand-delivery, or by facsimile transmission. One (1) original must be filed with the administrator, and one (1) copy must be submitted to the opposing parties. Whenever documents are filed by facsimile transmission, originals must be deposited in the mail the same day or hand-delivered the following business day to the administrator and opposing parties. (3-16-04)

008. -- 009. (RESERVED)

010. CHANGES IN NAME AND ADDRESS -- ADDRESS FOR NOTIFICATION PURPOSES.

01. Change of Name. Whenever a change of name occurs for a certified contractor, journeyman, specialty journeyman, specialty contractor, registered apprentice, or specialty apprentice, the Board must be notified immediately, in writing, of the change with appropriate documentation of the change provided to the Board upon request. ()

02. Change of Address. Whenever a change of mailing address occurs for a certificated contractor, journeyman, specialty journeyman, specialty contractor, registered apprentice, or specialty apprentice, the HVAC board must be notified immediately, in writing, of the change. (4-11-06)

03. Address for Notification Purposes. The most recent mailing address on record with the HVAC board will be utilized for purposes of all written communication with certified contractors, journeymen, specialty journeymen, specialty contractors, registered apprentices, and specialty apprentices, including, but not limited to, notification of renewal and notices related to inspections. (4-11-06)

011. MEETINGS.

Board meetings are subject to the provisions of the Idaho Open Meeting Law, Title 67, Chapter 23, Idaho Code. (3-16-04)

012. DEFINITIONS.

01. Administrator. The administrator of the Idaho Division of Building Safety. (3-16-04)

02. Board. The Idaho Heating, Ventilation, and Air Conditioning (HVAC) Board. (3-16-04)

03. Division. The Idaho Division of Building Safety. (3-16-04)

04. Additional Definitions. Terms defined in Section 54-5003, Idaho Code, will have the same meaning when utilized in these rules. (3-16-04)

013. CERTIFICATES OF COMPETENCY -- ISSUANCE, RENEWAL, EXPIRATION -- REVIVAL.

01. Issuance. Certificates of competency will be issued in such a manner as to create a renewal date that coincides with the birth month of the individual to whom the certificate is issued and allows for renewals every three (3) years. Certificates of competency are issued for a period of no less than one (1) year and no more than (3) three years. The fee for issuance of certificates of competency will be prorated based on the number of months for which the certificate is issued. ()

02. Renewal. Certificates of competency will be renewed using the birth month of the individual to whom the certificate is issued as the expiration date. Certificates of competency are renewed for a period of no less than one (1) year and no more than three (3) years. The fee for renewal of certificates of competency will be prorated based on the number of months for which the certificate is issued. ()

03. Expiration-Revival. (4-6-05)

a. Certificates that are not timely renewed will expire on the last day of the month in which the renewal is due. (4-6-05)

b. Revived certificates will be issued in such a manner as to create a renewal date that coincides with the birth month of the applicant so as to create a staggered system of renewal. (4-6-05)

014. -- 019. (RESERVED)

020. HVAC CONTRACTOR AND HVAC JOURNEYMAN APPLICATIONS FOR EXAMINATION AND CERTIFICATES OF COMPETENCY, AND REGISTRATION OF APPRENTICES.

01. Application Forms. All applications for certificates and all applications for registration must be submitted on forms provided by the administrator and be properly completed, giving all pertinent information with notarized signatures. ()

02. Application, Renewal, and Registration Fees. Fees for applications for examination, certificates of competency, renewal of certificates, and fees for apprentice registration are as set forth in Section 54-5012, Idaho Code. (3-16-04)

03. Application Submission. All applications must be submitted to the board and be approved by an administrator before any examination may be taken and before any certificate of competency is issued. (3-16-04)

021. HVAC CONTRACTOR CERTIFICATE OF COMPETENCY - REQUIREMENTS.

01. Bond. Provide a compliance bond in the amount of two thousand dollars (\$2,000). Any such bond is required to be effective for the duration of the contractor licensing period. (3-29-12)

02. Qualification. Provide proof, satisfactory to the board, of having legally acted as an HVAC journeyman for a period of not less than twenty-four (24) months. (3-16-04)

03. Examination. Successfully complete the examination designated by the board. (3-16-04)

022. HVAC SPECIALTY CONTRACTOR CERTIFICATE OF COMPETENCY - REQUIREMENTS.
Applicants for certification as HVAC specialty contractors must: ()

01. Bond. Provide a compliance bond in the amount of two thousand dollars (\$2,000). Any such bond is required to be effective for the duration of the contractor licensing period. (3-29-12)

02. Qualification. Provide proof, satisfactory to the board, of having legally acted as an HVAC specialty journeyman for a period of not less than twenty four (24) months. (3-16-04)

03. Examination. Successfully complete the examination designated by the board. (3-16-04)

023. HVAC JOURNEYMAN CERTIFICATES OF COMPETENCY: REQUIREMENTS.

01. Experience. Demonstrate, to the satisfaction of the board, a minimum of four (4) years' experience working in the trade, in compliance with the requirements of the state in which the applicant received his supervision, or as a registered HVAC apprentice making HVAC installations on the job under the supervision of a qualified HVAC journeyman. Notwithstanding the requirement that an HVAC apprentice demonstrate four (4) years of on-the-job work experience under the supervision of a qualified HVAC journeyman, any HVAC apprentice who successfully completes a Board-approved, full-time, one (1)-academic-year HVAC training course may receive credit for up to one (1) year of on-the-job work experience. (4-11-19)

02. Education. Successfully complete any required apprenticeship training courses. (3-16-04)

03. Examination. Applicants for certification as HVAC journeymen must successfully complete the examination designated by the board. (3-16-04)

a. Each HVAC apprentice who desires to take the HVAC journeyman examination must complete a Board-approved training course as described in Subsection 025.02 of these rules prior to the date of the examination and provide a certificate of completion with the apprentice's application for examination. There is no minimum work experience requirement to be eligible to take the HVAC journeyman examination. (4-11-19)

b. The Division will not issue a certificate of competency to an HVAC apprentice until the apprentice furnishes to the Division proof of satisfaction of the requirements contained in Subsection 023.01 of these rules and successful completion of the journeyman examination. (4-11-19)

04. Out of State Journeyman Applications. (3-24-17)

a. Exhibition of a license issued by another recognized jurisdiction may be accepted as proof of meeting the experience and schooling requirements listed in Subsections 023.01 and 023.02 of these rules. An application for a journeyman certificate of competency from an individual previously licensed as a journeyman in another jurisdiction recognized by the Idaho HVAC Board must include satisfactory proof of licensure in such jurisdiction. The applicant must pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. (3-24-17)

b. An application for a journeyman certificate of competency from an individual who has never been previously licensed as a journeyman in a jurisdiction recognized by the Idaho HVAC Board must include evidence that demonstrates that the applicant has four (4) years, defined as eight thousand (8,000) hours of HVAC work experience or a nature at least equivalent to that which a HVAC apprentice performs in Idaho, as well as four (4) years of schooling equivalent to that which a HVAC apprentice must complete in Idaho. Alternatively, such an applicant may submit sufficient proof verifying eight (8) years, defined as a minimum of sixteen thousand (16,000) hours of HVAC work experience of a nature at least equivalent to that which a HVAC apprentice performs in Idaho. Upon submission of sufficient proof of having completed such experience and schooling requirements, such applicant must also pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. (3-24-17)

024. HVAC HEARTH SPECIALTY JOURNEYMAN CERTIFICATES OF COMPETENCY LIMITATIONS: REQUIREMENTS.

Certification as a hearth specialty journeyman entitles the holder to install hearth appliances and the associated gas lines. Hearth Specialty Journeymen are required to meet the experience requirement and either the education or examination requirement to receive a certificate of competency. (4-2-08)

01. Experience. Demonstrate, to the satisfaction of the board, a minimum of one (1) year experience working in the trade, in compliance with the requirements of the state in which the applicant received his supervision, or as a registered HVAC apprentice or registered HVAC specialty apprentice making HVAC installations on the job under the supervision of a qualified HVAC journeyman or qualified HVAC specialty journeyman. (4-11-06)

02. Education. Successfully complete a board approved training course(s), such as the National Fireplace Institute program and a minimum of sixty (60) hours of education in fuel gas code and piping installation

methods. (4-2-08)

03. Examination. Successfully complete an examination designated by the board. (4-2-08)

025. HVAC APPRENTICE REQUIREMENTS FOR REGISTRATION.
Requirements for HVAC Apprentice. (4-11-06)

01. Age. Minimum of eighteen (18) years of age unless registered in a Bureau of Apprenticeship Training (BAT) certified HVAC training program. (4-11-06)

02. Training. Maintain enrollment in or successfully complete a training program approved by the board. (4-11-06)

03. Supervision. Work under the supervision of a certified HVAC journeyman. (4-11-06)

026. HVAC SPECIALTY APPRENTICE REQUIREMENTS FOR REGISTRATION.
Requirements for HVAC Specialty Apprentice. (4-11-06)

01. Age. Minimum of eighteen (18) years of age unless registered in a Bureau of Apprenticeship Training (BAT) certified HVAC training program. (4-11-06)

02. Training. Maintain enrollment in or successfully complete a training program approved by the board. (4-11-06)

03. Supervision. Work under the supervision of a certificated HVAC journeyman or certificated HVAC specialty journeyman. (4-11-06)

027. HVAC WASTE OIL HEATING SPECIALTY JOURNEYMAN CERTIFICATES OF COMPETENCY LIMITATIONS: REQUIREMENTS.

Certification as a waste oil heating specialty journeyman entitles the holder to install non-duct connected waste oil heaters. Waste oil heating specialty journeymen are limited to the maintenance, installation, and repair of the equipment, controls, and piping directly associated with the waste oil heater, tank, and burner only. Any plumbing, electrical, ducting, venting, or associated equipment beyond the waste oil heater, tank, and burner must be installed by others. Applicants for the waste oil heating specialty journeyman certificate of competency must: ()

01. Experience. Demonstrate to the satisfaction of the board, a minimum of one (1) year experience making waste oil heating installations under the supervision of a qualified HVAC journeyman or HVAC Waste Oil Heating specialty journeyman. (4-2-08)

02. Examination. Successfully complete a waste oil burner manufacturers certification or examination as approved by the board. ()

028. HVAC FUEL GAS PIPING SPECIALTY JOURNEYMAN CERTIFICATES OF COMPETENCY LIMITATIONS: REQUIREMENTS.

Certification as fuel gas piping specialty journeyman entitles the holder to install fuel gas piping only and does not make the final termination. Appliances and the associated gas piping, chimney, and vents must be installed by others. Fuel gas specialty journeymen are required to meet the experience requirement and either the education or examination requirement to receive a certificate of competency. (4-2-08)

01. Experience. Demonstrate, to the satisfaction of the board, a minimum of one (1) year experience working in the trade, in compliance with the requirements of the state in which the applicant received his supervision, or as a registered HVAC apprentice or registered HVAC specialty apprentice making HVAC installations on the job under the supervision of a qualified HVAC journeyman or qualified HVAC specialty journeyman. (4-2-08)

02. Education. Successfully complete a board approved training course(s), of a minimum of sixty (60) hours of education in fuel gas code and piping installation methods. (4-2-08)

03. Examination. Successfully complete an examination designated by the board. (4-2-08)

029. -- 049. (RESERVED)

050. HVAC PERMITS.

01. Serial Number. Each permit must bear a serial number. (3-16-04)

02. HVAC Contractors and HVAC Specialty Contractors. The Division will furnish permits to certified HVAC contractors and HVAC specialty contractors upon request. The serial numbers of such permits must be registered in the name of the HVAC contractor or HVAC specialty contractor to whom they are issued. Permits are not transferable. (3-16-04)

03. Home Owners. Home owners or a contract purchaser of residential property, making HVAC installations on their own residences, coming under the provisions of Section 54-5002, Idaho Code, must secure an HVAC permit by making application to the Division as provided in Section 54-5016, Idaho Code. (3-16-04)

04. HVAC Contractors and HVAC Specialty Contractors. HVAC contractors and HVAC specialty contractors must secure an HVAC permit by making application to the Division as provided in Section 54-5016, Idaho Code. (3-16-04)

05. Transferring a Permit. A HVAC permit may be transferred to another eligible party if such party provides to the Division written authorization signed and notarized by the original permit holder consenting to the transfer itself as well as assignment of all the responsibilities and conditions incorporated into the original permit issuance. A permit may be transferred to the owner of the property on which the HVAC work is to be performed and for which the permit was issued for such owners' designated legal agent, in cases where the property owner has terminated their legal relationship with the HVAC contractor who originally obtained the permit. An administrative fee in the amount of forty-five dollars (\$45) for the transfer of a permit will be assessed by the Division. (3-24-17)

06. Refunds of Permits. The Administrator may authorize a refund for any permit fee paid on the following bases: The Administrator may authorize a refund of the entire permit fee paid when no work has been performed related to the installations or HVAC work covered by a permit issued by the Division. A lesser amount up to fifty percent (50%) of the permit fee amount may be refunded if work has commenced and the project is less than fifty percent (50%) complete as determined by the Division. The Administrator will not authorize a refund of any permit fee paid except upon written application for such filed by the original permit holder or the property owner's representative not less than one hundred eighty (180) days after the date the permit was issued. ()

051. FEES FOR HVAC INSPECTIONS.

HVAC inspection fees are to cover the cost of HVAC inspections as provided by Section 54-5017, Idaho Code; any person, partnership, company, firm, association, or corporation making an HVAC installation must pay to the Division of Building Safety an inspection fee as provided in the following schedule: (3-26-08)

01. New Residential - Single-Family Dwelling. Includes all buildings with HVAC systems being constructed on each property.

New Residential - Single-Family Dwelling	
Up to 1,500 Square feet of living space	- \$130
1,501 to 2,500 Square feet of living space	- \$195
2,501 to 3,500 Square feet of living space	- \$260
3,501 to 4,500 Square feet of living space	- \$325
Over 4,500 Square feet of living space	- \$325 plus \$65 for each additional 1,000 square feet or portion thereof

(4-9-09)

02. New Residential - Multi-Family Dwellings.

New Residential - Multi-Family Dwellings	
Duplex Apartment	- \$260
Three (3) or more multi-family units	- \$130 per Building plus \$65 per Unit

(3-26-08)

03. Existing Residential. Sixty-five dollars (\$65) plus ten dollars (\$10) for each additional piece of HVAC equipment being installed up to a maximum of the corresponding square footage of the residential building.

(3-26-08)

04. Other Installations Including Industrial and Commercial. The inspection fees listed in this Section apply to any and all HVAC installations not specifically mentioned elsewhere in this schedule. The HVAC cost is the cost to the owner of all labor charges and all other costs that are incurred in order to complete the installation of any and all HVAC equipment and materials installed as part of the HVAC system.

(3-26-08)

a. HVAC system cost not exceeding ten thousand dollars (\$10,000): sixty dollars (\$60) plus two percent (2%) of the total HVAC system cost.

(3-26-08)

b. HVAC system cost over ten thousand dollars (\$10,000) but not exceeding one hundred thousand dollars (\$100,000): two hundred sixty dollars (\$260) plus one percent (1%) of the HVAC system cost exceeding ten thousand dollars (\$10,000).

(3-26-08)

c. HVAC system cost over one hundred thousand dollars (\$100,000): one thousand one hundred sixty dollars (\$1,160) plus one half of one percent (.5%) of the HVAC system cost exceeding one hundred thousand dollars (\$100,000).

(3-26-08)

d. All fees calculated under this schedule must be calculated on the total HVAC cost of the job, and this figure must be shown on the permit.

(3-26-08)

05. Requested Inspections A fee of sixty-five dollars (\$65) per hour or portion of an hour applies, with the requesting party responsible for all costs incurred in out-of-state travel.

(3-26-08)

06. Additional Fees and Re-Inspection Fees. A fee of sixty-five dollars (\$65) per hour or portion of an hour applies to:

(3-26-08)

a. Trips to inspect when the submitter of the permit had given notice to the Division of Building Safety that the work is ready for inspection and it is not, if the submitter has not accurately identified the work location, or if the inspector cannot gain access to make the inspection.

(3-26-08)

b. Trips to inspect corrections required by the inspector as a result of the submitter improperly responding to a corrective notice.

(3-26-08)

c. Each trip necessary to remove a red tag from the jobsite.

(3-26-08)

d. When corrections have not been made in the prescribed time, unless an extension has been requested and granted.

(3-26-08)

e. No permit - failure to post or send permit and required fee in the prescribed time will, at the discretion of the Division, result in the assessment of a double fee.

(3-26-08)

07. Plan Check Fee. Sixty-five dollars (\$65) per hour or portion thereof.

(3-26-08)

052. -- 059. (RESERVED)

060. REQUIRED INSPECTIONS.

01. Request for Division of Building Safety Inspection. (3-16-04)

a. Inspection. Each permit holder must notify the Division at least one (1) day prior to the desired inspection, Sundays and holidays excluded, that the project is ready for inspection. (3-16-04)

b. Reinspection. If a reinspection is required after the final inspection, due to a failure to meet requirements of Title 54, Chapter 50, Idaho Code, and/or these rules, the permit holder will be charged a fee not to exceed the actual cost of each reinspection. (3-16-04)

02. Inspection Tags. Inspectors certify to the permit holder that an inspection has been done by securely attaching the inspection tag in a prominent location. (5-8-09)

a. Final Inspection Tags. An inspection tag indicating that a final inspection has been performed is attached when the HVAC installation as specified on the permit is complete and conforms to the requirements of the code and rules. (5-8-09)

b. Inspection Tags for Unacceptable HVAC Installations. “Notice of Correction” inspection tags are attached to indicate that the HVAC installation is not acceptable and that corrections are required. (3-29-12)

c. Work-in-Progress Tag. An inspection tag indicating that a work-in-progress inspection has been performed is attached following inspection of ground work, rough-in work, or any portion of the installation that is to be covered or otherwise concealed before completion of the entire HVAC installation as specified on the permit. (5-8-09)

061. INSPECTOR QUALIFICATIONS.

In accordance with Section 54-5021, Idaho Code, all mechanical inspectors in Idaho employed by the state or a local government must hold an inspector certification as a commercial or residential mechanical inspector, as appropriate depending on the type of mechanical work being inspected. Mechanical inspectors must obtain the requisite certification from either the International Association of Plumbing and Mechanical Officials (IAPMO), the International Code Council (ICC), or other professional certifying body as approved by the board. ()

062. -- 069. (RESERVED)

070. CIVIL PENALTIES.

The following acts subject the violator to penalties based on the following schedule. (3-30-07)

01. Heating, Ventilation, and Air Conditioning Contractor or Specialty Contractor. Except as provided by Section 54-5001, Idaho Code, any person who acts, or purports to act, as an HVAC contractor or specialty contractor as defined by Section 54-5003(3) and 54-5003(6), Idaho Code, without a valid Idaho state HVAC contractor or specialty contractor certification is subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-30-07)

02. Employees. Any person, who knowingly employs a person who does not hold a valid Idaho state HVAC certification or apprentice registration, as required by Section 54-5008, Idaho Code, to perform HVAC installations, is subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-30-07)

03. Certification or Registration. Except as provided by Section 54-5001, Idaho Code, any person performing HVAC work as an HVAC journeyman as defined by Section 54-5003(4), Idaho Code, specialty journeyman as defined by Section 54-5003(7), Idaho Code, apprentice as defined by Section 54-5003(2), Idaho Code, or a specialty apprentice as defined by Section 54-5003(5), Idaho Code, without a valid certification or registration is

subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-30-07)

04. Supervision. Any HVAC apprentice or specialty apprentice working without the required journeyman supervision or any HVAC contractor or industrial account employing apprentices without providing the required HVAC journeyman supervision is subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-30-07)

05. Performance Outside Scope of License. Any HVAC specialty contractor or specialty journeyman performing HVAC installations, alterations, or maintenance outside the scope of the specialty certification is subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-30-07)

06. Fees and Permits. Any person failing to pay applicable fees or properly post an HVAC permit for, or to request an inspection of, any installation, alteration, improvement, or extension of any piping, venting, ductwork, appliances and appurtenances in connection with any heating, ventilation, or air conditioning system or subsystems of such is subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-29-10)

07. Corrections. Any person who fails to make corrections in the time allotted in the notice on any HVAC installation as set forth in Section 54-5019, Idaho Code, is subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-30-07)

08. Gross Violation. In the case of continued, repeated, or gross violation of Title 54, Chapter 50, Idaho Code, or these rules, a certification revocation will be initiated for certificated individuals under this chapter and non-certificated individuals is subject to prosecution by the appropriate jurisdiction under Idaho law. ()

071. -- 999. (RESERVED)

07.10.01 – RULES GOVERNING THE DAMAGE PREVENTION BOARD

000. LEGAL AUTHORITY.

The Idaho Damage Prevention Board of the Division of Building Safety is authorized under Section 55-2203, Idaho Code, to promulgate rules for the administration of Title 55, Chapter 22, Idaho Code. ()

001. TITLE AND SCOPE.

01. **Title.** These rules are titled IDAPA 07.10.01, “Rules Governing the Damage Prevention Board.” (3-24-17)

02. **Scope.** These rules are applicable to underground facilities, and facility owners as established in Title 55, Chapter 22, Idaho Code. (3-24-17)

002. ADMINISTRATIVE APPEALS.

01. **Governing Procedural Requirements.** IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General,” Section 100, et seq., applies to contested cases, in addition to the provisions of Title 55, Chapter 22, Idaho Code. (4-11-19)

02. **Appeal Bond.** Upon notice of the imposition of training or a civil penalty, the notified party may contest the imposition of such before the Damage Prevention Board in accordance with Section 018 of these rules. An appeal bond in the amount of two hundred dollars (\$200) must accompany the request for hearing to contest the matter. In the case of training, the Division of Building Safety will refund the bond if the contesting party appears at the hearing. In the case of a civil penalty, the Division will refund any portion of the bond not used to satisfy the penalty imposed by the Board or the entire bond if the contesting party prevails at the hearing. (4-11-19)

004. -- 006. (RESERVED)

007. FUNDING OF BOARD ACTIVITIES.

Each owner of an underground facility must pay a fee of ten cents (\$.10) each time such owner receives notice from a one-number notification service as prescribed by Section 55-2205, Idaho Code. The fee assessed upon the underground facility owner is collected by the one-number notification service, and is payable to the board in accordance with the following schedule: (3-24-17)

01. **Fee Assessed.** The fee will be assessed on an underground facility owner for each notification issued by the one-number notification service to the underground facility owner, with the one-number notification service required to submit a summary of the number of notices issued in a given month to the board no later than fifteen (15) days following the end of the month in which the notices were issued. (3-24-17)

02. **Payment Submission.** The one-number notification service must submit payment to the board for all payments received from underground facility owners no later than seventy (70) days following the end of the month in which the notices were issued to the facility owners. In those cases where the payment from the underground facility owner is received after the seventy-day (70) period, the one-number service must include late payments in its next payment to the board. (4-11-19)

03. **Notices Issued.** The one-number notification service must also submit a detailed list of notices issued, including the facility owner’s contact information, for which payment has not been received within the seventy (70) day period following the end of the month in which the notices were issued. Such list must be updated on a monthly basis to reflect the status of all past-due payments due from underground facility owners that have not been received. (4-11-19)

008. AUDIT OF ONE-NUMBER SERVICE RECORDS.

The Board has the right to review and audit the payment records of any one-number notification service relating to the collection of the fee imposed on underground facility owners. In the event the board wishes to conduct a review and/or audit of a one-number notification service, the board will provide no less than a five (5) business day advance notice of the intended action. The board may delegate any responsibilities contained herein this chapter to the Division of Building Safety. ()

009. -- 014. (RESERVED)

015. EDUCATIONAL AND TRAINING MATERIALS.

01. Approval of Training and Educational Programs. The Board approves acceptable training courses or programs and educational materials on relevant underground facility damage prevention topics pertaining to safe excavation, locating and marking of facilities, determining facility damage, emergency procedures, excavator downtime, pre-marking of intended excavation areas, and appropriate procedures when encountering unmarked facilities. ()

02. Scope of Training and Educational Programs. Such training programs and educational materials must relate to various aspects of underground facility damage prevention, and contain practices, information, and standards generally accepted and recognized among stakeholders in Idaho. (3-28-18)

03. Accessibility of Training and Educational Programs. The Division maintains and periodically updates a database of approved educational materials and training programs. ()

04. Purposes of Training and Educational Programs. Such programs may be used for general educational use by stakeholders or for remedial training that may be ordered by the board or the administrator pursuant to Section 55-2211, Idaho Code. ()

016. ADEQUACY OF FACILITY OWNERS LOCATING UNDERGROUND FACILITIES.
The board reviews all stakeholder complaints of violations related to underground facility line locating, as well as generally accepted practices and procedures related to locating. Stakeholders must take remedial actions to improve line-locating performance and monitor and report performance improvements to the board. (3-28-18)

017. IMPROVEMENT OF TECHNOLOGY AND COMMUNICATIONS BY STAKEHOLDERS.

01. Adoption of Technology and Communications Materials. On an annual basis the board reviews and adopts any available technology and communications materials which promote effective underground facility locating. The board will make available any such appropriate technology and communications materials as it may determine to all stakeholders on the Division website. (3-28-18)

02. Availability of Technology and Communications Materials. The board may request that stakeholders provide it with information or data related to procedures, methods, or technologies utilized by such stakeholders to enhance communications among other stakeholders, or that enhances underground facility locating capabilities, or enhances the stakeholder's ability to gather and analyze data related to underground facility damage. The board will review such technologies, methods, or materials adopted by stakeholders to ensure that such use is adequate, as well as to provide stakeholders with best practices. The Division of Building Safety must maintain an approved database of such referenced stakeholder data for public viewing and analysis on its website. (3-28-18)

018. DAMAGE PREVENTION COMPLAINTS.

01. Complaint Forms. Persons may submit written complaints to the administrator regarding an alleged violation of Title 55, Chapter 22, Idaho Code, on such forms as required by the Division of Building Safety. Forms are available at the Division of Building Safety offices and electronically on the Division's website. Notice of the complaint may be served concurrently on the alleged violator by the person submitting the complaint. Verifiable proof of such notification of a complaint provided to the alleged violator must also be provided to the administrator. ()

02. Contents. Complaints must include the name and address of the complainant and the alleged violator, the date and location of the alleged violation, as well as a complete description of the nature of the violation alleged, including whether it resulted in damage to an underground facility or an excavator downtime event. Complainants may also provide additional documentation in support of a complaint. Complaints must be accompanied by a sworn declaration from the complainant declaring that the information contained therein is true and accurate. The administrator may request additional information or documents in support of the complaint. ()

03. Complaint Procedures and Timelines. The following timelines and procedure govern the process of filing and administering complaints related to violations of Title 55, Chapter 22, Idaho Code, and the rules of the Board. (3-28-18)

a. Initial Filing. Complaints must be filed with the administrator not later than thirty (30) days from the date of the alleged violation giving rise to the complaint or from the date the violation should have reasonably been discovered by the complainant, whichever is later. (3-28-18)

b. Response. The administrator must notify the alleged violator of the complaint and request a response and any additional information from the alleged violator as may be necessary. The alleged violator may provide a response to the administrator within thirty (30) days from the date they are notified of the complaint by the administrator. (3-28-18)

c. Recommendation. Within thirty (30) days of receipt of the response, or if no response is received, within fifteen (15) days from the deadline for filing a response, the administrator must notify the complainant and the alleged violator of his recommended course of action. The administrator may extend the period of time in which to determine a recommended course of action, and so notify the parties, if he determines it is necessary to further review or investigate the complaint. (3-28-18)

d. Contest. The alleged violator has the right to contest the imposition of a civil penalty before the damage prevention board. Notice of such contest must be provided by the alleged violator not more than thirty (30) days after receipt of the administrator's recommended course of action. Recommendations of the administrator regarding complaints may be reviewed by the board at its next regularly scheduled meeting. ()

019. CLAIMS AND REPORTS OF DAMAGE OR EXCAVATOR DOWNTIME.

01. Claims. Claims for the cost of repairs for damaged underground facilities are enforced by the affected underground facility owner in accordance with procedures as may be established by the facility owner, and in accordance with applicable law. Underground facility owners must provide notice to excavator contractors of such procedures, along with sufficient information supporting the basis for the amount of a claim within six (6) months from the date of the event giving rise to the claim or from the date the event should have reasonably been discovered by the underground facility owner, whichever is later. (3-28-18)

02. Reports. Underground facility owners and excavators who observe, suffer or cause damage to an underground facility or observe, suffer or cause excavator downtime related to a failure of one (1) or more stakeholders to comply with applicable damage prevention statutes or regulations must report such information to the board on forms or by such method adopted for such by the board. Forms are available at the Division offices and electronically on the Division's website. ()

020. CIVIL PENALTIES.

The Idaho Damage Prevention Board is authorized under Section 55-2203(17), Idaho Code, to establish by administrative rule the fines to be paid for civil penalties issued for violations of Title 55, Chapter 22, Idaho Code. To the extent authorized by Section 55-2211, Idaho Code, the acts described in this section subject the violator to a civil penalty of not more than one thousand dollars (\$1,000) for a second offense and a civil penalty of not more than five thousand dollars (\$5,000) for each offense that occurs thereafter within eighteen (18) months from an earlier violation, and where facility damage has occurred. (3-28-18)

01. Violations of Title 55, Chapter 22, Idaho Code. The following acts subject a person to civil penalties: (3-28-18)

a. Pre-marking Excavation Site. Any person who fails to adequately pre-mark onsite the path of proposed excavation as reasonably required under the circumstances in accordance with Section 55-2205(1)(b), Idaho Code, is subject to a civil penalty. (3-28-18)

b. Notice of Excavation. Any person who fails to provide notice of the scheduled commencement of excavation to any underground facility owner through a one-number notification service, or directly to a facility owner, as applicable within the prescribed time as required by Section 55-2205(1)(c), Idaho Code, is subject to a civil penalty. (3-28-18)

c. One-Number Notification to Facility Owner. A one-number notification service that fails to provide

notice of a scheduled excavation upon notification from an excavator is subject to a civil penalty. (3-28-18)

d. Failure to Locate or Mark. An underground facility owner, owner’s agent, or locator who fails to locate or mark underground facilities when responsible to do so in accordance with Section 55-2205(2), Idaho Code, or within the prescribed time provided therein, is subject to a civil penalty. (4-11-19)

e. Failure to Wait for Locate or Maintain Markings. An excavator who commences excavation prior to waiting the time prescribed by Section 55-2205(2), Idaho Code, for all known facilities to be located and marked, or an excavator who fails to maintain the markings of underground facilities previously so marked subsequent to the commencement of excavation in accordance with Section 55-2205(2), Idaho Code, is subject to a civil penalty. (3-28-18)

f. Failure to Cease Excavation or Report Unidentified Facilities. An excavator who does not cease excavation in the immediate vicinity upon the discovery of underground facilities therein, whether such facilities be active or abandoned, which were not previously identified or located with reasonable accuracy, or does not notify the owner or operator of the facilities, or a one-number notification service in accordance with Section 55-2205(4), Idaho Code, is subject to a civil penalty. (3-28-18)

g. Failure to Identify Facilities in Contract Documents. Project owners who fail to indicate in bid or contract documents the existence of underground facilities known by the owner to be located within the proposed area of excavation in accordance with Section 55-2207, Idaho Code, is subject to a civil penalty. (3-28-18)

h. Precautions to Avoid Damage. An excavator who does not engage in any of the activities required by Section 55-2207(2), Idaho Code, or use reasonable care to avoid damage to underground facilities is subject to a civil penalty. (3-28-18)

i. Reporting of Damage to Facility. An excavator who fails to report to a facility owner and a one-number notification service any contact or damage to an underground facility caused by such excavator in the course of excavation, or fails to alert an appropriate authority upon an actual breach of a facility which causes the release of gas or hazardous liquids as required by Section 55-2208(1), Idaho Code, is subject to a civil penalty. (3-28-18)

j. Reporting to the Board. An excavator or underground facility owner who observes, suffers or causes damage to an underground facility or excavator downtime related to the failure of one (1) or more stakeholders to comply with the damage prevention regulations and fails to report such information to the board as required by Section 55-2208(5), Idaho Code, is subject to a civil penalty. (3-28-18)

k. Failure to Participate. Any person who fails to participate or cooperate with a one-number notification service as prescribed by Section 55-2206, Idaho Code, is subject to a civil penalty. (3-28-18)

02. Second Offense. For the purpose of this section, a second offense is deemed to be any violation of Title 55, Chapter 22, Idaho Code, for which a civil penalty may be imposed in accordance with this section which occurs within eighteen (18) months of a previous violation of any provision. (3-28-18)

03. Multiple Violations. Each day that a violation of Title 55, Chapter 22, Idaho Code, occurs for which a civil penalty may be imposed as provided herein constitutes a separate offense. (3-28-18)

021. -- 999. (RESERVED)

IDAPA 07 – DIVISION OF BUILDING SAFETY
07.01.01 – RULES OF THE IDAHO ELECTRICAL BOARD
DOCKET NO. 07-0101-1901 (NEW CHAPTER)
NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-1006, Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 132 through 154](#).

Because this is a new rule chapter and no changes were made to the pending rule, the text of this chapter is not being republished in this Bulletin. The text of the rule was published using the proper legislative format necessary for legislative review purposes. Please see the September 4, 2019 Bulletin for the full text of the pending rule.

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 Warren Wing, Electrical Program Manager, at (208) 334-3950 or at warren.wing@dbs.idaho.gov.

Dated this 30th day of October, 2019.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840
ron.whitney@dbs.idaho.gov

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 54-1006, Idaho Code.

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

PUBLIC MEETING

Wednesday, October 1, 2019 - 9:00 a.m. (MDT)

**Idaho Division of Building Safety
1090 E Watertower St., Suite 150
Meridian, ID 83642**

***Via VIDEO TELECONFERENCE*
(same date and time as above)**

At the following Division of Building Safety locations:

**Coeur d'Alene Regional Office
1250 Ironwood Drive, Suite 220
Coeur d'Alene, ID 83814**

**Pocatello Regional Office
2055 Garrett Way, Bldg. 1, Suite 4
Pocatello, ID 83201**

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 rulemaking will consolidate ten (10) chapters of Idaho Electrical Board rules (07.01.01 through 07.01.11) into a single new chapter (07.01.01). Additionally, this proposed rulemaking will amend those chapters consistent with executive orders 2019-01 (the Licensing Freedom Act) and 2019-02 (the Red Tape Reduction Act). These amendments may eliminate unnecessary, outdated, duplicative rule provisions, or simplify or reformat rule provisions. With this proposed rulemaking, the Board and Division of Building Safety will vacate the proposed promulgation of IDAPA rule chapters 07.01.01 through 07.01.11 contained in rulemakings 07-0000-1900 and 07-0000-1900F published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 794-813**, and **925-936**. The Board and Division will notice the vacation of the proposed promulgation of these rule chapters in the Notice of Rulemaking - Adoption of Pending Rule for Dockets Nos. 07-0000-1900 and 07-0000-1900F.

This proposed rulemaking also incorporates proposed changes that were negotiated under Docket No. 07-0103-1901. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking for Docket No. 07-0103-1901 was published in the May 1, 2019, Idaho Administrative Bulletin, **Vol. 19-5, on pages 45 and 46**. These proposed changes align the rules proposed in Subchapter C of this rulemaking with Senate Bill 1008 (2019) and Senate Bill 1138 (2019) by requiring apprentices to register and report work experience every year instead of every five years, allowing an apprentice to test for a journeyman electrician license by proving 16,000 hours of work experience, and providing a path to licensure for provisional journeyman license applications.

This proposed rulemaking also defines continuation training as required in Idaho Code Section 54-1007(2), removes a requirement that a journeyman test applicant show industrial, residential, and commercial work

experience, and removes requirements that a journeyman license applicant from a reciprocal state prove licensure in the reciprocal state for at least one year and that the applicant has not previously failed the Idaho journeyman examination.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The substantive changes proposed in Subchapter C of this rulemaking were negotiated under Docket No. 07-0103-1901 and the Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 1, 2019 Idaho Administrative Bulletin, [Vol. 19-5, pages 45 through 46](#).

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 rulemaking incorporates by reference the previously approved and codified 2017 National Electrical Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Warren Wing, Electrical Program Manager, at (208) 334-3950 or at warren.wing@dbs.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 1, 2019.

Dated this 30th day of July, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 07-0101-1901

07.01.01 – RULES OF THE IDAHO ELECTRICAL BOARD

000. LEGAL AUTHORITY.

These rules are promulgated by the Idaho Electrical Board and the Division of Building Safety under Title 54, Chapter 10, Idaho Code. ()

001. TITLE AND SCOPE.

These rules are titled IDAPA 07.01.01, “Rules of the Idaho Electrical Board.” These rules include criteria for the use of electrical permits for electrical installations, inspections, the criteria and fees for licenses, continuing education, adoption of the National Electrical Code, and civil penalties. ()

002. INCORPORATION BY REFERENCE.

The National Electrical Code, 2017 Edition, is incorporated by reference into these rules as further specified in Section 250. ()

003. DEFINITIONS.

01. Associated Buildings. All buildings, structures, and fixtures used for domestic purposes and in connection with the primary or secondary residence, such as garages, sheds, barns, or shops. ()

- 02. Board.** Idaho Electrical Board. ()
- 03. Division.** Idaho Division of Building Safety. ()
- 04. Person.** Includes an individual, company, firm, partnership, corporation, association or other organization. ()
- 05. Recognized License.** A license from another jurisdiction that is recognized by the Board as requiring qualifications at least equal to the qualifications for a license contained in Title 54, Chapter 10, Idaho Code, and these rules. ()
- 06. Registration Card.** The registration certificate referred to in Title 54, Chapter 10, Idaho Code. ()

004. – 010. (RESERVED)

**Subchapter A –Electrical Permits and Inspections
(Rules 011 through 049)**

011. ELECTRICAL PERMITS.

Electrical permits as authorized by Section 54-1005, Idaho Code are available for purchase online or at the Division by those legally authorized to make electrical installations. Each permit shall bear a serial number registered in the name of the permit holder to whom they are issued and are transferable only as provided in these rules. Electrical permits shall be used only for the electrical installations identified in the permit application and for which said permit holder shall assume full responsibility. ()

01. Completion of Electrical Installation. For each electrical installation made by a permit holder and coming under the provisions of Section 54-1001, Idaho Code, said permit holder or his authorized representative shall request an inspection from the Division. ()

02. Purchase of Electrical Permit. All electrical permits shall be purchased before work is commenced. Where the total cost of installation is unknown, the minimum permit fee as listed in the fee schedule of these rules applies. In all cases, payment of the total permit fee shall be made prior to completion of the installation and a final inspection. ()

a. The Division may refuse to extend credit to any person with outstanding fines, violations or unpaid permit fees recorded with the Division. Permit holders will not be allowed to purchase further electrical permits unless and until all outstanding fees due have been paid in full. ()

b. No electrical inspections will be provided prior to the purchase of an electrical permit. ()

03. Power Supply Company. Pursuant to Section 54-1005, Idaho Code, a power supply company may connect and energize an electrical installation made by an electrical contractor without delay and before the installation has passed inspection if the contractor submits to the power supply company a copy of an electrical permit purchased by the contractor and the power supply company deems the connection and energization necessary to preserve life or property. The contractor shall request that the Division conduct an inspection on the next business day. ()

012. ELECTRICAL PERMITTING AND INSPECTION REQUIREMENTS FOR PERSONS EXEMPT FROM LICENSING.

Persons exempt from licensing pursuant to Section 54-1016, Idaho Code, shall secure all electrical permits required by Section 54-1005, Idaho Code, before making any electrical installation. No electrical wiring or equipment may be concealed in any manner from access or sight until the work has been inspected and approved for cover by the electrical inspector. A final inspection shall be made upon the completion of all electrical work. The procedure for obtaining electrical permits follows: ()

01. Electrical Permit. Any exempt person shall obtain an electrical permit from the Division with the proper permit fee as provided for in rule. ()

02. Notice to Power Supplier. The Division shall provide notice to the power supplier to connect installations requiring energization once an installation has passed inspection. ()

013. ELECTRICAL PERMIT AND INSPECTION REQUIREMENTS FOR FACILITY ACCOUNTS.
An electrical facility employer account licensee, as defined by Section 54-1003A, Idaho Code, who uses licensed or registered employees to make electrical installations coming under the provisions of Section 54-1001, Idaho Code, on the licensee's own premises, shall obtain a facility account license and purchase electrical permits from the Division with the proper permit fee as provided in these rules. Employees performing electrical installations under a facility account shall be licensed electrical journeymen or master electricians or registered electrical apprentices under the constant on-the-job supervision of a licensed journeyman or master electrician as provided in Title 54, Chapter 10, Idaho Code. One (1) properly licensed journeyman or master electrician shall be designated the supervising electrician for the facility account with the Division. Individuals employed as maintenance electricians may only perform maintenance electrical installations in accordance with Section 54-1016, Idaho Code. ()

014. TEMPORARY INSTALLATIONS CONNECTED PRIOR TO INSPECTION.
Only a licensed electrical contractor may have a power supply company connect and energize a temporary service for construction prior to an inspection being performed. Any contractor energizing a temporary service prior to inspection shall assume full responsibility for the installation of the temporary service. A power supply company may only connect and energize a temporary service upon receipt of a copy of an electrical permit purchased from the Division. ()

015. -- 049. (RESERVED)

**Subchapter B – Fees for Electrical Permits and Inspections
(Rules 050 through 099)**

050. FEES FOR ELECTRICAL PERMITS AND INSPECTIONS.
Electrical permit fees are to cover the cost of electrical inspections as provided by Section 54-1005, Idaho Code; any person making an electrical installation coming under the provisions of Section 54-1001, Idaho Code, shall pay to the Division a permit fee as provided in the following schedule. The type of electrical permit a person may purchase is limited to the scope of work for which the person is licensed. ()

01. Temporary Construction Service (Temporary Power) Permit. To be installed for construction purposes only, for a period not to exceed one (1) year: ()

a. Two hundred (200) amp or less, one (1) location: sixty-five dollars (\$65). ()

b. All others to be calculated using Subsection 050.06, Other Installation (Including Industrial and Commercial) Permit, of these rules. ()

02. New Residential. Includes associated buildings with wiring being constructed on each property.

New – One-Family Dwellings		
Up to 1,500 square feet of living space	-	\$130
1,501 to 2,500 square feet of living space	-	\$195

New – One-Family Dwellings		
2,501 to 3,500 square feet of living space	-	\$260
3,501 to 4,500 square feet of living space	-	\$325
Over 4,500 square feet of living space	-	\$325 plus \$65 for each additional 1,000 square feet or portion thereof
New – Two- and Multi-Family Dwellings		
Two-family dwellings	-	\$260
Multi-family dwellings		\$130 per building plus \$65 per unit

()

a. Existing dwelling unit permit: sixty-five dollars (\$65) plus ten dollars (\$10) for each additional branch circuit up to the maximum of the corresponding square footage of the dwelling unit. ()

b. Residential Dwelling unit spa, hot tub, hydro massage tub, and swimming pool permit: sixty-five dollars (\$65) for each trip to inspect. (For all other installations of spas, hot tubs, hydro massage tubs, and swimming pools, use Subsection 050.06, Other Installation (including Industrial and Commercial) Permit, of these rules.) ()

03. Residential Electric Space Heating and Air Conditioning. When not part of a new residential construction permit, or heat/ventilating/air conditioning permit with no additional wiring: sixty-five dollars (\$65). ()

04. Domestic Water Pump Permit. See Subsection 050.06 - Pump (Water, Domestic Water, Irrigation, Sewage) -- Each Motor Permit, of these rules. ()

05. Mobile/Manufactured Home Permit. Sixty-five dollars (\$65) basic fee plus ten dollars (\$10) for each additional circuit. Mobile home and RV parks for distribution wiring including pedestal, service conductors and lot supply to individual units come under Subsection 050.06, Other Installation (Including Industrial and Commercial) Permit, of these rules. ()

06. Other Installation (Including Industrial and Commercial) Permit. The permit fees listed in this section apply to any and all electrical installations not specifically mentioned elsewhere in this schedule. The electrical cost shall be the cost to the owner of all labor charges and all other costs that are incurred in order to complete the installation of any and all electrical wiring and equipment installed as part of the electrical system, factory assembled industrial machinery to be operated by electrical energy shall not be included in calculating these fees. ()

a. Wiring cost not exceeding ten thousand dollars (\$10,000): sixty dollars (\$60) plus two percent (2%) of total wiring cost. ()

b. Wiring cost over ten thousand dollars (\$10,000) but not exceeding one hundred thousand dollars (\$100,000): two hundred sixty dollars (\$260) plus one percent (1%) of wiring cost in excess of ten thousand dollars (\$10,000). ()

c. Wiring cost over one hundred thousand dollars (\$100,000): one thousand one hundred sixty dollars (\$1,160) plus one-half of one percent (.5%) of the portion of wiring costs exceeding one hundred thousand dollars (\$100,000). ()

d. All fees calculated under this schedule must be calculated on the total wiring cost of the job, and this figure must be shown on the permit. The permit fees listed in this Subsection apply to any and all electrical installations not specifically mentioned elsewhere in this schedule. The wiring cost shall be the cost to the owner of all labor charges and all wiring materials and equipment installed as part of the wiring system. When labor is performed by the owner, such labor cost shall be based upon the market value of said labor and used or reused

materials shall be based at fifty percent (50%) of the column 3 pricing as published by Trade Service Publication or National Price Service Pricing or the actual cost, whichever is greater. For all owner-supplied, factory assembled electrical infrastructural equipment to be installed, the inspection will be based on one-half of one percent (.5%) of total cost of the equipment OR an hourly rate of one hundred thirty dollars (\$130) for the first hour of each inspection and sixty-five dollars (\$65) for each subsequent hour. Factory assembled machinery to be operated by electrical energy shall not be included when calculating these fees. ()

e. Small work not exceeding two hundred dollars (\$200) in cost and not involving a change in service connections: ten dollars (\$10). ()

07. Pump (Water, Domestic Water, Irrigation, Sewage) -- Each Motor Permit.

To 25 HP	-	\$65
26 to 200 HP	-	\$95
Over 200 HP	-	\$130
For phase inverters and roto phase equipment, use Subsection 050.06, in addition to the pump motor fee.		

()

08. Electrically-Driven Irrigation Machine Permit. Center Pivot: sixty-five dollars (\$65) plus ten dollars (\$10) per tower or drive motor. Other types: sixty-five dollars (\$65) plus ten dollars (\$10) per motor. (Note: No additional fee required for underground feeder). ()

09. Electric Sign and Outline Lighting Permit. Electric signs: sixty-five dollars (\$65) per sign; Outline lighting: sixty-five dollars (\$65) per each occupancy. ()

10. Requested Inspection Permit. A base fee of sixty-five dollars (\$65) plus an additional sixty-five dollars (\$65) for each hour, or portion thereof, in excess of one (1) hour including travel time. Out-of-state travel expenses shall be paid by the requesting party. ()

11. Additional Fees and Reinspection Fees. A base fee of sixty-five dollars (\$65) plus an additional sixty-five dollars (\$65) for each additional hour, or portion thereof, in excess of one (1) hour including travel time, shall also be paid before approval of the installation if the following services are necessary: ()

a. Trips to inspect when the permit holder had given notice to the inspector that the work is ready for inspection when it was not. ()

b. Trips to inspect when the permit holder has not clearly or correctly given the location of the installation either by directions, maps, coordinates, or correct address and posting a copy of the permit at the service or other conspicuous location on the property or the inspector cannot gain access to make the inspection. ()

c. Trips to inspect corrections required by the inspector as a result of the submitter improperly responding to a corrective notice. ()

d. Each trip necessary to remove a red tag from the jobsite. ()

e. Trips to conduct a reinspection because corrections have not been made in the prescribed time, unless an extension has been requested and granted. ()

12. No Permit. Failure to purchase an electrical permit before work is commenced, may result in the imposition of a double permit fee. ()

13. Plan Check Fee. Sixty-five dollars (\$65) minimum for one (1) hour or less. Over one (1) hour: sixty-five dollars (\$65) plus sixty-five dollars (\$65) for each hour, or portion thereof, in excess of one (1) hour. ()

14. Fees for Temporary Amusement/Industry Electrical Inspections. Each time a ride, concession, or generator is set up: sixty-five dollars (\$65) base fee plus ten dollars (\$10) for each ride, concession, or generator. ()

15. Expiration of Permits. Every permit issued by the Electrical Bureau shall expire by limitation and become null and void if the work authorized by such permit is not commenced within ninety (90) days from the date of issuance of such permit or if the work authorized by such permit is suspended or abandoned at any time after work is commenced for a period of one hundred eighty (180) days. A permit may be renewed for an additional year upon receipt of Bureau approval and sixty-five dollars (\$65) renewal fee. ()

16. Transferring a Permit. An electrical permit may be transferred to another eligible party if such party provides to the Division written authorization signed and notarized by the original permit holder consenting to the transfer itself and assignment of all the responsibilities and conditions incorporated into the original permit issuance. A permit may be transferred to the owner of the property on which the electrical work is to be performed and for which the permit was issued, or such owner's designated legal agent, in cases where such owner has terminated his legal relationship with the electrical contractor who originally obtained the permit. An administrative fee in the amount of forty-five dollars (\$45) for the transfer of the permit shall be assessed by the Division. ()

17. Refunds of Permits. The administrator of the Division may authorize a refund for any permit fee paid on the following bases: ()

a. The administrator may authorize a refund of the entire permit fee paid when no work has been performed related to the installations or electrical work covered by a permit issued by the Division. A lesser amount up to fifty percent (50%) of the permit fee amount may be refunded if work has commenced and the project is less than fifty percent (50%) complete as determined by the Division; and ()

b. The administrator cannot authorize a refund of any permit fee paid except upon written application for such filed by the original permit holder or the property owner's representative not less than one hundred eighty (180) days after the date the permit was issued. ()

051. -- 099. (RESERVED)

**Subchapter C –Electrical Licensing and Registration
(Rules 100 through 149)**

100. LICENSURE HISTORY.

An applicant for any electrical registration or license who has previously obtained a Recognized License as a journeyman or master electrician shall upon application to the Division disclose such license and provide sufficient proof thereof. An applicant for any electrical registration, license, or certificate of competency who has previously obtained a Recognized License as a journeyman or master electrician shall not be issued an electrical apprentice registration. ()

101. LICENSE AND REGISTRATION APPLICATION.

Application forms will be available at the Division's offices and electronically on the Division's website. ()

01. Application Form. Each applicant shall properly complete and submit to the Division the applicable form, giving all pertinent information and obtaining notarization of all signatures. ()

02. Application Fee. Each applicant shall pay to the Division the applicable fee provided in Section 54-1014, Idaho Code, with the application form. For registrations, the application fee set forth in Section 54-1014, Idaho Code, may satisfy the initial registration fee or any portion thereof. ()

03. Examination and Licensure Approval. The Division must approve each application before examination and licensure. ()

04. Examination. An applicant who does not take the applicable examination within ninety (90) days

of the date of approval must reapply. ()

05. License. Upon application approval and successful completion of the applicable examination, each license applicant must purchase a license. A license applicant who does not purchase a license within ninety (90) days of successful completion of the applicable examination must reapply, obtain application approval again, and re-examine. ()

06. License or Registration Period. The license or registration period set forth in Section 54-1008, Idaho Code, for each license or registration shall begin upon satisfaction of the applicable fee provided in Section 54-1013, Idaho Code. Each license or registration period shall expire at midnight on the last day of the final month of the license or registration period. Notwithstanding the foregoing, the license or registration period for each expired license or registration revived in accordance with Section 54-1013, Idaho Code, shall begin on the day the license or registration previously expired. ()

102. APPRENTICE ELECTRICIAN REGISTRATION.

01. Registration Requirements. To become an apprentice electrician, a person shall comply with Section 54-1010(3), Idaho Code. Each apprentice electrician shall carry a current Registration Card while performing electrical work and present the Registration Card upon request by the Division for examination. ()

02. Renewal Requirements. To renew an apprentice registration, an apprentice electrician shall submit to the Division sufficient evidence demonstrating the apprentice electrician has successfully completed one (1) of the following during the prior registration period: ()

a. One (1) year of a Board-approved sequence of instruction and one (1) year, defined as a minimum of two thousand (2,000) hours of work experience, under the constant, on-the-job supervision and training of a journeyman electrician. Verification of work experience shall consist of a notarized letter from each employer with which the apprentice electrician obtained the experience. ()

b. Continuation training, defined as eight (8) hours of NFPA 70E training and sixteen (16) hours of code-update training, code-related training, or industry-related training. ()

103. JOURNEYMAN ELECTRICIAN EXAMINATION AND LICENSE.

01. Examination Requirements. To take the journeyman examination, an applicant shall submit to the Division sufficient evidence demonstrating the applicant has successfully completed one (1) of the following: ()

a. Four (4) years of a sequence of instruction approved by the Board and the Idaho Division of Career-Technical Education and three (3) years, defined as a minimum of six thousand (6,000) hours, of work experience under the constant on-the-job supervision and training of a journeyman electrician. ()

b. Eight (8) years, defined as a minimum of sixteen thousand (16,000) hours, of work experience in accordance with the requirements of the jurisdiction in which the applicant obtained the experience. Verification of work experience shall consist of a notarized letter from each employer with which the applicant obtained the experience. ()

02. License Requirements. ()

a. To obtain a provisional journeyman license, an applicant shall submit to the Division evidence demonstrating the applicant has successfully completed eight (8) years, defined as a minimum of sixteen thousand (16,000) hours, of work experience in accordance with the requirements of the jurisdiction in which the applicant obtained the experience. Verification of work experience shall consist of a notarized letter from each employer with which the applicant obtained the experience. ()

b. To obtain a journeyman license, an applicant shall submit to the Division sufficient evidence demonstrating the applicant has successfully completed the journeyman examination; and ()

i. Four (4) years, defined as a minimum of eight thousand (8,000) hours, of work experience under the constant on-the-job supervision and training of a journeyman electrician; or ()

ii. Eight (8) years, defined as a minimum of sixteen thousand (16,000) hours, of work experience in accordance with the requirements of the jurisdiction in which the applicant obtained the experience. ()

c. To obtain a journeyman license, an applicant with a Recognized License shall comply with Section 54-1007(5), Idaho Code, and submit to the Division sufficient evidence demonstrating: ()

i. The applicant's Recognized License is current, active, and in good standing; and ()

ii. The applicant obtained the Recognized License by testing from the issuing jurisdiction. ()

03. Unacceptable Work Experience. The Division will not accept work experience in appliance repair, motor winding, or communications to meet the requirements to take the journeyman examination or obtain a provisional journeyman or journeyman license. ()

104. MASTER ELECTRICIAN.

An applicant for a master electrician license must have at least four (4) years' experience as a licensed journeyman electrician as provided in Section 54-1007, Idaho Code. Any person having these qualifications may make application at any time by remitting to the Division the application fee. Upon approval, the applicant will be notified and may apply to take the next examination. Upon notification of passing the examination, the applicant must remit the required fee for the issuance of a master license. A person holding a current master license shall not be required to hold a journeyman license. ()

105. ELECTRICAL CONTRACTOR.

01. Qualifications for Electrical Contractor. ()

a. On and after July 1, 2008, except as hereinafter provided, any person, partnership, company, firm, association, or corporation shall be eligible to apply for an electrical contractor license upon the following requirements: ()

i. Applicant shall have at least one (1) full-time employee who holds a valid master electrician license issued by the Division. Licensed electrical contractors who are current and active prior to July 1, 2008, shall not be required to have a master electrician as the supervising electrician until a new supervising electrician is designated. A master electrician license will be required for a new supervising electrician designated after July 1, 2008. ()

ii. The master electrician shall be designated the supervising electrician and shall be available during working hours to carry out the duties of supervising, as set forth herein, and who will be responsible for supervision of electrical installations made by said company, firm, association, or corporation as provided by Section 54-1010, Idaho Code. ()

iii. An individual electrical contractor may act as his own supervising master electrician upon the condition that he holds a valid master electrician license. ()

iv. Applicant must pass a contractor examination administered by the Division or its designee. Any applicant which purports to be a non-individual (such as, corporation, partnership, company, firm, or association), must designate in writing an individual to represent it for examination purposes. Any such designee shall be a full-time supervisory employee and may not represent any other applicant for an electrical contractor's license. ()

v. Applicant shall provide proof of liability insurance to the Division in the amount of three hundred thousand dollars (\$300,000) from an insurance company licensed to do business in the state of Idaho. The liability insurance shall be in effect for the duration of the applicant's contractor licensing period. ()

vi. Applicant shall provide to the Division proof of Idaho's worker's compensation insurance unless specifically exempt from Idaho law. The Division will provide written confirmation of exemption status. ()

b. Any person designated under Paragraph 105.01.a. of these rules, and the contractor he represents, shall each notify the Division in writing if the supervising master's or the designee's working relationship with the contractor has been terminated within ten (10) days of the date of termination. If the supervising master's or the designee's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another supervising master is qualified by the Division, or unless another duly qualified designee passes the electrical contractor's examination on behalf of the contractor, as applicable. ()

02. Required Signatures on Application. An application for an electrical contractor license shall be signed by the applicant or by the official representative of the partnership, company, firm, association, or corporation making the application countersigned by the supervising master electrician. ()

03. Electrical Contracting Work Defined. An electrical contractor license issued by the Division must be obtained prior to acting or attempting to act as an electrical contractor in Idaho. ()

a. Electrical contracting work includes electrical maintenance or repair work, in addition to new electrical installations, unless such work is expressly exempted by Section 54-1016, Idaho Code. ()

b. Any person or entity performing or offering to perform electrical contracting services, including, but not limited to, advertising or submitting a bid shall be considered as acting or attempting to act as an electrical contractor and shall be required to be licensed. Advertising includes, but is not limited to: newspaper, telephone directory, community flier ads or notices, telephone, television, radio, internet, business card, or door-to-door solicitations. ()

c. Any person or entity, not otherwise exempt, who performs or offers to perform electrical contracting work, is acting as an electrical contractor, whether or not any compensation is received. ()

d. Registered general contractors who submit a bid on a multi-trade construction project that includes a licensed electrical contractor's pricing shall not be considered to be acting or attempting to act as an electrical contractor. ()

04. Previous Revocation. Any applicant for an electrical contractor license who has previously had his electrical contractor license revoked for cause, as provided by Section 54-1009, Idaho Code, shall be considered as unfit and unqualified to receive a new electrical contractor license so long as such cause for revocation is continuing and of such nature that correction can be made by the applicant. ()

05. Reviving an Expired License. Any applicant for an electrical contractor license who has allowed his license to expire and seeks to revive it under the provisions of Section 54-1013, Idaho Code, may be denied a license as unfit and unqualified if, while operating under the license prior to expiration, he violates any of the laws or rules applicable to electrical contractors. ()

06. Qualification and Duties for Supervising Journeyman or Master. ()

a. A master electrician shall not be considered as qualified to countersign an electrical contractor license application as the supervising master, nor shall said application be approved if he does countersign said application as the supervising master, if said master has had his Idaho electrical contractor license revoked for cause under Section 54-1009, Idaho Code. ()

b. A supervising master shall not countersign for more than one (1) contractor. ()

c. A journeyman who is a full-time employee of a company, corporation, firm or association with a facility account may sign as supervising journeyman for that facility account in addition to signing as supervising journeyman for his own contractor's license so long as the journeyman is listed as the owner and complies with the provisions of Paragraphs 105.01.a. and 01.b. of these rules. ()

d. Duties include: assuring that all electrical work substantially complies with the National Electrical Code and other electrical installation laws and rules of the state, and that proper electrical safety procedures are

followed; assuring that all electrical labels, permits, and licenses required to perform electrical work are used; assuring compliance with correction notices issued by the Division. ()

07. Failure to Correct Defects in Electrical Installations. If a master countersigns an electrical contractor license application pursuant to Subsection 105.02 of these rules and thereafter willfully fails to correct defects in electrical installations he made or supervised, and such defects are within his power to correct and are not the fault of the contractor, then the Division shall have the power to suspend or revoke said master's license pursuant to Section 54-1009, Idaho Code. ()

08. Overcharging of Fees. It shall be grounds for suspension or revocation of an electrical contractor license if he charges and collects from the property owner an electrical permit or inspection fee which is higher than the fee actually in effect at the time of such charging and collection, pursuant to the current Electrical Laws and Rules of the Division, and the fee remitted by the contractor to the Division is less than the fee actually charged and collected by him. ()

09. Direct Supervision and Training. It shall be the responsibility of the employing electrical contractor to ensure that each apprentice electrician and provisional journeyman electrician perform electrical work only under the constant on-the-job supervision and training of a journeyman electrician. ()

a. Journeyman-to-Apprentice Ratio. One (1) journeyman electrician shall not supervise and train more than two (2) apprentice electricians. ()

b. Any electrical contractor violating the journeyman-to-apprentice ratio is presumed to be in violation of the direct supervision requirement of Section 54-1010(1), Idaho Code, and the constant on-the-job supervision requirement of Section 54-1003A(3), Idaho Code. The journeyman-to-apprentice ratio may be adjusted on a case-by-case basis by a showing by an electrical contractor of special circumstances that are peculiar to the work done by that electrical contractor and that allow for effective supervision and training by each journeyman electrician. An electrical contractor must obtain permission from the Division to adjust the journeyman-to-apprentice ratio. Failure to comply with this requirement will be grounds for suspension or revocation of the electrical contractor's license. ()

106. -- 149. (RESERVED)

**Subchapter D – Limited Electrical Licensing and Registration
(Rules 150 through 199)**

150. QUALIFIED JOURNEYMAN ELECTRICIANS. Qualified journeyman electricians, as defined in Section 54-1003A(2), Idaho Code, shall be permitted to make all installations as subsequently described herein without securing an additional license for said installation. ()

151. MINIMUM EXPERIENCE REQUIREMENTS. Experience gained by an individual while engaged in the practice of one (1) or more of the limited categories named below shall not be considered towards the satisfaction of the minimum experience requirements for licensing as a journeyman electrician. ()

152. LIMITED EXPERIENCE REQUIREMENT.

01. Limited Electrical Installer. An applicant for a limited electrical installer license must have at least two (2) years of experience, or more as specified for the individual category, 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 limited electrical installer trainee making electrical installations in accordance with the requirements as stated herein. ()

02. Limited Electrical Installer Trainee. A limited electrical installer 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 limited electrical installer of the same limited category to qualify for testing as a limited electrical installer. A person wishing to become a limited electrical installer trainee shall register with the

Division for a period of three (3) years and pay the applicable fee prior to going to work. Said person shall carry a current registration certificate on his person at all times and present it upon request to personnel. A limited electrical installer trainee registration shall only be renewed by the Division upon receipt of sufficient evidence demonstrating that the trainee has worked at least one (1) year defined as a minimum of two thousand (2,000) hours of work experience under the constant on-the-job supervision of a limited electrical installer; provided however, that in no case shall a limited electrical installer trainee registration be renewed more than one (1) time by the Division without a recommendation from the Board to do so. A limited electrical installer trainee may only petition the Board for registration renewals subsequent to the first renewal. If application to the Division or petition to the Board is made pursuant to this Subsection, the Division and the Board, as applicable, shall consider whether extenuating circumstances exist which prevent the completion of the instruction or work experience requirements for renewal. Time shall not be credited while the trainee is inactive or not registered. ()

153. ELECTRICAL INSTALLATIONS REQUIRING A LIMITED ELECTRICAL INSTALLER LICENSE.

The following categories of electrical installations shall be considered limited electrical installations, the practice of which shall require a journeyman electrician, master electrician, or limited electrical installer license: ()

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 or electrical contractor, and his installations shall be limited to this category. The holder of such limited license may only countersign a limited electrical contractor's license application as a supervising limited electrical installer for work within this category. ()

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 or electrical contractor, and his installations shall be limited to this category. The holder of such limited license may only countersign a limited electrical contractor's license application as supervising limited electrical installer for work within this category. ()

03. Manufacturing or Assembling Equipment. ()

a. A licensed limited electrical manufacturing or assembling equipment installer must be employed by a licensed limited electrical manufacturing or assembling equipment contractor or electrical contractor, and his installation shall be limited to this category. The holder of such limited license may only countersign a limited electrical contractor's license application as a supervising limited electrical installer for work within this category. ()

b. Any person licensed pursuant to Paragraph 153.03.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. ()

c. Subsection 153.03 of these rules does not apply to a limited electrical manufacturing or assembling equipment installer 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. ()

04. Limited Energy Electrical. ()

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. ()

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. ()

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 limited electrical license and must be employed by a licensed limited energy limited electrical contractor or electrical contractor. The holder of such limited license may only countersign a limited electrical contractor's application as a supervising limited electrical installer for work within this category. ()

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 limited electrical contractor whose license is contingent upon the granting of a limited electrical license to an employee, and his installations shall be limited to this category. The holder of such limited license may not countersign a limited electrical contractor's license application as supervising limited electrical installer except for work within this category. ()

06. Well Driller and Water Pump Installer. All installations performed by individuals under this Subsection shall be done in accordance with the applicable provisions of the approved National Electrical Code. A license holder in this category shall be employed by a licensed well driller and water pump installer limited electrical contractor or electrical contractor, and his installations shall be limited to this category. The holder of such limited license may only countersign a limited electrical contractor's license application as supervising limited electrical installer for work within this category. Any person currently licensed in this category may perform the following types of installations: ()

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. ()

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. ()

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

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. ()

07. Refrigeration, Heating, and Air-Conditioning Electrical Installer. All installation, maintenance, and repair performed by individuals under this Subsection shall be done in accordance with applicable provisions of the National Electrical Code. A license holder in this category shall be employed by a licensed limited electrical contractor whose license shall be covered by this category or electrical contractor, and his installations shall be limited to this category. The holder of such limited license may only countersign a limited electrical contractor's

license application as a supervising limited electrical installer for work in this category. Any person currently licensed in this category may perform the following types of installations, which installations shall be limited to factory-assembled, packaged units: ()

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. ()

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. ()

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. ()

08. Outside Wireman. All 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. A license holder in this category shall be employed by a licensed limited electrical contractor whose license shall be covered by this category or electrical contractor, and his installations shall be limited to this category. The holder of such limited electrical license may only countersign a limited electrical contractor's license application as a supervising limited electrical installer for work in this category. Applicants for this license category 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. ()

09. Solar Photovoltaic. All 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. A license holder in this category shall be employed by a licensed limited electrical contractor whose license shall be covered by this category or electrical contractor, and his installations shall be limited to this category. The holder of such limited electrical license may only countersign a limited electrical contractor's application as a supervising limited electrical installer for work in this category. Applicants for this license category shall provide proof of photovoltaic installer certification by the North American Board of Certified Energy Practitioners (NABCEP) or equivalent. Any person licensed in this category may perform the following types of installations: ()

a. Solar Photovoltaic DC Systems: Install, maintain, repair, and replace all electrical equipment, wires, and accessories up to and including the inverter. ()

b. Solar Photovoltaic micro-inverter/AC Systems: Install, maintain, repair, and replace all electrical equipment, wires, and accessories up to and including the AC combiner box. ()

154. APPLICATIONS FOR LIMITED ELECTRICAL INSTALLER LICENSE.

An application for a limited electrical installer license may be obtained from the Division. The forms shall be returned with the application fee, as provided by Section 54-1014, Idaho Code, with proof of the required two (2) years of experience in the field of limited electrical category and notarized signature. Upon receiving a passing grade, the applicant may remit the license fee for issuance of the license. ()

155. LICENSURE PERIOD AND FEES.

All original limited electrical licenses and registrations shall be issued by the Division immediately upon receipt of the licensure fee and other necessary documentation from the applicant which date will be designated as the original

license anniversary date and signify the commencement of the licensing period. All specialty license and registration renewals shall be effective in the year renewed as of the original license anniversary date. All license and registration periods end at midnight on the last day of the final month of the licensing or registration period. Limited electrical licenses and registrations not renewed by this date are expired. Any expired license revived within the twelve-month period following the expiration date will continue to have the original license anniversary date for the purposes of subsequent renewal. The license fee and renewal fee for each type of limited electrical license is provided for by Section 54-1014, Idaho Code, for other journeyman licenses. ()

156. LIMITED ELECTRICAL CONTRACTOR LICENSE.

01. Qualifications for Limited Electrical Contractor. Except as herein provided, any person, partnership, company, firm, association, or corporation shall be eligible to apply for a limited electrical contractor license upon the condition that such applicant will be responsible for supervision of electrical installations made by said company, firm, association, or corporation as provided by Section 54-1010, Idaho Code. The supervising limited electrical installer shall be available during working hours to carry out the duties of supervising limited electrical installer, as set forth herein. In addition, the applicant shall meet or have at least one (1) full-time employee who meets one (1) of the following criteria: ()

a. Holds a valid limited electrical installer license issued by the Division, in the same category as the limited electrical contractor, and has held a valid limited electrical installer license for a period of not less than two (2) years, during which time he was employed as a limited electrical installer for a minimum of four thousand (4,000) hours; ()

b. Holds a valid limited electrical installer license issued by the Division, in the same category as the limited electrical contractor, and has at least four (4) years of experience in the limited electrical category with a minimum of two (2) years practical experience in planning, laying out, and supervising electrical installations in the category. ()

02. Modification to Qualifications. Applicants for limited electrical contractor licenses, or individuals countersigning such applications, shall be subject to the same requirements, restrictions, and fees applicable to other electrical contractors and countersigning master, as set forth in the current electrical statutes and rules with the exception that an electrical contractor requires a master electrician to countersign as a supervising master whereas a supervising limited electrical installer for a limited electrical contractor must meet the requirements of Subsection 156.01 of these rules. ()

157. -- 199. (RESERVED)

**Subchapter E –Examinations
(Rules 200 through 249)**

200. EXAMINATIONS.

01. Frequency of Conducting of Examinations. Board-approved examinations for all classifications under the Electrical Laws and Rules will be offered a minimum of four (4) times each year at the Division's three (3) office locations. The applicant will be notified in writing of the date, time, and location at which the examination will be given, following approval of the application. ()

02. Professional Testing Services. In lieu of the administration by the Board of the examination for licenses pursuant to this rule, the Board may contract with a professional testing service to administer the examination and require license applicants to pay to the testing service the fee that they have set for the examination, take such examination at the time set by such service, and provide the Division acceptable verification of the test score. If the examination is conducted in this fashion, the Board may charge and retain the application fee provided for by Section 54-1014, Idaho Code, to cover the cost of reviewing the applicant's application. ()

03. Required Scores. The following scores are considered minimum for passing and are required to be achieved by the applicant prior to issuance of the appropriate license or certification.

Required Scores		
Journeyman Electrician	-	70%
Limited Electrical Installer	-	70%
Electrical Contractor	-	75%
Limited Electrical Contractor	-	70%
Electrical Inspector	-	75%
Master Electrician	-	75%

()

04. Failed Examinations.

()

a. An applicant receiving less than a passing score on a first or second examination attempt may be reexamined. ()

b. Before being reexamined after failing an examination the third time, an applicant must: ()

i. Wait until the expiration of one (1) year from the date of the failed third examination; or ()

ii. Provide proof, satisfactory to the Board, of completion of a minimum of twenty-four (24) hours of Board-approved, related electrical training or continuing education since the date of the failed third examination. ()

c. Before being reexamined after any further failures, an applicant for reexamination must: ()

i. Wait until the expiration of an additional one (1) year from the date of the failed examination; or ()

ii. Provide proof, satisfactory to the Electrical Board, of completion of thirty-two (32) hours of Board-approved, related electrical training or continuing education since the date of the failed examination. ()

201. -- 249. (RESERVED)

**Subchapter F – Use of the National Electrical Code
(Rules 200 through 299)**

250. ADOPTION AND INCORPORATION BY REFERENCE OF THE NATIONAL ELECTRICAL CODE.

01. Documents. Under the provisions of Section 54-1001, Idaho Code, the National Electrical Code, 2017 Edition, (herein NEC) is hereby adopted and incorporated by reference for the state of Idaho and are in full force and effect on and after July 1, 2017, with the following amendments: ()

a. Article 110.3(A) and 110.3(B) shall not apply to submersible well pumps installed in swimming and marine areas; provided however, such articles shall apply to all other equipment required in the installation of a submersible well pump in such areas except for the actual submersible well pump itself. ()

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

- c.** Article 210.8(A)(10). Delete article 210.8(A)(10). ()
- d.** Article 210.8(D). Delete article 210.8(D). ()
- e.** Article 210.52(E)(3). Delete article 210.52(E)(3) and replace with the following: Balconies, Decks, and Porches. Balconies, decks, and porches having an overall area of twenty (20) square feet or more that are accessible from inside the dwelling unit shall have at least one (1) receptacle outlet installed within the perimeter of the balcony, deck, or porch. The receptacle shall not be located more than two (2.0) meters (six and one half (6½) feet) above the balcony, deck, or porch surface. ()
- f.** Add a new Article 225.30(F) – One (1)- or Two (2)-Family Dwelling Unit(s). For a one (1)- or two (2)-family dwelling unit(s) with multiple feeders with conductors one aught (1/0) or larger, it shall be permissible to install not more than six (6) disconnects grouped at one (1) location where the feeders enter the building, provided that the feeder conductors originate at the same switchboard, panelboard, or overcurrent protective device location. ()
- g.** Where the height of a crawl space does not exceed one and four tenths (1.4) meters or four and one half (4.5) feet it shall be permissible to secure NM cables, that run at angles with joist, to the bottom edge of joist. NM cables that run within two and one tenth (2.1) meters or seven (7) feet of crawl space access shall comply with Article 320.23. ()
- h.** Article 334.10(3). Delete Article 334.10(3) and replace with the following: Other structures permitted to be of Types III, IV, and V construction. Cables shall be concealed within walls, floors, or ceilings that provide a thermal barrier of material that has at least a fifteen (15)-minute finish rating as identified in listings of fire-rated assemblies. For the purpose of this section, cables located in attics and underfloor areas that are not designed to be occupied shall be considered concealed. ()
- i.** Article 675.8(B). Compliance with Article 675.8(B) will include the additional requirement that a disconnecting means always be provided at the point of service from the utility no matter where the disconnecting means for the machine is located. ()
- j.** Article 682.10 shall not apply to submersible well pumps installed in swimming and marine areas; provided however, such articles shall apply to all other equipment required in the installation of a submersible well pump in such areas except for the actual submersible well pump itself. ()
- k.** Article 682.11. Add the following exception to Article 682.11: This article shall not apply to service equipment that is located on or at the dwelling unit and which is not susceptible to flooding. ()
- l.** Article 682.13. Add the following exceptions to Article 682.13: ()
- i.** Exception No 1. Wiring methods such as HDPE schedule eighty (80) electrical conduit or its equivalent or greater, and clearly marked at a minimum “Caution Electrical” to indicate that it contains electrical conductors shall be approved. It shall be buried whenever practical, and in accordance with the requirements of the authority having jurisdiction. The use of gray HDPE water pipe rated at two hundred (200) PSI (e.g. SIDR-7 or DR-9) is suitable for use as a chase only when the following conditions are met: ()
- (1) When internal conductors are jacketed submersible pump cable. ()
- (2) When used in continuous lengths, directly buried, or secured on a shoreline above and below the water line. ()
- (3) When submersible pump wiring terminations in the body of water according to 682.13 Exception No. 2 are met. ()
- ii.** Exception No 2. Any listed and approved splices required to be made at the submersible well pump itself, outside of a recognized submersed pump sleeve or housing, when wires are too large to be housed inside such sleeve, shall be covered with a non-metallic, impact resistant material, no less than one quarter (.25) inches thick,

such as heavy duty heat shrink or other equivalent method approved by the authority having jurisdiction. (Eg. install a heat shrink over the sleeve or housing that the submersible well pump is installed in, and then recover (apply heat) the heat shrink over both the HDPE and the water line). At least six (6) inches shall be over the sleeve and at least twelve (12) inches over the HDPE and water line. ()

iii. Exception No. 3. Pipe, conduit, PVC well casing, or other electrically unlisted tubing may be used as a chase, but not as a raceway, to protect conductors or cables from physical damage. Conductors or cables within a chase shall be rated for the location. ()

m. Article 682.14. Add the following additional exception to Article 682.14: For installations of submersible well pumps installed in public swimming and marine areas, submersible well pumps shall be considered directly connected and shall be anchored in place. Ballast is an acceptable form of anchoring. ()

n. Article 682.14(A). Add the following exception to Article 682.14(A): For installations of submersible well pumps installed in public swimming and marine areas, motor controller circuits such as remotely located stop pushbutton/s, disconnect/s, relay/s or switches shall be permitted as a required disconnecting means. Such circuits shall be identified at a minimum as “Emergency Pump Stop”, or “Emergency Stop” with other obvious indications on the visible side of the enclosure, that it controls a submersible pump in the body of water. ()

o. Article 682.15. Add the following exceptions to Article 682.15: ()

i. Exception No. 1. Submersible pumps, and their motor leads, located in bodies of water, and that are rated sixty (60) amperes maximum, two hundred fifty (250) volts maximum of any phase, shall have GFCI or Ground Fault Equipment Protection designed to trip at a maximum of thirty (30) milliamps or less, protected by means selected by a licensed installer, meeting listing or labeling requirements, and inspected by the AHJ prior to submersion in bodies of water. ()

ii. Exception No. 2. Installations or repair and replacement of submersible pumps located in bodies of water, that are rated over sixty (60) amperes, and rated at any voltage, shall be evaluated by a qualified designer or experienced licensed contractor, or involve engineering or be engineered, for each specific application, with the goal of public safety. Whenever possible, GFCI or Ground Fault Equipment Protection designed to trip at a maximum of thirty (30) milliamps or less, meeting listing or labeling requirements, shall be installed, and inspected by the AHJ prior to submersion in bodies of water. ()

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

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

r. Compliance with Article 210.12 Arc-Fault Circuit-Interrupter Protection. Article 210.12 shall apply in full. Exception: In dwelling units Arc-Fault Circuit-Interrupter Protection shall only apply to all branch circuits and outlets supplying bedrooms. All other locations in dwelling units are exempt from the requirements of Article 210.12. ()

02. Availability. A copy of the National Electrical Code is available at the offices of the Division.

()

251. --299. (RESERVED)

**Subchapter G – Continuing Education Requirements
(Rules 300 through 349)**

300. 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 renewals of such licenses. The twenty-four (24) hours of instruction shall consist of eight (8) hours of code update covering changes included in the latest edition of the National Electrical Code. The remaining sixteen (16) hours may consist of any combination of code-update training, code-related training, or industry-related training. Proof of completion of these continuing education requirements must be submitted to the Division 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. ()

301. COURSE APPROVAL REQUIREMENTS.

Continuing education courses for electricians must cover technical aspects of the electrical trade. Courses will be approved as either code update, code related or industry related based on the criteria as defined in this section. ()

01. General Course Requirements. ()

a. Courses must be at least four (4) hours in length. ()

b. Courses must be taught by an instructor approved by the Division. ()

c. The presentation should be delivered orally with the assistance of power point or other means of visual media. Pre-taped video or audio shall be held to a minimum. ()

d. A course evaluation card shall be provided to all participants to evaluate course and presentation. The completed evaluation cards must be submitted to the Division. ()

e. All programs are subject to audit by representatives of the Division or Board for content and quality without notice and at no charge. Course and instructor approval are subject to revocation if the minimum requirements of course content or instructor qualifications are not met. ()

02. Code-Update Programs. Code-update programs must cover changes to the National Electrical Code utilizing pre-approved materials such as the NFPA-IAEI Analysis of Changes. ()

03. Code-Related Programs. Code-related programs must cover portions of NFPA 70 other than changes to the National Electrical Code. ()

04. Industry-Related Programs. Industry-related programs shall be technical in nature and directly related to the electrical industry. Electrical theory, application of the National Electrical Code, grounding, photovoltaic systems, programmable controllers, and residential wiring methods are examples of industry-related programs. ()

05. Program Approval Procedures. ()

a. Program approvals are effective for one (1) code cycle. Subsequent applications for the same program may incorporate by reference all or part of the original application. An application for course approval must be on a form obtained from the Division and include all requirements specified on the form. ()

b. Certificates of Completion. Certificates of completion must contain the following: the date of the program; the title of the program; the location of the program; the name of the sponsor; the number of hours of credit completed; the name of the attendee; the license number of the attendee; the name of the instructor; and the Idaho

course approval number. ()

c. Evaluation Cards. Evaluation cards or forms must be pre-addressed to the Division and must include the following: the date; title; and location of the program; the instructors name; and an evaluation of the course and of the instructor's presentation skills. ()

06. Appeals. Appeals for courses that have been denied approval shall be submitted in writing to the Board within thirty (30) days for review. ()

07. Instructor Approval Procedures. ()

a. Instructor approvals shall be effective for one (1) code cycle. ()

b. An application for instructor approval may be obtained from the Division. Documentation of the instructor qualifications must be included with the instructor application. The minimum qualification for an instructor shall be established by providing proof of one (1) of the following: ()

i. Current and active master or journeyman electrician license; ()

ii. An appropriate degree related to the electrical field; or ()

iii. Other recognized experience or certification in the subject matter to be presented. ()

c. Any person denied instructor approval may appeal to the Board within thirty (30) days. ()

08. Revocation of Approval. ()

a. The Board may revoke, suspend, or cancel the approval of any continuing education program or instructor if the Board determines that the program or instruction does not meet the intent of furthering the education of electricians. Grounds for revocation of approval include, but are not limited to: ()

i. Failure of the instructor to substantially follow the approved course materials; ()

ii. Failure to deliver instruction for the full amount of time approved for the course; or ()

iii. Substantial dissatisfaction with the instructor's presentation or the content of the course or materials by the class attendees or representatives of the Division or Board. ()

09. Board and Negotiated Rulemaking Meetings. Licensees may receive up to eight (8) hours of industry-related continuing education credits by attending eight (8) hours of board meetings or electrical-board negotiated rulemaking meetings. ()

10. Schedule of Approved Classes. The Division shall publish a list of approved classes at a minimum of once a year. This list shall be forwarded to all states that are members of the continuing education reciprocal agreement and shall be made available to any licensee through the Division. ()

302. -- 349. (RESERVED)

**Subchapter H – Electrical Inspection Appeals
(Rules 350 through 399)**

350. APPEALS.

In order to determine the suitability of materials and methods of wiring and to provide for interpretations of the provisions of the National Electrical Code NFPA 70, the creation of an electrical appeals board is hereby authorized by the administrator of the Division, to be composed of three (3) members of the Board, or an electrical supervisor and two (2) members of the Board, as determined and selected by the administrator upon receipt of a written notice of appeal as set forth below. ()

01. Notice of Appeal. A person, firm, or corporation making an electrical installation subject to the provisions of Title 54, Chapter 10, Idaho Code, may appeal, to the administrator, a decision by the Electrical Program Manager or other electrical inspector, that a particular electrical installation is not in conformance with Idaho Code, these rules, or the National Electrical Code as adopted by Idaho law. An appeal must be lodged by filing a written notice of appeal with the administrator within ten (10) days of the date of issuance of a notice of correction issued pursuant to Section 54-1004, Idaho Code. The notice of appeal shall state in particular the reasons why the appellant contends that the notice of defects is incorrect. ()

02. Filing Date. If mailed, the notice of appeal shall be considered filed as of the date of postmark. ()

03. Appeals Board. The members of the Board and other persons appointed by the administrator to act as the appeals board, are authorized to hold hearings at the Division in Meridian, Idaho, to determine the merits of an appeal filed pursuant to this rule. ()

04. Function of Appeals Board. The members of the Board, acting as an appeals board, shall not have the authority to grant variances from the National Electrical Code; its sole function as an appeals board shall be to determine whether the materials or method of wiring utilized by the appellant meets the requirements of the National Electrical Code. ()

05. Appeals Hearing Fee. An appeals hearing fee of one hundred dollars (\$100) shall be charged to an appellant for each appeal brought before the appeals board and accompany the notice of appeal. When the appeal is found in favor of the appellant, the appeals hearing fee shall be returned to the appellant. ()

06. Conditions Disqualifying Board Member. No Board member shall sit on an appeals board in which he or his employer, employee, business partner or any person related to him, is the appellant in the matter. or where he has a pecuniary interest in the outcome of the matter to be decided by the appeals board. ()

07. Rules of Evidence. The rules of evidence for the hearing are governed by the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. ()

08. Limitations of Appeal. The filing of an appeal does not stay or discontinue a red tag, disconnect order, or notification to the power company not to connect or energize, in situations where the defect is of a nature so as to be an imminent threat to life or property. ()

09. Preliminary Order. Within five (5) days of the conclusion of the administrative hearing, the appeals board shall issue a preliminary order. The preliminary order will become a final order without further notice unless reviewed by the administrator, or review is requested by any party to the inspection appeal, pursuant to the provisions of Section 67-5245, Idaho Code. When a preliminary order is reviewed by the administrator, the administrator will issue a final order pursuant to the requirements of Sections 67-5245 and 67-5246, Idaho Code. ()

10. Motions for Reconsideration. Motions for reconsideration of the appeal board's preliminary order or of the administrator's final order are not allowed. ()

351. -- 399. (RESERVED)

**Subchapter I – Certification and Approval of Electrical Products and Materials
(Rules 400 through 449)**

400. CERTIFICATION AND APPROVAL OF ELECTRICAL PRODUCTS AND MATERIALS.
In the state of Idaho, all materials, devices, fittings, equipment, apparatus, luminaires, and appliances installed or to be used in installations that are supplied with electric energy shall be approved as provided in one (1) of the following methods: ()

01. Testing Laboratory. Be tested, examined, and certified (Listed) by a Nationally Recognized

Testing Laboratory (NRTL). ()

02. Field Evaluation. Non-listed electrical equipment may be approved for use through a field evaluation process performed in accordance with recognized practices and procedures such as those contained in the 2012 edition of NFPA 791 - Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation published by the National Fire Protection Association (NFPA). Such evaluations shall be conducted by: ()

a. The authority having jurisdiction; ()

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

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

03. Availability of NFPA Standards. The most recent edition of NFPA 790 - Standard for Competency of Third-Party Field Evaluation Bodies, and NFPA 791 - Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation published by the National Fire Protection Association (NFPA) are available at the Division. ()

401. -- 449. (RESERVED)

**Subchapter J –Civil Penalties
(Rules 450 through 499)**

450. CIVIL PENALTIES.

Except for the acts described in Subsections 450.01 and 450.10 of this rule, the acts described in this section shall subject the violator to a civil penalty of not more than two hundred dollars (\$200) for the first offense and not more than one thousand dollars (\$1,000) for each offense that occurs thereafter within one (1) year of an earlier violation. ()

01. Electrical Contractor. Except as provided by Section 54-1016, Idaho Code, any person who acts, or purports to act as an electrical contractor, as defined by Section 54-1003A, Idaho Code, without a valid Idaho state electrical contractor's license shall be subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. ()

02. Employees. Any person, who knowingly employs a person who does not hold a valid Idaho state electrical license or registration as required by Section 54-1010, Idaho Code, to perform electrical installations. ()

03. License or Registration. Except as provided by Section 54-1016, Idaho Code, any person performing electrical work as a journeyman electrician as defined by Section 54-1003A(2), Idaho Code, limited electrical installer as defined by Section 54-1003A(6), Idaho Code, apprentice electrician as defined by Section 54-1003A(3), Idaho Code, or a limited electrical installer trainee as defined by Section 54-1003A(8), Idaho Code, without a valid license or registration. ()

04. Journeyman to Apprentice Ratio. Any electrical contractor or facility account employing electricians in violation of the journeyman to apprentice ratio established by the Board. ()

05. Supervision. Any contractor failing to provide constant on-the-job supervision to apprentice electricians or trainees by a qualified journeyman electrician or limited electrical installer. ()

06. Performance Outside Scope of License. Any limited electrical contractor or limited electrical

installer performing electrical installations, alterations or maintenance outside the scope of the contractor's or installer's limited electrical license. ()

07. Fees and Permits. Any person failing to pay applicable fees or properly post an electrical permit. ()

08. Corrections. Any person who fails to make corrections in the time allotted in the notice on any electrical installation as set forth in Section 54-1004, Idaho Code. ()

09. Failure to Disclose. Any applicant for an electrical registration, license, or certificate of competency who upon request fails to disclose any required information including, but not limited to, their complete licensure history or the fact that they have been previously granted a recognized license. ()

10. Gross Violation. In the case of continued, repeated or gross violation of Title 54, Chapter 10, Idaho Code, or these rules, a license revocation shall be initiated for licensees under this chapter and non-licensees shall be subject to prosecution by the appropriate jurisdiction under Idaho law. ()

451. -- 999. (RESERVED)

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.05.01 – RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

DOCKET NO. 07-0501-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under docket no. 07-0000-1900F, which will also be filed for review for final approval during the upcoming legislative session.

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 54-1904 and 54-1907, 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:

Certain changes to the rule text in the proposed rule made pursuant to the Red Tape Reduction Act ([Executive Order 2019-02](#)) conflict with changes made in Docket No. 07-0000-1900F. Those changes have been removed from this 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. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 155 through 157](#).

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 Ron Whitney, Deputy Administrator, at (208) 332-7150 or at ron.whitney@dbs.idaho.gov.

Dated this 1st day of November, 2019.

Ron Whitney
Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840
ron.whitney@dbs.idaho.gov

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is July 15, 2019.

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 54-1904 and 54-1907, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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 a twenty percent (20%) reduction in renewal fees for public works contractor licenses. The Idaho Public Works Contractors License Board (Board) has been monitoring a steady increase in the balance of the Public Works Contractors License Fund. The fund increase is a result of efficiencies in the processing of public works licenses at the Division of Building Safety (Division). The Board and the Division are satisfied that the renewal fee reduction will benefit the industry while leaving the Public Works Contractors License Fund adequately funded.

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:

This rulemaking confers a benefit to public works contractor licensees. Licensees will collectively pay \$122,040 less over the course of the year to renew their licenses. Licensees can use these savings to compete in the market.

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 rulemaking will have a negative fiscal impact of approximately \$122,040 over the course of a year on the public works contractors license program and Public Works Contractors License Fund. The fund is made up entirely of dedicated funds. This renewal fee reduction is designed to cap future increases in the fund while leaving it adequately funded for the continued operation of the public works licensing program.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2019 Idaho Administrative Bulletin, **Vol. 19-5, pages 57 through 58**.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ron Whitney, Deputy Administrator, at (208) 332-7150 or at ron.whitney@dbs.idaho.gov.

Anyone may submit written comments regarding this rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 30th day of July, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 07-0501-1901

201. FEES.

01. Public Works Contractor Licensing Fees. In accordance with Section 54-1904, Idaho Code, fees for each class of public works contractor licenses are as provided below.

TABLE 201.01 – INITIAL AND RENEWAL LICENSING FEES		
License Class	Initial Fee	Renewal Fee
Unlimited	\$550	\$440
AAA	\$450	\$360
AA	\$350	\$280
A	\$250	\$160
B	\$150	\$120
CC	\$125	\$100
C	\$100	\$80
D	\$50	\$40

()

02. Construction Manager Licensing Fees. Fees for construction manager licenses are, in accordance with Section 54-4510, Idaho Code, as follows: ()

- a. The fee for initial examination and licensing is two hundred dollars (\$200). (3-19-99)
- b. The fee for license renewal is two hundred dollars (\$200). (3-19-99)
- c. The fee for an inactive license is fifty dollars (\$50). (3-19-99)
- d. The fee for license reinstatement is two hundred dollars (\$200). (3-19-99)
- e. The fee for administering the examination is the standard fee established for taking that examination. (3-19-99)
- f. The fee for issuing and for reinstating a certificate of authority is one hundred dollars (\$100). (3-19-99)

03. Payment of Fees. Fees are payable to “Division of Building Safety -- Public Works Contractors.” (3-20-04)

04. Application Filed With Fees. An application filed without the listed fees is deemed incomplete and returned to the applicant. ()

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. 07-0701-1902

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo and Cost Benefit Analysis \(CBA\)](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

Upon legislative approval of this pending rule, the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 07-0000-1900F, which will also be filed for review for final approval during the upcoming legislative session.

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

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

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 158 through 162](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-5005, Idaho Code.

This pending rulemaking will change the way the Division calculates residential HVAC permit fees. Instead of calculating permit fees based on the square footage of a home, this rulemaking will charge a base permit fee for each home plus additional fees for each system, fixture, appliance, zone, outlet, or duct. This pending rulemaking will also add fees for services and permits the Division already offers, such as inspection of mobile and manufactured homes and modular buildings, technical service, fuel gas piping systems, and hydronic systems. In some cases, the amendments will reduce permit fees. Although the amendments will raise permit fees in some instances, the fee for each permit will not exceed the cost of processing the permit and inspecting work performed under the permit.

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 fee rule, contact John Nielsen, HVAC Program Manager, Division of Building Safety at (208) 332-7112 or at john.nielsen@dbs.idaho.gov.

Dated this 13th day of November, 2019.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840
ron.whitney@dbs.idaho.gov

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, 54-5004, and 54-5005, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

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

Currently, the Division calculates HVAC permit fees based on the square footage of a home. Specialty contractors have complained that this method of calculating fees gives HVAC contractors an unfair advantage. For example, a specialty contractor must pay the same amount to install one gas fireplace as a contractor must pay to install an entire heating and cooling system, duct work, and exhaust ducts. This proposed rulemaking would remove this advantage by calculating fees based on the number of systems, fixtures, appliances, zones, outlets, or ducts instead of square footage.

Currently, an apprentice must enroll in or successfully complete a Board-approved training course to renew his or her registration. This proposed rulemaking would provide a way for an apprentice to renew his or her registration and stay in the trade without enrolling in or successfully completing school.

In addition, this proposed rulemaking will eliminate or simplify provisions in IDAPA 07.07.01 in compliance with the Red Tape Reduction Act ([Executive Order 2019-02](#)).

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

The Division has the authority to establish fees pursuant to Idaho Code section 54-5005. This proposed rulemaking would change the way the Division calculates residential HVAC permit fees. Instead of calculating permit fees based on the square footage of a home, this rulemaking will charge a base permit fee for each home plus additional fees for each system, fixture, appliance, zone, outlet, or duct. This proposed rulemaking would also add fees for services and permits the Division already offers, such as inspection of mobile and manufactured homes and modular buildings, technical service, fuel gas piping systems, and hydronic systems. In some cases, the proposed amendments would reduce permit fees. Although the proposed amendments would raise permit fees in some instances, the fee for each permit will not exceed the cost of processing the permit and inspecting the work performed under the permit.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 3, 2019 Idaho Administrative Bulletin, [Vol. 19-7, pages 147 through 148](#).

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 John Nielsen, HVAC Program Manager, at (208) 332-7112 or at john.nielsen@dbb.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 31st day of July, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 07-0701-1902

023. HVAC JOURNEYMAN CERTIFICATES OF COMPETENCY AND EXAMINATION REQUIREMENTS.

01. Certificate of Competency Requirements. To obtain a journeyman certificate of competency, an applicant shall submit to the Division sufficient evidence demonstrating the applicant has successfully completed the journeyman examination and four (4) years, defined as a minimum of eight thousand (8,000) hours of work experience as a registered apprentice making installations on the job under the supervision of a qualified journeyman. Notwithstanding the requirement that an apprentice demonstrate four (4) years of on-the-job work experience under the supervision of a qualified journeyman, any apprentice who successfully completes a Board-approved, full-time, one (1)-academic-year training course may receive credit for up to one (1) year of on-the-job work experience. ()

02. Examination Requirement. To take the journeyman examination, an applicant must submit to the Division sufficient evidence demonstrating the applicant has successfully completed a Board-approved training course. ()

03. Out of State Journeyman Applications. (3-24-17)

a. Exhibition of a license issued by another recognized jurisdiction may be accepted as proof of meeting the experience and schooling requirements listed in Subsections 023.01 and 023.02 of these rules. An application for a journeyman certificate of competency from an individual previously licensed as a journeyman in another jurisdiction recognized by the Idaho HVAC Board must include satisfactory proof of licensure in such jurisdiction. The applicant must pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. (3-24-17)

b. An application for a journeyman certificate of competency from an individual who has never been previously licensed as a journeyman in a jurisdiction recognized by the Idaho HVAC Board must include evidence that demonstrates that the applicant has four (4) years, defined as a minimum of eight thousand (8,000) hours of work experience of a nature at least equivalent to that which an apprentice must perform in Idaho, as well as four (4) years of schooling equivalent to that which an apprentice must complete in Idaho. Alternatively, such an applicant may submit sufficient proof verifying eight (8) years, defined as a minimum of sixteen thousand (16,000) hours of work experience of a nature at least equivalent to that which an apprentice must perform in Idaho. Upon submission of sufficient proof of having completed such experience and schooling requirements, such applicant must also pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. ()

(BREAK IN CONTINUITY OF SECTIONS)

025. HVAC APPRENTICE REQUIREMENTS FOR REGISTRATION.

01. Registration. To become an apprentice, a person shall comply with Section 54-5012, Idaho Code,

and be a minimum of eighteen (18) years of age or sixteen (16) years of age if registered by the Bureau of Apprenticeship and Training of the United States Department of Labor. To renew a registration, an apprentice shall show proof of enrollment in a Board-approved training course or completion of eight (8) hours of Board-approved continuing education for each year of the prior registration period. ()

02. Supervision. Each apprentice must work under the supervision of a certified journeyman. ()

(BREAK IN CONTINUITY OF SECTIONS)

051. HVAC PERMIT FEE SCHEDULE.

Permit fees are to cover the cost of inspections as provided by Section 54-5017, Idaho Code. Any person, partnership, company, firm, association, or corporation making an installation must pay to the Division a permit fee as provided in the following schedule: ()

01. Residential. Includes all buildings with HVAC systems being installed on each property. The following permit fees apply to all residential installations:

Type	Fee
Base permit	\$100
Furnace, furnace-air conditioner combination, heat pump, air conditioner, evaporative cooler, unit heater, space heater, decorative gas-fired appliance, incinerator, boiler, pool heater, mini-split system, free-standing solid-fuel stove, factory-built gas fireplace, or similar fixture or appliance, including ducts, vents, and flues attached thereto	Plus \$30 per first fixture or appliance Plus \$15 per additional fixture or appliance
Exhaust duct or ventilation duct, including dryer vents, range hood vents, cook stove vents, bath fan vents, and similar exhaust ducts or ventilation ducts	Plus \$15 per first duct Plus \$5 per additional duct
Fuel gas piping system	Plus \$5 per appliance outlet
Hydronic systems	Plus \$5 per zone

()

02. Miscellaneous. The following permit fees apply for the types of permits listed:

Type	Fee
Requested inspection	\$65 per hour or portion thereof plus costs of out-of-state travel
Mobile or manufactured home	\$65 per inspection
Modular building	
Plan check or technical service	\$65 per hour or portion thereof

()

03. Other Installations Including Industrial and Commercial. The permit fees listed in this Subsection apply to installations not specifically mentioned elsewhere in this schedule. The HVAC system cost is the cost to the owner of labor charges and other costs incurred to complete the installation of equipment and materials installed as part of the HVAC system. All permit fees calculated under this Subsection are based on the total HVAC system cost, which must be listed on the permit.

HVAC System Cost	Fee
Up to \$10,000	\$60 plus 2% of HVAC system cost
\$10,000 to \$100,000	\$260 plus 1% of HVAC system cost exceeding \$10,000
Over \$100,000	\$1,160 plus 5% of HVAC system cost exceeding \$100,000

- ()
- 04. Additional Fees.** A fee of sixty-five dollars (\$65) per hour or portion thereof applies to trips to inspect: ()
- a.** When the permit holder has given notice to the Division that the work is ready for inspection and it is not; ()
- b.** If the permit holder has not accurately identified the work location; ()
- c.** If the inspector cannot gain access to make the inspection; ()
- d.** Corrections required by the inspector as a result of the permit holder improperly responding to a corrective notice; or ()
- e.** When corrections have not been made in the prescribed time, unless an extension has been requested and granted. (3-26-08)
- 05. No Permit.** Failure to purchase a permit before commencing work may result in the assessment of a double fee. ()

IDAPA 10 – BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

DOCKET NO. 10-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 54-1208 and 55-1606, Idaho Code.

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

This pending fee rule adopts and re-publishes the following chapter under IDAPA 10, Rules of the Board of Licensure for Professional Engineers and Professional Land Surveyors as amended:

10.01.01, *Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors*

This pending rule vacates the following proposed rules previously promulgated under this docket number as part of the omnibus proposed rulemaking under IDAPA 10, rules of the Idaho Board of Licensure for Professional Engineers and Professional Land Surveyors:

- **(VACATED)** 10.01.02, *Rules of Professional Responsibility*
- **(VACATED)** 10.01.03, *Rules of Corner Perpetuation and Filing*
- **(VACATED)** 10.01.04, *Rules of Continuing Professional Development*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 1248 – 1272.

The Board adopts the pending rule as amended. The changes include consolidating four rule chapters into one chapter. IDAPA 10.01.02, 10.01.03, and 10.01.04 have been incorporated into IDAPA 10.01.01 and the proposed rulemakings promulgated under this docket number are hereby vacated. The Board approved the following changes:

- Easing some compliance requirements for continuing professional development;
- Minor technical corrections to the procedures;
- Removing unneeded administrative requirements;
- Simplifying language for clarity; and
- Boilerplate language was removed as part of the consolidation of four chapters into one.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The fee categories are as follows:

1. *Licensure as a Professional Engineer or Professional Land Surveyor by examination*
2. *Licensure as a Professional Engineer or Professional Land Surveyor by comity*
3. *Certification for a business entity applying for a certificate of authorization to practice or offer to practice engineering or land surveying*
4. *Renewals for professional engineers, professional land surveyors, engineer interns, land surveyor interns, and business entities*

5. *Late or denied renewals*
6. *Reissuance of certificates*
7. *Reinstatement of a retired, expired, and discontinued license or certificate*
8. *Faculty restricted licensure and renewal as a professional engineer*
9. *Administrative penalty for violating the statutes or rules of the Board which accrue to the general fund of the State of Idaho*

This fee or charge is being imposed pursuant to Sections 54-1213, 54-1216, 54-1219, 54-1220, and 54-1221, Idaho Code.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund or the dedicated fund of the agency because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

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

Dated this 19th day of September, 2019.

Keith Simila
Executive Director
Idaho Board of Professional Engineers and
Professional Land Surveyors
1510 E. Watertower St, Ste 110,
Meridian, ID 83642
Phone (208) 373-7210
Fax (208)373-7213

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1208, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 10, rules of the *Board of Professional Engineers and Professional Land Surveyors*:

IDAPA 1010.01.01, *Rules of Procedure*

Except Section 009 is to be expired and;
Except Section 010 is to be expired and;
Except Subsection 013.01 is to be expired and;
Except Subsection 013.02 is to be expired

10.01.02, *Rules of Professional Responsibility*

Except Subsection 011.01 is to be expired

10.01.03, *Rules of Corner Perpetuation and Filing*10.01.04, *Rules of Continuing Professional Development*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. The Board finds that Rules of Procedure chapter of these rules is necessary for issuing, reissuing, renewing, and reinstating licenses and certificates for professional engineers and professional land surveyors, interns, retirees and business entities.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. The Board's fees are established by statute in Title 54, Chapter 12, Idaho Code. IDAPA 10.01.01, Rules of Procedure refer to required fees in Sections 011, 012, 020, and 023. IDAPA 10.01.02, 10.01.03, and 10.01.04 apply to the administrative penalty that may result from violating these rules. The maximum administrative penalty is set by 54-1220, Idaho Code.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The fee categories are as follows:

- Licensure as a Professional Engineer or Professional Land Surveyor by examination
- Licensure as a Professional Engineer or Professional Land Surveyor by comity
- Certification for a business entity applying for a certificate of authorization to practice or offer to practice engineering or land surveying
- Renewals for professional engineers, retired professional engineers, professional land surveyors, retired professional land surveyors, engineer interns, land surveyor interns, and business entities
- Late or denied renewals
- Reissuance of certificates
- Reinstatement of a retired, expired, and discontinued license or certificate
- Faculty restricted licensure and renewal as a professional engineer
- Administrative penalty for violating the statutes or rules of the Board which accrue to the general fund of the State of Idaho

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 9th day of May, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 10-0000-1900F

**10.01.01 – RULES OF THE IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

000. LEGAL AUTHORITY.

These rules are promulgated as authorized by Sections 54-1208(1) and 55-1606, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 10.01.01, "Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors." ()

02. Scope. These rules include procedures of the Board, rules of professional responsibility, rules of continuing professional development, and rules for properly completing corner perpetuation and filing forms. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions set forth in Section 55-1603, Idaho Code, the following terms are used as defined below: ()

01. Active Participation. Serving as an officer or committee chair at either the national, state or local (section or chapter) level. ()

02. Activity. Any qualifying action with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice or practices. Routine job assignments are not considered qualified activities. ()

03. Board. The Board of Licensure of Professional Engineers and Professional Land Surveyors. ()

04. 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. ()

05. College Semester or Quarter Credit Hour. Credit for college courses. ()

06. Continuing Education Unit (CEU). Unit of credit customarily used for continuing education courses. One (1) continuing education unit equals ten (10) hours of class in an approved continuing education course. ()

07. Deceit. To intentionally misrepresent a material matter, or intentionally omit to disclose a known material matter. ()

08. Documented Self-Study. Documented study of professional/technical journals, published papers, articles, books, software or other areas of training which increase knowledge of the technology above and beyond routine job assignments. ()

09. Incompetence. Failure to meet the standard of care. ()

10. 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. ()

11. 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. ()

12. Professional Development Hour (PDH). A contact hour (minimum of fifty (50) minutes) of instruction or presentation. The common denominator for other units of credit. ()

**SUBCHAPTER A - RULES OF PROCEDURE
(RULES 011 THROUGH 099)**

011. FEES.

01. Applications and Renewals. All fees are set by the Board in the following categories and may in no event be more than the amount specified in Sections 54-1213, 54-1214, 54-1216, 54-1219 and 54-1223, Idaho Code. Fees are not refundable. ()

- a. Licensure as a professional engineer or professional land surveyor by examination. ()
- b. Reinstatement of a retired or expired license. ()
- c. Certification for a business entity applying for a certificate of authorization to practice or offer to practice engineering or land surveying. ()
- d. Renewals for professional engineers, professional land surveyors, engineer interns, land surveyor interns, and business entities. ()
- e. Licensure for professional engineers or professional land surveyors by comity. ()

02. Late or Denied Renewals. Failure on the part of any licensee or business entity to renew their license or certificate of authorization prior to their expiration will not deprive such persons or business entity of the right of renewal, but the fees to be paid for renewal after their expiration will be increased as prescribed in Section 54-1216, Idaho Code, unless otherwise waived by the Board. ()

012. REISSUANCE OF CERTIFICATES.

A new certificate of licensure or authorization, to replace any certificate lost, destroyed or mutilated, may be issued upon written request and payment of fee of ten dollars (\$10). ()

013. (RESERVED)

014. SEALS.

01. Official Seal of Board. The official seal of this Board consists of the seal of the state of Idaho, surrounded with the words "Board of Professional Engineers and Professional Land Surveyors" and "State of Idaho." ()

02. Standard Seals for Engineers and Land Surveyors. The Board adopts standard seals for use by licensed professional engineers and professional land surveyors as prescribed by Section 54-1215, Idaho Code. Seals prepared and approved prior to July 1, 2008 are valid for continued use. ()

03. Seal for Professional Engineer/Land Surveyor. Engineers obtaining licensure as land surveyors under the changes to Section 54-1217, Idaho Code, by the 1978 Legislature use the seal showing licensure as a Professional Engineer and Land Surveyor as adopted by the Board. Seals prepared and approved prior to July 1, 2008 are valid for continued use. ()

015. CERTIFICATES.

Certificates of licensure or authorization issued by the Board must be displayed in the place of business. ()

016. APPLICATION FOR LICENSURE OR CERTIFICATION.

01. Forms. Application forms for licensure as a professional engineer, or professional land surveyor, certification as an engineer intern, land surveyor intern or certificates of authorization to practice or offer to practice engineering or land surveying by a business entity may be obtained online from the Board. ()

02. Completion of Application. Applications must be made on such forms as may be prescribed by the Board. All forms, references, transcripts and other written materials must be in English pursuant to Section 72-121, Idaho Code. An application that is not fully completed by the applicant need not be considered or acted upon by

the Board. The application by a business entity for a certificate of authorization to practice or offer to practice engineering or land surveying must set forth its address, and name and address of the individual, or individuals, duly licensed to practice engineering or land surveying in this state, who will be in responsible charge of engineering or land surveying services offered or rendered by the business entity in this state. ()

03. Submittal of Applications and Examination Cutoff Date. Submittal of applications for licensure or intern certification must occur after passing the required national examinations. Examinations may be given in various formats and different registration dates apply depending on the examination format. ()

a. For national examinations administered in a computer-based or paper format once or twice per year the registration requirements, including the deadline and testing windows, are established by the National Council of Examiners for Engineering and Surveying (NCEES). ()

b. For national examinations administered continuously in a computer-based format, there is no deadline for registering with NCEES. The registration requirements, including the testing windows, are established by NCEES. ()

c. In order for the Board to be able to verify experience, only experience up to the date of submittal of the application for licensure will be considered as valid. ()

d. Applications for certification as engineering or surveying interns are submitted after passing the Fundamentals of Engineering or the Fundamentals of Surveying examination and providing evidence of graduation with educational credentials required by Subsection 017.03 of this chapter. ()

04. Residency Requirement. Except for military personnel stationed in the state of Idaho on military orders, and except for persons employed full-time in the state of Idaho, only residents of the state of Idaho and students enrolled at an Idaho university or college may qualify for initial licensure. The Board will accept as proof of Idaho residency a valid Idaho issued driver's license, a utility bill issued within the last sixty (60) days with an Idaho address in the name of the applicant, a statement from a financial institution issued within the last sixty (60) days to the applicant at an Idaho address, proof of current voter registration in Idaho, or current Idaho vehicle registration in the name of the applicant. The Board will accept as proof of full-time employment in the state of Idaho verification from the Idaho employer stating employment status. The Board will accept a valid student identification card as proof of enrollment at an Idaho university or college. ()

05. Confidentiality of References. All information received from references named by the applicant is held in confidence by the Board except as provided by Section 74-113, Idaho Code. Neither members of the Board nor relatives of the applicant by blood or marriage may be named or accepted as references. ()

06. Minimum Standards -- References. An applicant may not be licensed until satisfactory replies have been received from a minimum of five (5) of his references for professional engineers or land surveyors. It is the responsibility of each applicant to furnish references with the forms prescribed by the Board. ()

07. Minimum Boundary Survey Experience. The Board requires a minimum of two (2) years boundary survey experience as a condition of professional land surveyor licensure. ()

017. EXAMINATIONS AND EDUCATION.

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. ()

02. Use of NCEES Examinations. National examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) may be used by the Board. Applicants registering for a national professional examination must have first passed the fundamentals examination unless exempted per Subsection 017.10 of this chapter. ()

03. Eligibility for Licensure, Educational Requirements. The application for licensure as a professional engineer or professional land surveyor together with a passing score on the written ethics questionnaire or Idaho specific land surveying examination, is 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 licensed. Prescriptive education requirements are as follows: ()

a. In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs that are accredited by the Engineering Accreditation Commission (EAC) of ABET, Inc., or the bachelor of science programs accredited by the Canadian Engineering Accrediting Board, or those bachelor of science engineering programs that are accredited by official organizations recognized by the U.K. Engineering Council. 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. ()

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

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

ii. Twelve (12) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics (micro and macro), professional ethics, social responsibility. Examples of other general education courses deemed acceptable include management (such as organizational behavior), accounting, written and oral communications, business, and law. No more than six (6) credit hours may come from courses in management, accounting, business, or law. Courses in engineering economics, engineering management, systems engineering/ analysis, production, and industrial engineering/management will not be counted. Language courses in the applicant's native language are not acceptable for credit; no more than six (6) credit hours of foreign language courses are acceptable for credit. Native language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. ()

iii. Forty-eight (48) college credit hours of engineering science and/or engineering design courses. Courses in engineering science must be taught within the college / faculty of engineering having their roots in mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses may be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. ()

iv. The Board may require detailed course descriptions for seminar, directed study, special problem and similar courses to ensure that the above requirements are met. ()

c. In regard to educational requirements, the Board will consider as unconditionally approved only those surveying programs that are accredited either by the Engineering Accreditation Commission (EAC), the Applied and Natural Science Accreditation Commission (ANSAC) or the Engineering Technology Accreditation Commission (ETAC) of ABET, Inc. An applicant who has completed a four (4) year bachelor degree program in a related program 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 certification as a Land Surveyor Intern or as required by Section 54-1212(2)(b), Idaho Code, for licensure as a professional land surveyor: ()

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

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

iii. Thirty (30) college semester credit hours of surveying science and surveying practice. Courses must be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system and global positioning systems. Graduate-level surveying courses can be included to fulfill curricular requirements in this area. ()

d. The Board may require an independent evaluation of the engineering education of an applicant who has a non-EAC/ABET accredited engineering degree or a non-engineering degree. Such evaluation must be done through an organization approved by the Board and be done at the expense of the applicant to ensure that the applicant 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 is forfeited. ()

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 will 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 the Board. ()

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. ()

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, or utilize other state examinations in disciplines other than those for which examinations may be available from NCEES. ()

07. Three Examinations for Land Surveying Licensure. The complete examining procedure for licensure as a professional land surveyor consists of three (3) 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, and the third is the Idaho specific professional land surveying examination. All examinations are required for professional land surveyor licensure. The examination will 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 the Board. The examination covers 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. Having passed the Principles and Practice of Surveying examination, applicants will be required to pass the Idaho specific professional land surveying examination, which tests for knowledge of the laws and rules of Idaho, and the legal and technical aspects of land surveying in Idaho. ()

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. ()

09. Grading. Unless otherwise provided in 54-1219, or 54-1223 Idaho Code, each land surveyor intern, engineer intern, professional land surveyor and professional engineer applicant must attain a passing score on the entire examination or modules as determined by the Board, before being awarded certification or licensure. Passing scores on national examinations are established by the National Council of Examiners for Engineering and Surveying. A passing score on the Idaho specific ethics questionnaire is eighty (80), a passing score on the law and rules module of the Idaho specific land surveying examination is ninety (90), and a passing score on the public land surveying module of the Idaho specific land surveying examination is seventy-five (75). ()

10. Exemption – Examination on the Fundamentals of Engineering. The Board may exempt an exceptional individual who has twelve (12) or more years of appropriate engineering experience from the requirement for satisfactory completion of an examination on the fundamentals of engineering as specified in 54-1223(2), Idaho Code. The Board will exempt an individual who has an earned bachelor's degree and an earned doctoral degree from an approved engineering program from the requirement for satisfactory completion of an examination on the fundamentals of engineering as specified in 54-1223(3), Idaho Code. ()

11. Review of Examination by Examinee. Due to security concerns about the examinations, examinees are not allowed to review their examinations. 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. ()

018. REEXAMINATIONS.

The reexamination policy for each failed national examination will be established by NCEES. Reexamination for failed Idaho specific examinations will be allowed until a passing score is attained, but the Board may, in addition, require oral or other examinations. ()

019. LICENSEES OR CERTIFICATE HOLDERS OF OTHER STATES, BOARDS, AND COUNTRIES.

01. Interstate Licensure Evaluation. Each application for an Idaho professional engineer license or professional land surveyor license submitted by an applicant who is licensed as a professional engineer, or licensed as a professional land surveyor, respectively, in one (1) or more states, possessions or territories or the District of Columbia, will be considered by the Board on its merits, and the application evaluated for substantial compliance

with respect to the requirements of the Idaho law related to experience, examination, and education. A minimum of four (4) years of progressive experience after graduation with a bachelor of science degree is required for licensure. Individuals who have passed the National Council of Examiners for Engineering and Surveying (NCEES) examinations for professional engineering or professional land surveying will be considered to have satisfied the examination requirement for issuance of a license as a professional engineer or professional land surveyor provided that land surveyor applicants also pass the Idaho specific professional land surveying examination. Prescriptive education requirements are as follows: ()

a. Graduates from programs accredited by the Engineering Accreditation Commission of the ABET, Inc., (EAC/ABET), or graduates of university bachelor of science engineering programs accredited by the Canadian Engineering Accrediting Board, or those university bachelor of science engineering programs that are accredited by official organizations recognized by the U.K. Engineering Council, or graduates of engineering programs with coursework evaluated by the Board as being substantially equivalent to EAC/ABET degrees, will be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. ()

b. The Board may require an independent evaluation of the engineering education of an applicant who has a non-EAC/ABET accredited four (4) year bachelor degree. Such evaluation must be done through an organization approved by the Board and is done at the expense of the applicant to ensure that they have completed the coursework requirements of Subsection 019.01.c. Such evaluation is not required if the applicant has been licensed in another jurisdiction of the United States for a minimum of ten (10) years and has not had any disciplinary action against them and there is none pending, and possesses the education, experience and examination credentials that were specified in the applicable registration chapter in effect in this state at the time such certification was issued. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee will be forfeited. ()

c. An applicant who was originally licensed in another jurisdiction after June 30, 1996, and who has completed a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code: ()

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

ii. Twelve (12) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics (micro and macro), professional ethics, social responsibility. Examples of other general education courses deemed acceptable include management (such as organizational behavior), accounting, written and oral communications, business, and law. No more than six (6) credit hours may come from courses in management, accounting, business, or law. Courses in engineering economics, engineering management, systems engineering/ analysis, production, and industrial engineering/management will not be counted. Language courses in the applicant's native language are not acceptable for credit; no more than six (6) credit hours of foreign language courses are acceptable for credit. Native language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. ()

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

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

d. In regard to educational requirements, the Board will consider as unconditionally approved only those surveying programs that are accredited either by the Engineering Accreditation Commission (EAC), the Applied and Natural Science Accreditation Commission (ANSAC) or the Engineering Technology Accreditation Commission (ETAC) of ABET, Inc. An applicant who has completed a four (4) year bachelor degree program in a related program must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(2)(b), Idaho Code, for licensure as a professional land surveyor: ()

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

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

iii. Thirty (30) college semester credit hours of surveying science and surveying practice. Courses must be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system and global positioning systems. Graduate-level surveying courses can be included to fulfill curricular requirements in this area. ()

02. International Engineering Licensure Evaluation - Countries or Jurisdictions with Board Approved Licensure Process. The Board may determine the professional engineering licensure process in other countries or jurisdictions within other countries is substantially equivalent to that required 54-1219 Idaho Code. As such, the Board may waive prescriptive education and examination requirements if the applicant possesses a professional engineer license credential, attains a minimum of eight (8) years of experience after licensure, provided the applicant has no criminal or outstanding disciplinary action in any country or jurisdiction, and is in good standing with the licensing Board within that country or jurisdiction. A bona fide licensing process in another country must include requirements of experience, education, testing, a code of professional responsibility, regulation of licensees including the ability take disciplinary action and the willingness, availability, and capacity of a foreign Board to release information to the Idaho Board in English. ()

03. International Engineering Licensure Evaluation - Countries or Jurisdictions Without a Board Approved Licensure Process. Each application for an Idaho professional engineer license submitted by an applicant who is licensed as a professional engineer in one (1) or more foreign countries or jurisdictions within a country, will be considered by the Board on its merits, and the application evaluated for substantial compliance with

the requirements of Idaho law with respect to experience, examination, and education. A minimum of four (4) years of progressive experience after graduation is required for licensure. The Board will require two (2) years of experience working in the United States or two (2) years of experience working on projects requiring the knowledge and use of codes and standards similar to those utilized in the United States where the experience is validated by a professional engineer licensed in the United States. The Board may postpone acting on or deny an application for a license by comity if disciplinary or criminal action related to the applicant's practice has been taken or is pending in any country or jurisdiction. Applicants must have passed a professional engineering examination administered by NCEES. Applicants who meet the residency requirements of 54-1212, Idaho Code, are eligible for initial licensure in Idaho when qualified by the Board. Prescriptive education requirements are as follows: ()

a. Graduates of engineering university programs accredited by the Canadian Engineering Accrediting Board, or official organizations recognized by the U.K. Engineering Council, or graduates of engineering university programs accredited by EAC/ABET or evaluated by the Board as being substantially equivalent to EAC/ABET programs will be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. ()

b. The Board may require an independent credentials evaluation of the engineering education of an applicant educated outside the United States who has a non-EAC/ABET accredited engineering degree. Such evaluation must be done through NCEES or another organization approved by the Board and is done at the expense of the applicant. ()

c. The Board may require an independent credentials evaluation of the education for an applicant who has completed a four (4) year bachelor degree program outside the United States in engineering technology, or in a related science degree program other than engineering and must demonstrate completion of the requirements of Subsection 019.01.c. before the Board will consider the applicant to possess the knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code. Such evaluation must be done through NCEES or another organization approved by the Board and is done at the expense of the applicant. ()

04. Waiver of Prescriptive Engineering Licensure Evaluation for Unique International Expertise. The Board may waive the prescriptive licensure evaluation requirements of 019.03 for international applicants who, in the Board's opinion, are qualified by reason of education and experience and offer unique technical expertise, provided the licensee meets the requirements of 54-1219 Idaho Code. ()

05. Denials or Special Examinations. An application from a licensee of another state, possession or territory, District of Columbia, or foreign country may be denied by the Board for any just cause and the application fee retained; or the Board may approve the applicant for a special written and/or oral examination. ()

06. Business Entity Requirements. No application for a certificate of authorization to practice or offer to practice professional engineering or professional land surveying, or both, in Idaho by a business entity authorized to practice professional engineering or professional land surveying, or both, in one (1) or more states, possessions or territories, District of Columbia, or foreign countries are considered by the Board unless such application includes the name and address of the individual or individuals, duly licensed to practice professional engineering or professional land surveying or both in this state, who will be in responsible charge of the engineering or land surveying services, or both, as applicable, to be rendered by the business entity in Idaho. The said individual or individuals must certify or indicate to the Board their willingness to assume responsible charge. ()

020. DISCONTINUED, RETIRED, AND EXPIRED LICENSES AND CERTIFICATES.

01. Reinstatement – Disciplinary. Licensees who choose to convert their license to retired status as part of a disciplinary action, or in lieu of discipline, or in lieu of compliance with continuing professional development requirements, may be reinstated upon written request. The Board will consider the reinstatement request at a hearing or may waive the hearing for minor violations. ()

02. Reinstatement – Nondisciplinary. Licensees who chose to convert their license to retired status not as part of a disciplinary action may request reinstatement in writing. Reinstatement may require a hearing by the Board. ()

03. Continuing Professional Development. Licensees requesting reinstatement must demonstrate compliance with the continuing professional development requirements described in these rules as a condition of reinstatement. ()

04. Practice Not Permitted. Discontinued, retired, or expired status does not permit a licensee or certificate holder to engage in the practice of professional engineering or professional land surveying. ()

05. Designation. Licensees who chose retired status may represent themselves with the title of Professional Engineer Retired or Professional Land Surveyor Retired or similar designation. ()

06. Fee for Reinstatement of Retired License. The fee for reinstatement of a retired license to active practice is as required for renewals in Section 54-1216, Idaho Code. ()

07. Fee for Renewal of Expired License. The fee for renewal of an expired license or certificate to active practice is as required for delayed renewals in Section 54-1216, Idaho Code. ()

08. Eligibility. Unless otherwise approved by the Board, only unexpired licensees are eligible to convert to retired status. ()

09. Discontinued Certificate of Authorization. Business entities no longer providing engineering or land surveying services in Idaho may request their certificates be discontinued. Reinstatement of a discontinued certificate may be requested by submitting a new application with the Board. ()

10. Fee for Reinstatement of Discontinued Certificate of Authorization. The fee for reinstatement of a discontinued certificate will be as required for applications in Section 54-1213, Idaho Code. ()

021. (RESERVED)

022. REQUIREMENTS TO BE CONSIDERED “EXCEPTIONAL” UNDER SECTION 54-1223(2), IDAHO CODE.

01. Waiver of the Fundamentals of Engineering Examination. In order to be considered “exceptional” under Section 54-1223(2), Idaho Code, an applicant for licensure as a professional engineer, either by examination or by comity, who seeks waiver of the fundamentals of engineering examination, must have a record of service and contributions beyond the ordinary in two (2) of the following three (3) areas: ()

- a. Professional or technical; ()
- b. Business or industry; and ()
- c. Community or cultural. ()

02. Activities That the Board Believes Are Exceptional. Examples of activities that the Board believes are exceptional are serving as an officer or committee chair, originating projects or initiatives, investing time or energy into the community, authoring significant publications, and receiving significant awards. ()

03. Activities That the Board Believes Are Ordinary. Examples of activities that the Board believes are only ordinary are completing routine job assignments, holding membership in professional and technical societies, contributing money to causes, attending community events, and owning a business. ()

04. Written Request for Exceptional Designation. An applicant who seeks waiver of the fundamentals of engineering examination must submit a written request for the exceptional designation accompanied by two (2) written references supporting and explaining the applicants contributions that are beyond the ordinary. ()

023. PROFESSIONAL ENGINEER LICENSURE FOR FACULTY APPLICANTS.

Written examinations related to applicable laws and rules for engineering licensure based upon criteria established by the Board must be offered to Idaho college or university faculty applicants whose credentials have been approved by the Board and who possess an earned doctorate degree. The credentials the Board considers in this regard should include the applicant's university course work completed, the applicant's thesis and dissertation work, the applicant's peer reviewed publications, and the nature of the applicant's professional experience. A satisfactory application, along with a passing score on the examination exempts the applicant from the written technical examinations, and may qualify the applicant for a restricted license as a professional engineer. The restricted license applies only to college or university related teaching upper division design subjects. All conditions for maintaining licensure, such as compliance with the laws and rules of the Board, fees and continuing professional development are the same as required for all licensees. The restricted license is effective from the date of issuance until such time as the licensee ceases to be a faculty member of an Idaho college or university, unless not renewed, retired, suspended or revoked and is subject to renewal requirements established in 54-1216, Idaho Code. Teaching and teaching work products are exempt from the requirements of sealing and signing engineering work under 54-1215(c), Idaho Code. Restricted licensees are not required to obtain a seal. ()

024. -- 099. (RESERVED)

SUBCHAPTER B - RULES OF PROFESSIONAL RESPONSIBILITY
(RULES 100 THROUGH 199)

100. RESPONSIBILITY TO THE PUBLIC.

01. Primary Obligation. All Licensees and Certificate Holders must at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties. ()

02. Standard of Care. Each Licensee and Certificate Holder must exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. ()

03. Professional Judgment. If any Licensee's or Certificate Holder's professional judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the Licensee or Certificate Holder must inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation. ()

04. Obligation to Communicate Discovery of Discrepancy. Except as provided in the Idaho Rules of Civil Procedure 26(b)(4)(B), if a Licensee or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Licensee or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer must make a reasonable effort to inform the Licensee or Certificate Holder whose work is believed to contain the discrepancy, error or omission. Such communication must reference specific codes, standards or physical laws which are believed to be violated and identification of documents which are believed to contain the discrepancies. The Licensee or Certificate Holder whose work is believed to contain the discrepancy must respond within twenty (20) calendar days to any question about his work raised by another Licensee or Certificate Holder. In the event a response is not received within twenty (20) days, the discoverer must notify the Licensee or Certificate Holder in writing, who has another twenty (20) days to respond. Failure to respond (with supportable evidence) on the part of the Licensee or Certificate Holder whose work is believed to contain the discrepancy is considered a violation of these rules and may subject the Licensee or Certificate Holder to disciplinary action by the Board. The discoverer must notify the Board in the event a response that does not answer the concerns of the discoverer is not obtained within the second twenty (20) days. A Licensee or Certificate Holder is exempt from this requirement if their client is an attorney and they are being treated as an expert witness. In this case, the Idaho Rules of Civil Procedure apply. ()

05. Obligation to Comply with Rules of Continuing Professional Development. All Licensees must comply with the continuing professional development requirements contained in these rules. ()

06. Obligation to Affected Landowners. Land surveyors have a duty to set monuments at the corners of their client's property boundaries in compliance with 54-1227, Idaho Code. Per Subsection 100.04 above, land surveyors also have a duty to notify other licensees of a material discrepancy prior to setting monuments that

represent a material discrepancy with a prior survey. If a monument is to be set at a location that represents a material discrepancy with an existing monument at any corner of record, land surveyors must also notify in writing all affected adjoining land owners and the Board prior to setting the new monument. ()

101. COMPETENCY FOR ASSIGNMENTS.

01. Assignments in Field of Competence. A Licensee must undertake to perform assignments only when qualified by education or experience in the specific technical field involved, however, a Licensee, as the prime professional, may accept an assignment requiring education or experience outside of his own field of competence, but his services are restricted to those phases of the project in which the Licensee is qualified. All other phases of such project must be performed by qualified associates, consultants or employees. For projects encompassing one (1) or more disciplines beyond the Licensee's competence, a Licensee may sign and seal the cover sheet for the total project only when the Licensee has first determined that all elements of the project have been prepared, signed and sealed by others who are competent, licensed and qualified to perform such services. ()

02. Aiding and Abetting an Unlicensed Person. A Licensee or Certificate Holder must avoid actions and procedures which, in effect, amount to aiding and abetting an unlicensed person to practice engineering or land surveying. ()

03. Use of Seal on Documents. A Licensee must affix his signature and seal only to plans or documents prepared under his responsible charge. ()

102. PUBLIC STATEMENTS.

01. Reports, Statements or Testimony. A Licensee or certificate holder must not commit fraud, violate the standard of care, or engage in deceit or misconduct in professional reports, statements or testimony. Each licensee or certificate holder must include all relevant and pertinent information in such reports, statements or testimony and will express opinions in such reports, statements or testimony in accordance with the standard of care. ()

02. Opinions Based on Adequate Knowledge. A Licensee or Certificate Holder, when serving as an expert or technical witness before any court, commission or other tribunal, may express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his testimony. ()

03. Statements Regarding Public Policy. On matters connected with establishing public policy a Licensee or Certificate Holder may issue no statements, criticisms or arguments that are paid for by an interested party, or parties, unless he has prefaced his comment by explicitly identifying himself, by disclosing the identities of the party, or parties, on whose behalf he is speaking, and by revealing the existence of any pecuniary interest he may have in the matters. ()

04. Actions in Regard to Other Licensees or Certificate Holders. A Licensee or Certificate Holder may not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another Licensee or Certificate Holder, nor may he indiscriminately criticize another Licensee's or Certificate Holder's work in public. If he believes that another Licensee or Certificate Holder is guilty of fraud, deceit, negligence, incompetence, misconduct or violation of these rules he should present such information to the Board for action. ()

103. CONFLICT OF INTEREST.

01. Conflict of Interest to Be Avoided. Each Licensee or Certificate Holder must conscientiously avoid conflict of interest with an employer or client, and, when unavoidable, must forthwith disclose the circumstances in writing to the employer or client. In addition, the Licensee or Certificate Holder must promptly inform the employer or client in writing of any business association, interests, or circumstances which could influence a Licensee's or Certificate Holder's judgment or quality of service, or jeopardize the clients' interests. ()

02. Compensations From Multiple Parties on the Same Project. A Licensee or Certificate Holder may accept compensation, financial or otherwise, from more than one (1) party for services on the same project, or for services pertaining to the same project, provided the circumstances are fully disclosed, in writing, in advance and agreed to by all interested parties. ()

03. Solicitation From Material or Equipment Suppliers. A Licensee or Certificate Holder may not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying or recommending the products of said suppliers, except with full disclosure as outlined in Subsection 103.02. ()

04. Gratuities. A Licensee or Certificate Holder may not solicit or accept gratuities, gifts, travel, lodging, loans, entertainment or other favors directly or indirectly, from contractors, their agents or other third parties dealing with a client or employer in connection with work for which the Licensee or Certificate Holder is responsible, which can be construed to be an effort to improperly influence the Licensee's or Certificate Holder's professional judgment. Minor expenditures such as advertising trinkets, novelties and meals are excluded. Neither may a Licensee or Certificate Holder make any such improper offer. ()

05. Solicitation From Agencies. A Licensee, a Certificate Holder or a representative thereof may not solicit or accept a contract from a governmental authority on which an existing officer, director, employee, member, partner, or sole proprietor of his organization serves as a member of the elected or appointed policy and governing body of such governmental authority or serves as a member of an entity of such governmental authority having the right to contract or recommend a contract for the services of a Licensee or a Certificate Holder. ()

06. Professional Services Decisions of Agencies. A Licensee, Certificate Holder or representative thereof serving as a member of the governing body of a governmental authority, whether elected or appointed, or an advisor or consultant to a governmental Board, commission or department may at all times be subject to the statutory provisions concerning ethics in government, Section 74-401, Idaho Code, et seq. A violation of the "Ethics in Government Act of 2015" will be considered a violation of these rules. ()

07. Unfair Advantage of Position and Work Outside Regular Employment. When a Licensee or an individual Certificate Holder is employed in a full time position, the person may not use the advantages of the position to compete unfairly with other professionals and may not accept professional employment outside of that person's regular work or interest without the knowledge of and written permission or authorization from that person's employer. ()

104. SOLICITATION OF WORK.

01. Commissions. A Licensee or Certificate Holder may not pay or offer to pay, either directly or indirectly, any commission, gift or other valuable consideration in an effort to secure work, except to bona fide employees or bona fide established business enterprises retained by a Licensee or Certificate Holder for the purpose of securing business or employment. ()

02. Representation of Qualifications. A Licensee or Certificate Holder may not falsify or permit misrepresentation of his or his associates' academic or professional qualifications, and may not misrepresent or exaggerate the degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment may not misrepresent pertinent facts concerning employers, employees, associates, joint-venturers or his or their past accomplishments with the intent and purpose of enhancing qualifications for the work. The Licensee or Certificate Holder may not indulge in publicity that is misleading.()

03. Assignment on Which Others Are Employed. A Licensee or Certificate Holder may not knowingly seek or accept employment for professional services for an assignment that another Licensee or Certificate Holder is employed, or contracted to perform without the currently employed or contracted entity being informed in writing. ()

04. Contingency Fee Contracts. A Licensee or Certificate Holder may not accept an agreement, contract, or commission for professional services on a "contingency basis" that may compromise his professional judgment and may not accept an agreement, contract or commission for professional services that includes provisions wherein the payment of fee involved is contingent on a "favorable" conclusion, recommendation or judgment.()

05. Selection on the Basis of Qualifications. A Licensee or Certificate Holder should seek professional employment or professional service work on the basis of qualifications and competence for proper accomplishment of the work assignment. On selections for professional engineering and land surveying services that are required pursuant to Section 67-2320, Idaho Code, a licensee or certificate holder, in response to solicitations described in Section 67-2320, Idaho Code, may not submit information that constitutes a bid for services requested either as a consultant or subconsultant. ()

105. IMPROPER CONDUCT.

01. Fraudulent or Dishonest Enterprises. A Licensee or Certificate Holder may not knowingly associate with, or permit the use of his name or the firm name in a business venture by any person or firm that it is known to be, or there is reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature. ()

02. Confidentiality. Licensees or Certificate Holders may not reveal confidential facts, data or information obtained in a professional capacity without prior written consent of the client or employer except as authorized or required by law. ()

03. Actions by Other Jurisdictions. The surrender, revocation, suspension or denial of a license to practice Professional Engineering or Professional Land Surveying, as an individual or through a business entity, in another jurisdiction, for reasons or causes which the Board finds would constitute a violation of the Idaho laws regulating the practice of Engineering and Land Surveying, or any code or rules promulgated by the Board, is sufficient cause after a hearing for disciplinary action as provided in Title 54 Chapter 12, Idaho Code. ()

106. -- 199. (RESERVED)

**SUBCHAPTER C - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT
(RULES 200 THROUGH 299)**

200. REQUIREMENTS.

Every Licensee is required to obtain thirty (30) PDH units during the renewal period biennium (beginning on the first day of the month following the month in which the Licensee was born). Alternatively, the licensee may choose to obtain thirty (30) PDH units cumulative during the two (2) calendar years which are closest to the renewal period biennium. If a Licensee exceeds the biennial requirement in any renewal period or earns PDHs during a period in which he is exempt, a maximum of thirty (30) PDH units may be carried forward into the subsequent renewal period. If the exemption is for the "First Renewal Period" (see Rule 204.01), then at any time in the full biennium before this first license renewal the licensee may earn up to 30 PDHs to carry forward into their second renewal period following licensure. If the licensee chooses to use the calendar year basis, PDH's in excess of thirty (30) cumulative in two (2) years, or PDH's earned during a period in which he is exempt, can be carried forward to the next two (2) year calendar period, not to exceed thirty (30) PDH's carried forward to the next two (2) year calendar period. PDH units may be earned in the following activities, however, PDH units must come from two (2) or more activities. ()

01. Successful Completion of College Credits. ()

02. Successful Completion of Continuing Education Units. ()

03. Successful Completion of Other Courses. Correspondence, televised, online, and other short courses/tutorials for which college credits or CEUs are awarded. ()

04. Attending Qualifying Seminars. Attending qualifying seminars, inhouse courses, workshops, or technical or professional presentations made at meetings, conventions, or conferences for which no college credits or CEUs are awarded. ()

05. Mentoring, Teaching or Instructing. Teaching or instructing in Subsections 200.01 through 200.04, above and beyond routine job assignments. ()

06. Authoring Published Papers, Articles, or Books. ()

- 07. Membership in Technical or Professional Organizations. ()
- 08. Active Participation in Technical or Professional Organizations. ()
- 09. Patents. ()
- 10. Presentations to Technical, Professional or Civic Organizations. ()
- 11. Documented Self Study. ()

201. UNITS.

The conversion of other units of credit to PDH (Professional Development Hour) units is as follows:

1 College semester credit hour	=	45 PDH
1 College quarter credit hour	=	30 PDH
1 Continuing Education Unit	=	10 PDH
1 Hour of attendance in course work, seminars, or technical or professional presentations made at meetings, conventions, or conferences	=	1 PDH
Mentoring or teaching the above, above and beyond normal job assignments, apply multiple of 2 for teaching the first time only	=	8 PDH per year for mentoring
Each published technical or professional paper, article, or book chapter not to exceed a total of 10 PDH's per year, above and beyond normal job assignments	=	5 PDH per paper, article, or book chapter
Each peer review of a published technical or professional paper, article, or book chapter not to exceed a total of 6 PDH's per year, above and beyond normal job assignments	=	3 PDH per paper, article, or book chapter
Membership in technical or professional organizations (Maximum of 2 organizations)	=	1 PDH per year per organization
Active participation in technical or professional organizations (Maximum of 2 organizations)	=	1 PDH per year per organization
Each patent 5 PDH's, not to exceed per year	=	5 PDH
Presentations to technical, professional, or civic organizations, first presentation only	=	2 PDH per hour of presentation
Documented self-study not to exceed 3 PDH per year at the rate of 1/2 PDH per hour of self-study		

()

202. DETERMINATION OF CREDIT.

With the exception of those seminars and courses of continuing professional development offered by an organization registered with the Registered Continuing Education Providers Program of the American Council of Engineering Companies, which are preapproved, the Board will not pre-approve activities as qualifying for continuing professional development, but has final authority to judge the PDH value for all activities submitted to fulfill continuing professional development requirements. ()

203. RECORD KEEPING.

Maintenance of records to support credits claimed is the responsibility of the Licensee. Records required include, but are not limited to: ()

01. Log. A log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned; and ()

02. Attendance Verification. Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; Time sheets or expense sheets signed by the Licensee documenting the Continuing Professional Development activity claimed (sponsoring organization, location, duration, instructor's or speaker's name), time and/or expense related thereto, and claimed PDH credits earned are acceptable if attendance certificates are not available; or ()

03. Records. Records may be maintained by a repository for same. ()

04. Documented Self-Study. In order to qualify in this category, the licensee must prepare and retain an abstract of the material studied, the date the activity occurred and the number of PDH's claimed, and a bibliographic reference of the material studied. A photocopy of pertinent parts of the material studied, annotated with the date the activity occurred and the number of PDH's claimed, are deemed to meet this requirement. ()

05. Record Retention. All continuing professional development records must be maintained for a period of six (6) years and copies must be provided to the Board upon request for audit purposes. ()

204. EXEMPTIONS.

A Licensee may be exempt from the continuing professional development requirements for one (1) of the following reasons: ()

01. First Renewal Period. New Licensees by way of examination or comity, reinstated licensees, and delayed renewal licensees less than one year from the biennial renewal date, are exempt from compliance with these rules during the time between issuance or reinstatement or delayed renewal of the license and the due date of their first renewal following the issuance of the license. ()

02. Active Duty in the Armed Forces. A Licensee serving on active duty in the armed forces of the United States, or a civilian deployed with the military, and temporarily assigned duty at a location other than their normal home station for a period of time exceeding one hundred twenty (120) consecutive days in a renewal period or the two (2) calendar year period closest to the renewal biennium is exempt from obtaining the professional development hours required during that renewal period or the two (2) calendar year period closest to the renewal biennium. ()

03. Extenuating Circumstances. A Licensee experiencing physical disability, serious illness, or other extenuating circumstances accepted by the Board. ()

04. Retired. A Licensee who has chosen "Retired" status is exempt from the professional development hours required. In the event such a person elects to return to active practice of professional engineering or professional land surveying, professional development hours must be earned before returning to active practice. Thirty (30) PDH's must be earned for an exempted period less than four (4) years prior to the reinstatement request date. The thirty (30) PDH's earned must be earned within the previous two (2) years of the reinstatement request date. Sixty (60) PDH's must be earned for exempted periods of four (4) years or more prior to the reinstatement request date. The sixty (60) PDH's must be earned within the previous four (4) years of the reinstatement request date. All PDH's earned must comply with the requirements of this chapter. ()

05. Expired License. A Licensee who has chosen to allow his license to expire is exempt from the professional development hours required. In the event such a person elects to renew the license, professional development hours must be earned and documented before renewing the license. The requirements for PDH's are the same as shown for retired licensees in Subsection 204.04 for delayed renewals more than three (3) months. ()

205. COMITY/OUT-OF-JURISDICTION RESIDENTS.

The CPD requirements for non-resident licensees are the same as that for resident licensees. ()

206. USE OF NCEES MODEL CPC STANDARD.

Licensees have the option of complying with the requirements of this chapter, or may choose to comply with the National Council of Examiners for Engineering and Surveying (NCEES) Continuing Professional Competency (CPC) renewal standard as identified in the latest version of the NCEES Model Rule 240.30. This standard is found at <http://ncees.org/wp-content/uploads/https://ncees.org/wp-content/uploads/CPC-Guidelines-2017-final.pdf>. ()

207. -- 299. (RESERVED)

SUBCHAPTER D - RULES FOR CORNET PERPETUATION AND FILING
(RULES 300 THROUGH 399)

300. FORM.

The form to be used in filing corner perpetuations in the state of Idaho shall be substantially the same as that form available from the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors, 1510 E. Watertower St., Ste. 110, Meridian, ID 83642-7993. Clear spaces on the form may be provided as requested and required by County Recorders in order to place recording information in an unobstructed area. The form is not available in quantity from the Board, but one (1) copy will be furnished, upon request, and it may be duplicated or reproduced. ()

301. COMPLETION OF FORM.

Prior to filing of the form, the professional land surveyor performing the work shall complete the form in compliance with the requirements set forth in these rules. Additional information, for example latitude and longitude, with datum used, may be included. ()

302. CONTENTS ON THE FORM.

The contents on the form must contain the following: ()

01. Record of Original Corner and Subsequent History. Information provided in this section includes the name of the original surveyor and the date or dates on which the original survey was performed and a description of the original monument set. The information also includes the history of subsequent remonumentation, including the name(s) of the surveyor(s), the agency or company they represented, the date(s) of the survey(s) and a description of all monuments found or set, including all monuments and accessories that are not shown on previously recorded corner records. Information provided in this section also includes the instrument numbers of all previously recorded corner records, or the filing information if the corner record was not recorded, pertaining to the corner in question. ()

02. Description of Corner Evidence Found. Information provided in this section includes a description of any evidence found relating to the original corner. If no evidence of the original corner is found, evidence of a subsequent remonumentation shall be indicated on the form. ()

03. Description and Sketch of Monument and Accessories Found or Established to Perpetuate the Location of this Corner. Information provided in this section includes a description and a sketch of the monument and accessories found or placed in the current survey as well as the date the work was performed and the true or assumed magnetic declination at the time of the survey if magnetic bearings are used. If magnetic bearings are not used, the professional land surveyor shall indicate the basis of bearing to accessories. ()

04. Surveyor's Certificate. Include a print of the surveyor's name, the license number issued by the Board, and the name of the employer for whom the surveyor is working. ()

05. Seal, Signature, Date. Include an imprint of the surveyor's professional land surveyor seal, which is signed and dated by the surveyor. ()

06. Marks on Monument Found or Set. Include a sketch or legible image of the marks found or placed on the monument, if applicable. ()

07. Diagram. Include clear marks on the section diagram the location of the monument found or being established or reestablished in the survey. ()

08. Location. State the county, section, township, range and the monument location being established or reestablished or found in the survey. ()

303. -- 999. (RESERVED)

IDAPA 12 – IDAHO DEPARTMENT OF FINANCE

DOCKET NO. 12-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 30-14-605, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 12, rules of the Idaho Department of Finance:

- 12.01.08, *Rules Pursuant to the Uniform Securities Act*

This pending rule vacates the following proposed rule previously promulgated as part of the omnibus proposed fee rulemaking under IDAPA 12, rules of the Idaho Department of Finance:

- *(Vacated)* IDAPA 12.01.06, *Rules Pursuant to the Idaho Endowment Care Cemetery Act*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 1582 - 1615.

The rule making was prompted by the expiration of the rules. The department considered the Licensing Freedom Act and the Red Tape Reduction Act and the continued efforts to clarify and streamline its rules. Minor housekeeping edits are also intended to clarify and simplify existing language, and reduce or eliminate unnecessary restrictions. Following are descriptions of changes made to the pending rules that differ from the proposed rules:

- IDAPA 12.01.08, *Rules Pursuant to the Uniform Securities Act* – Removed sections regarding written interpretations, and identifying mailing address and phone number of the department.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

1. IDAPA 12.01.08, *Rules Pursuant to the Uniform Securities Act*, Rule 003.04: \$50 fee with each request for no-action position or interpretive opinion letter.
2. IDAPA 12.01.08, *Rules Pursuant to the Uniform Securities Act*, Rule 040.03: \$300 fee for annual renewal of registration statement.
3. IDAPA 12.01.08, *Rules Pursuant to the Uniform Securities Act*, Rule 053.01.b. and c.: \$300 fee for filing of notice of offering and annual renewal of mutual funds by investment companies, and \$100 filing fee for notice of offering and annual renewal of unit investment trusts.
4. IDAPA 12.01.08, *Rules Pursuant to the Uniform Securities Act*, Rule 053.02.b. and c.: \$50 fee for Regulation D Rule 506 notice filings, and \$50 additional fee for late filing.

The fees or charges are being imposed pursuant to Sections 30-14-302, 30-14-305, and 30-14-605, Idaho Code.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Senior Securities Analyst Patricia Highley, (208) 332-8077.

Dated this 4th day of October, 2019.

Mary E. Hughes
Acting Director
Idaho Department of Finance
800 Park Blvd., Suite 200
Boise, ID 83720-0031
Phone: (208) 332-8030
Fax: (208) 332-8099

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 27-416 and 30-14-605, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 12, rules of the Idaho Department of Finance:

IDAPA 12

- IDAPA 12.01.06, *Rules Pursuant to the Idaho Endowment Care Cemetery Act*
- IDAPA 12.01.08, *Rules Pursuant to the Uniform Securities Act*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rules is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the

orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules support the Department's orderly supervision of the state's endowment care cemeteries and the offer and sale of securities to Idaho citizens. The Department's review of securities registrations and filings helps protect the investments made in these securities by Idaho citizens. The Department's ability to provide no-action or interpretive opinion letters to the securities industry confers a benefit on those citizens.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. The fee imposed by IDAPA 12.01.06, Rules Pursuant to the Idaho Endowment Care Cemetery Act, Rule 5, supports the Department's review of the annual registration statements of Idaho's endowment care cemeteries. Fees are imposed by IDAPA 12.01.08, Rules Pursuant to the Uniform Securities Act, Subsections 003.04; 040.03; 053.01.b and c; and 053.02.b and c. These fees support the Department's (1) providing no-action or interpretive opinion letters, (2) review of annual renewals of securities registration statements, (3) review of notice filings and annual renewal notices of investment companies, and (4) review of notice filings for Regulation D Rule 506 offerings.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

1. IDAPA 12.01.06, Rules Pursuant to the Idaho Endowment Care Cemetery Act, Section 005.: \$150 annual filing fee at time of filing annual registration statement.
2. IDAPA 12.01.08, Rules Pursuant to the Uniform Securities Act, Subsection 003.04: \$50 fee with each request for no-action position or interpretive opinion letter.
3. IDAPA 12.01.08, Rules Pursuant to the Uniform Securities Act, Subsection 040.03: \$300 fee for annual renewal of registration statement.
4. IDAPA 12.01.08, Rules Pursuant to the Uniform Securities Act, Subsections 053.01.b and c: \$300 fee for filing of notice of offering and annual renewal of mutual funds by investment companies, and \$100 filing fee for notice of offering and annual renewal of unit investment trusts.
5. IDAPA 12.01.08, Rules Pursuant to the Uniform Securities Act, Subsections 053.02.b and c: \$50 fee for Regulation D Rule 506 notice filings, and \$50 additional fee for late filing.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Senior Securities Analyst Patricia Highley, (208) 332-8077, or Investigations Supervisor Jennifer Biretz, (208) 332-8081.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 12-0000-1900F

12.01.08 – RULES PURSUANT TO THE UNIFORM SECURITIES ACT (2004)

000. LEGAL AUTHORITY.

This chapter is promulgated pursuant to Section 30-14-605, Idaho Code. (3-24-05)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the “Securities Rules of the Idaho Department of Finance”; and may be cited as IDAPA 12.01.08, “Rules Pursuant to the Uniform Securities Act (2004).” (3-24-05)

02. Implementation. These rules implement statutory intent with respect to the offer and sale of securities and the giving of investment advice in the state of Idaho by licensed individuals and others. (3-24-05)

002. -- 003. (RESERVED)

004. SECURITIES EXEMPTIONS, OPINIONS, AND NO-ACTION LETTERS.

Interpretative Opinions. The Administrator, in his discretion, may honor requests from interested persons for formal interpretive opinions and no-action positions, including consideration of waivers, relating to an actual specific factual circumstance where appropriate and in the public interest, on the basis of facts stated and submitted in writing, with respect to the provisions of the Act or any rule or statement of policy adopted thereunder, provided such requests satisfy and conform to the following requirements: (3-24-05)

01. Written Requests. Such requests shall be in writing and shall include or be accompanied by all information and material required by any statute, rule or statement of policy under which an exception or exemption may be claimed, including but not limited to, copies of prospectuses or offering circulars if applicable or appropriate. (3-24-05)

02. Narrative. The letter should contain a brief narrative of the fact situation and should set out all of the facts necessary to reach a conclusion in the matter; however, such narratives should be concise and to the point. (3-24-05)

03. Hypotheticals Not Considered. The names of the company or companies, organization or organizations and all other persons involved should be stated and should relate and be limited to a particular factual circumstance. Letters relating to hypothetical situations will not warrant a formal response. (3-24-05)

04. Fee. Each request for a no-action position or interpretive opinion letter shall be accompanied by payment of a fee in the amount of fifty dollars (\$50). (3-24-05)

005. INCORPORATION BY REFERENCE.

01. Incorporated Documents. IDAPA 12.01.08, “Rules Pursuant to the Uniform Securities Act (2004),” adopts and incorporates by reference the full text of the following Statements of Policy and guidelines adopted by the North American Securities Administrators Association (NASAA): (3-24-05)

- a. “Loans and Other Material Affiliated Transactions,” as adopted with amendments through March 31, 2008; (3-29-17)
- b. “Options and Warrants,” as adopted with amendments through March 31, 2008; (3-29-17)
- c. “Corporate Securities Definitions,” as adopted with amendments through March 31, 2008; (3-29-17)
- d. “Impoundment of Proceeds,” as adopted with amendments through March 31, 2008; (3-29-17)
- e. “Preferred Stock,” as adopted with amendments through March 31, 2008; (3-29-17)
- f. “Promotional Shares,” as adopted with amendments through March 31, 2008; (3-29-17)
- g. “Promoters’ Equity Investment,” as adopted with amendments through March 31, 2008; (3-29-17)
- h. “Specificity in Use of Proceeds,” as adopted with amendments through March 31, 2008; (3-29-17)

- i.** “Underwriting Expenses, Underwriter’s Warrants, Selling Expenses, and Selling Securities Holders,” as adopted with amendments through March 31, 2008; (3-29-17)
- j.** “Unsound Financial Condition,” as adopted with amendments through March 31, 2008; (3-29-17)
- k.** “Unequal Voting Rights,” as adopted March 31, 2008; (3-29-17)
- l.** “Debt Securities,” as adopted April 25, 1993; (3-24-05)
- m.** “NASAA Guidelines Regarding Viatical Investments,” as adopted October 1, 2002; (3-24-05)
- n.** “NASAA Statement of Policy Regarding Small Company Offering Registrations (SCOR),” as adopted April 28, 1996. (3-24-05)

02. Availability of Referenced Documents. Copies of the “NASAA Statements of Policy” are available at the following locations: (3-24-05)

- a.** NASAA, 750 First Street, N.E., Suite 1140, Washington, D.C. 20002. (3-24-05)
- b.** Department of Finance, 800 Park Blvd., Suite 200, Boise, ID 83712. (3-29-17)
- c.** NASAA Web site at <http://www.nasaa.org/regulatory-activity/statements-of-policy/>. (3-24-05)

006. -- 009. (RESERVED)

010. DEFINITIONS.

- 01. Act.** The Uniform Securities Act (2004) set forth in Chapter 14, Title 30, Idaho Code. (3-24-05)
- 02. Administrator.** The Director of the Department of Finance. (3-24-05)
- 03. Agent of Issuer.** The term “agent of issuer” is used interchangeably with the term “issuer agent” through these rules. (3-24-05)
- 04. CRD.** Central Registration Depository. (3-24-05)
- 05. Department.** The Idaho Department of Finance. (3-24-05)
- 06. EFD.** Electronic Filing Depository. (3-29-17)
- 07. FINRA.** Financial Industry Regulatory Authority. (3-29-17)
- 08. Form ADV.** The Uniform Application for Investment Adviser Registration. (3-24-05)
- 09. Form ADV-H.** The Uniform Application for a Temporary or Continuing Hardship Exemption. (3-24-05)
- 10. Form ADV-W.** The Uniform Request for Withdrawal of Investment Adviser Registration. (3-24-05)
- 11. Form BD.** The Uniform Application for Broker-Dealer Registration. (3-24-05)
- 12. Form BDW.** The Uniform Request for Withdrawal from Registration as a Broker-Dealer. (3-24-05)
- 13. Form BR.** The Uniform Application for Broker-Dealer Branch Registration. (3-29-17)
- 14. Form D.** The federal form entitled “Notice of Sale of Securities Pursuant to Regulation D, Section

- 4(6) and or Uniform Limited Offering Exemption.” (3-24-05)
- 15. **Form NF.** The Uniform Notice Filing Form. (3-24-05)
 - 16. **Form 1-A.** A federal securities registration form of that number. (3-24-05)
 - 17. **Form S-18.** A federal securities registration form of that number. (3-24-05)
 - 18. **Form U-1.** The Uniform Application to Register Securities. (3-24-05)
 - 19. **Form U-2.** The Uniform Consent to Service of Process. (3-24-05)
 - 20. **Form U-4.** The Uniform Application for Securities Industry Registration or Transfer. (3-24-05)
 - 21. **Form U-5.** The Uniform Request for Withdrawal of Securities Industry Registration or Transfer. (3-24-05)
 - 22. **Form U-7.** The Uniform Small Company Offering Registration Form. (3-24-05)
 - 23. **IARD.** Investment Adviser Registration Depository. (3-24-05)
 - 24. **NASAA.** The North American Securities Administrators Association, Inc. (3-24-05)
 - 25. **NASD.** The National Association of Securities Dealers, Inc. (3-24-05)
 - 26. **NASDAQ.** The National Association of Securities Dealers Automated Quotations. (3-24-05)
 - 27. **SEC.** The U.S. Securities and Exchange Commission. (3-24-05)
 - 28. **Transact Business.** For purposes of the Act, to “transact business” means to buy or to sell or contract to buy or to sell or dispose of a security or interest in a security for value. It also means any offer to buy or offer to sell or dispose of, and every solicitation of clients or of any offer to buy or to sell, a security or interest in a security for value. With respect to investment advisers and investment adviser representatives, “transact business” includes preparation of financial plans involving securities, recommendations to buy or sell securities or interests in a security for value, and solicitation of investment advisory clients. (3-24-05)
 - 29. **USA.** The Uniform Securities Act (2004). (3-24-05)
 - 30. **Unsolicited Order or Offer.** (3-24-05)
 - a. As used in these rules, an order or offer to buy is considered “unsolicited” if: (3-24-05)
 - i. The broker-dealer has not made a direct or indirect solicitation or recommendation that the customer purchase the security; and (3-24-05)
 - ii. The broker-dealer has not recommended the purchase of the security to the customer, either directly or in a manner that would bring its recommendation to the customer; and (3-24-05)
 - iii. The broker-dealer has not volunteered information on the issuer to the customer; and (3-24-05)
 - iv. The customer has previously, and independent of any information furnished by the broker-dealer, decided to buy the security. (3-24-05)
 - b. Any offer or order to buy from a customer whose first knowledge of the specific security or issuer was volunteered to him by the broker-dealer is regarded as a solicited order. (3-24-05)
 - c. Any claim of exemption pursuant to Section 30-14-202(6), Idaho Code, shall be supported by the

broker-dealer's certificate that the transaction in question was, in fact, unsolicited. (3-24-05)

011. -- 019. (RESERVED)

020. APPLICATION FOR REGISTRATION OF SECURITIES.

01. Registration by Coordination. A registration statement to register securities by coordination shall contain the following: (3-24-05)

- a.** The Form U-1 and accompanying documents (including subscription agreement); (3-24-05)
- b.** A consent to service of process (Form U-2) in compliance with Section 30-14-611, Idaho Code; (3-24-05)
- c.** A copy of the prospectus, including financial statements where: (3-24-05)
 - i.** The prospectus for a securities registration by coordination under Section 30-14-303, Idaho Code, shall be prepared using the forms required under the Securities Act of 1933, and (3-24-05)
 - ii.** All historical financial statements in the registration statement shall be in conformity with generally accepted accounting principles (GAAP) and financial statements filed with a registration statement by coordination that complies with the requirements of the United States Securities and Exchange Commission. (3-24-05)
- d.** All exhibits filed with the United States Securities and Exchange Commission in connection with the registration statement; (3-24-05)
- e.** The filing fee specified in Section 30-14-305(b), Idaho Code; and (3-24-05)
- f.** Any additional information or documents requested by the Department. (3-24-05)

02. Registration by Qualification. A registration statement to register securities by qualification shall contain the following in addition to the requirements of Section 30-14-304, Idaho Code: (3-24-05)

a. Financial Statements. Except for SCOR applications, registration statements filed pursuant to Section 30-14-304, Idaho Code, shall contain audited financial statements of the issuer for its last two (2) fiscal years. An issuer with less than one (1) year of operations may file reviewed financial statements until the end of its first fiscal year. Registration statements filed with SCOR applications on the Form U-7 shall contain the financial statements specified in the instructions to the Form U-7. (4-11-06)

b. Unaudited Interim Financial Statements. If the audited financial statements or unaudited financial statements required in Subsection 020.02.a. of this rule are not current to within four (4) months of the date of filing of the registration statement, additional unaudited financial statements as of the issuer's last fiscal quarter or any later date designated by the Administrator shall be included. (3-24-05)

c. Small Company Offering Registration (SCOR). A SCOR registration statement shall contain the following: (3-24-05)

- i.** The Form U-1 and accompanying documents (including subscription agreement); (3-24-05)
- ii.** An executed Form D; (3-24-05)
- iii.** A consent to service of process (Form U-2) in compliance with Section 30-14-611, Idaho Code; (3-24-05)
- iv.** For SCOR offerings, the prospectus to be used shall be the Form U-7, as adopted and revised by NASAA in September 1999; (3-24-05)
- v.** The filing fee specified in Section 30-14-305(b), Idaho Code; and (3-24-05)

- vi. Any additional information or documents requested by the Department. (3-24-05)
- d. Registration statements by qualification shall contain the following: (3-24-05)
 - i. The Form U-1 and accompanying documents (including subscription agreement); (3-24-05)
 - ii. A consent to service of process (Form U-2) in compliance with Section 30-14-611, Idaho Code; (3-24-05)
 - iii. Financial statements prepared in accordance with Subsection 020.02.a. of this rule; (3-24-05)
 - iv. A copy of the prospectus containing the information or records specified in Sections 30-14-304(b)(1) through 304(b)(18), Idaho Code; (3-24-05)
 - v. The prospectus shall be prepared using one of the following forms: Part II of Form 1-A of Regulation A of the Securities Act of 1933; Parts I and II of Form SB-2 of the Securities Act of 1933; Form U-7; or any other applicable form used to prepare a prospectus under the Securities Act of 1933, if approved by the department. (3-24-05)

03. Other Forms. Any other applicable form used to prepare a prospectus under the Securities Act of 1933, if approved by the Department, containing: (3-24-05)

- a. The filing fee specified in Section 30-14-305(b), Idaho Code; and (3-24-05)
- b. Any additional information or documents requested by the Department. (3-24-05)

021. AMENDMENTS TO REGISTRATION STATEMENT.

01. Amendments Required. A correcting amendment to an effective registration statement shall be prepared and submitted to the Department any time that the information contained therein becomes inaccurate or incomplete in any material respect. The responsibility for identifying and reporting a material change lies with the registrant. (3-24-05)

02. Contents of Amendment Filing. Each filing of a correcting amendment to a registration statement shall contain a copy of each item of the registration statement which has been changed, with all changes clearly marked. To be complete, a filing of a correcting amendment to the registration statement shall contain a report of material changes setting forth a summary of each material change and indicating the location of such change in the documents filed. Neither the Administrator nor any member of his staff shall be held to have taken notice of any item of material change not summarized in such a report. (3-24-05)

03. Time of Filing and Undertaking. Every registration statement shall contain an undertaking by the applicant to file correcting amendments to the registration statement whenever the information in the registration statement becomes inaccurate or incomplete in any material respect by the earlier of: (3-24-05)

- a. Two (2) business days after filing such amendment with the SEC; or (3-24-05)
- b. Fifteen (15) business days following the event giving rise to the amendment. (3-24-05)
- c. If not registered with the SEC, registrants shall file an amended registration statement if required within fifteen (15) business days following the event giving rise to the amendment. (3-24-05)

04. Effect of Failure to Amend. Solicitation of prospective investors through utilization of a prospectus containing information which is inaccurate or incomplete in any material respect is a violation of Section 30-14-501, Idaho Code, and constitutes a basis for the suspension or revocation of the registration under Section 30-14-306(a)(1), Idaho Code. Nothing in Section 021, of these rules, shall be construed to require any open-end investment company registered under the 1940 Act and the Act to disclose fluctuations in its investment portfolio. (3-24-05)

022. FINANCIAL STATEMENTS.

01. Application of Regulation S-X. As to definitions, qualifications of accountants, content of accountant's certificates, requirements for consolidated or combined statements, and actual form and content of financial statements, the Administrator shall apply Regulation S-X of the SEC (17 CFR Part 210) in its most currently amended form as of the date of the filing of the application to all financial statements filed with the Department in connection with the registration of securities. (3-24-05)

02. Financial Statements Incorporated by Reference. Where financial statements in a prospectus are incorporated by reference from another document, the Administrator may require that such other document be filed with the Department and be delivered to investors with the prospectus. (3-24-05)

03. Application of Antifraud Provisions. Any financial statement distributed in connection with the offer or sale of securities under the Act shall be subject to the provisions of Section 30-14-501, Idaho Code. Any financial statement filed with the Department shall be subject to the provisions of Section 30-14-505, Idaho Code. (3-24-05)

023. -- 035. (RESERVED)

036. NASAA STATEMENTS OF POLICY -- REGISTERED OFFERINGS.

The Department will apply the applicable statement(s) of policy adopted by NASAA and incorporated herein by reference pursuant to Section 005, of these rules, to an offering seeking registration in Idaho when conducting a review to determine whether an offering is fair, just and equitable. Such an offering must comply with the requirements of such policy or policies, unless waived by the Administrator. (3-24-05)

037. REGISTRATION OF DEBT SECURITIES.

In addition to the requirements contained in the NASAA Statement of Policy Regarding Debt Securities, as adopted on April 25, 1993, the issuer of debt securities will incorporate the following standards: (3-24-05)

01. Suitability. In establishing standards of fairness and equity, the Department has established the following investor suitability guidelines for debt offerings registered under the Act: (3-24-05)

a. No more than ten percent (10%) of any one (1) Idaho investor's net worth (exclusive of home, home furnishings, and automobiles) shall be invested in the securities being registered with the Department; and either (3-24-05)

b. A gross income of forty-five thousand dollars (\$45,000) and a net worth of forty-five thousand dollars (\$45,000) (exclusive of home, home furnishings and automobiles); or (3-24-05)

c. A net worth of one hundred fifty thousand dollars (\$150,000) (exclusive of home, home furnishings and automobiles). (3-24-05)

02. Department May Establish Standards. The suitability standard in Subsection 037.01 of this rule is a guideline. Higher or lower suitability standards may be established or may be required by the Department as a condition of registration. (3-24-05)

03. Standards To Be Disclosed. The suitability standards must be disclosed in the prospectus. (3-24-05)

038. WITHDRAWAL/ABANDONMENT OF A REGISTRATION STATEMENT.

01. Withdrawal. The withdrawal of an application (prior to effectiveness) may be permitted by the Administrator upon the written request of the applicant. (3-24-05)

02. Abandonment. The abandonment of an application, where there has been no activity on the application by the applicant for a period of six (6) months or more, may be considered to signify a request for withdrawal. (3-24-05)

03. Time Limit. An application for registration of securities pursuant to Section 30-14-303 or 30-14-304, Idaho Code, shall be deemed abandoned if such registration is not effective in the state of Idaho within one (1) year from the date of receipt by the Department of the initial filing of the application for registration. (3-24-05)

04. Abandoned Applications Not Reinstated. Once deemed abandoned, the original application shall not be reinstated. A new application including the registration statement, appropriate exhibits and filing fees is required. (3-24-05)

039. REPORT OF COMPLETION OF OFFERING.

01. Completion Statement. Within thirty (30) days of the completion of a registered offering in Idaho, the registrant shall provide a written statement to the Department that states the following: (3-24-05)

a. The date the offering was completed in Idaho; and (3-24-05)

b. The number and amount of registered securities sold in Idaho, for SCOR offerings and offerings registered by qualification. (3-24-05)

02. Signatures. The written statement must be signed by an officer, director or agent of the issuer or by an authorized signatory of the registrant. (3-24-05)

040. ANNUAL REPORT FOR THE RENEWAL OF A REGISTRATION STATEMENT.

To renew a registration statement for an additional year, the registrant shall file the following with the Department before the anniversary of the effective date of the registration statement in Idaho: (3-24-05)

01. Cover Letter. A cover letter requesting renewal; (3-24-05)

02. Consent to Service. A consent to service of process (Form U-2) in accordance with Section 30-14-611, Idaho Code; and (3-24-05)

03. Filing Fee. A filing fee of three hundred dollars (\$300) for all registered offerings. (3-24-05)

041. SUBSCRIPTION AGREEMENT.

The subscription agreement shall contain, among other things, an acknowledgment by the subscriber that he has received a copy of the prospectus. Each completed subscription agreement shall be kept in the office of the issuer or broker-dealer for a period of five (5) years and be subject to inspection by the Department. (3-24-05)

042. DELIVERY OF PROSPECTUS.

As a condition of registration, an applicant shall comply with the following: (3-24-05)

01. Registration by Qualification. A person offering or selling a security under a registration by qualification, other than through a broker-dealer, shall deliver a copy of the final prospectus to each prospective purchaser before or at the time of the confirmation of a sale made by or for the account of the person. (3-24-05)

02. Registration by Coordination. A person offering or selling a security under a registration by coordination shall deliver a copy of the prospectus as required by the Securities Act of 1933. (3-24-05)

043. REGISTRATIONS -- NOTICE OF INTENDED IDAHO BROKER -- DEALER OR AGENT.

At the time of filing of an application for registration of any security required to be registered in Idaho, written notice shall be provided to the Department of the name of at least one (1) broker-dealer or agent, registered as such in this state, that is intended or qualified to offer or sell such security in Idaho. The Administrator may deny or revoke effectiveness of any registration pending receipt of the notice or may hold the application without further review until the notice has been received. (3-24-05)

044. RECORDS TO BE PRESERVED BY ISSUERS.

01. Required Records. All issuers who effect sales of registered securities, other than through a broker-dealer, shall preserve the following records for at least three (3) years following the expiration of the registration: (3-24-05)

- a.** Copies of all documents contained in the registration statement; (3-24-05)
- b.** Copies of all advertisements, including a record of the dates, names and addresses of media carrying those advertisements; (3-24-05)
- c.** Copies of all communications received and sent by the issuer pertaining to the offer, sale and transfer of the securities, including purchase agreements and confirmations; and (3-24-05)
- d.** A list of the name, address and telephone number of each investor to whom the securities were sold, and for each such person, information regarding: (3-24-05)
 - i.** The type of securities sold; (3-24-05)
 - ii.** The number and amount of securities sold; (3-24-05)
 - iii.** The type of consideration paid; and (3-24-05)
 - iv.** The name of the agent that sold the securities. (3-24-05)

02. Retention Period. An issuer will need to retain the records set forth in Subsection 044.01 of this rule for each investor at least three (3) years after the investor's investment has terminated, even if more than three (3) years has lapsed since the expiration of the registration. (3-24-05)

03. Form. Records may be stored in paper form or electronically. (3-24-05)

045. EXAMINATION OF APPLICATION.

The Department shall conduct a special examination of each application for registration under Sections 30-14-303 and 30-14-304, Idaho Code, to determine the adequacy of disclosure and to fulfill the Department's obligations under Section 30-14-306, Idaho Code. This examination shall be based upon material contained in the registration statement and any other documentation which the applicant may be required to submit. Each application for registration shall be accompanied by the filing fee set forth in Section 30-14-305(b), Idaho Code. The examination report shall consist of the Department's written comments regarding the filing. (3-24-05)

046. ON-SITE EXAMINATION OF ISSUERS.

The business and records of issuers offering and/or selling securities in, or out of, Idaho may be subject to periodic on-site examinations by the Administrator, or his designee, at such times as the Administrator determines necessary for the protection of the public. (3-24-05)

047. ADVERTISING.

01. Definitions. The following words and terms, when used in Section 047, of these rules, have the following meaning, unless the context clearly indicates otherwise: (3-24-05)

a. "Sales literature" means material published, or designed for use, in a newspaper, magazine or other periodicals, radio, television, telephone solicitation or tape recording, videotaped display, signs, billboards, motion pictures, telephone directories (other than routine listings), other public media and any other written communication distributed or made generally available to customers or the public including, but not limited to, prospectuses, pamphlets, circulars, form letters, seminar texts, research reports, surveys, performance reports or summaries and reprints or excerpts of other sales literature or advertising to include publications in electronic format. (3-24-05)

b. "Sales literature package" means all submissions of sales literature to the Department under one (1) posting or delivery relating to a specific issue of securities. (3-24-05)

02. Filing Requirement. Pursuant to Section 30-14-504, Idaho Code, this rule requires the filing of all sales literature for review and response by the Administrator before use or distribution in Idaho. A complete filing shall consist of the sales literature package and a representation by the applicant, issuer or broker-dealer, that reads substantially as follows: "I ----- hereby attest and affirm that the enclosed sales literature or advertising package contains no false or misleading statements or misrepresentations of material facts, and that all information set forth therein is in conformity with the Company's most recently amended registration statement as filed with the Department on or about -----." (3-29-17)

03. Exemption From Filing. The following types of sales literature are excluded from the filing requirements set forth herein: (3-24-05)

a. Sales literature which does nothing more than identify a broker-dealer or investment adviser, and/or offer a specific security at a stated price; (3-29-17)

b. Internal communications that are not distributed to the public; (3-24-05)

c. Prospectuses, preliminary prospectuses, prospectus supplements and offering circulars which have been filed with the Department as part of a registration statement, including a final printed copy if clearly identified as such; (3-24-05)

d. Sales literature solely related to changes in a name, personnel, location, ownership, offices, business structure, officers or partners, telephone or teletype numbers; (3-29-17)

e. Sales literature filed with and approved by FINRA, the SEC, or other regulatory agency with substantially similar requirements; (3-29-17)

f. Sales literature relating to certain federal covered securities as set forth in Section 30-14-504(b), Idaho Code. (3-29-17)

04. Piecemeal Filings. The Department will not approve any sales literature package until a complete filing is received. Piecemeal filings will not be accepted and will result in the disapproval of any materials submitted therewith. (3-24-05)

05. Application of Antifraud Provisions. Sales literature used in any manner in connection with the offer or sale of securities is subject to the provisions of Section 30-14-501, Idaho Code, whether or not such sales literature is required to be filed pursuant to Section 30-14-504, Idaho Code, or Section 047 of these rules. Further, sales literature filed with the Department is subject to the provisions of Sections 30-14-501 and 30-14-505, Idaho Code. Sales literature should be prepared accordingly and should not contain any ambiguity, exaggeration or other misstatement or omission of material fact, which might confuse or mislead an investor. (3-29-17)

06. Prohibited Disclosures. Unless stating that the Administrator or Department has not approved the merits of the securities offering or the sales literature, no sales literature shall contain a reference to the Administrator or Department unless such reference is specifically requested by the Administrator. (3-24-05)

048. DEPARTMENT ACCESS.

Each issuer examined shall provide the personnel of the Department access to business books, documents, and other records. Each issuer shall provide personnel with office space and facilities to conduct an on-site examination, and assistance in the physical inspection of assets and confirmation of liabilities. Failure of any issuer to comply with any provision here of shall constitute a violation of Section 048, of these rules, and shall be a basis for denial, suspension or revocation of the registration or application for registration or other administrative or civil action by the Department. (3-24-05)

049. -- 051. (RESERVED)

052. ISSUER AGENT REGISTRATION.

Any individual not exempted pursuant to Sections 30-14-402(b)(3), (4) or (5), Idaho Code, must be registered as an issuer agent or comply with the registration requirement of Section 30-14-402(a), Idaho Code, if the individual is

compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities. (3-29-17)

053. FEDERAL COVERED SECURITIES.

01. Investment Company Notices. (3-24-05)

a. Notice Requirement. Pursuant to Section 30-14-302, Idaho Code, prior to the offer in this state of a series or portfolio of securities of an investment company that is registered, or that has filed a registration statement, under the Investment Company Act of 1940, that is not otherwise exempt under Sections 30-14-201 through 30-14-203, Idaho Code, the issuer must file a notice with the Administrator relating to such series or portfolio of securities. (3-24-05)

b. Content of Notice. Each notice shall include the following: ()

- i. A properly completed Form NF; (3-24-05)
- ii. A consent to service of process (Form U-2); (3-24-05)
- iii. A filing fee of three hundred dollars (\$300) for mutual funds and one hundred dollars (\$100) for unit investment trusts; and (3-29-17)
- iv. Notification of SEC effectiveness. (3-24-05)

c. Renewal of Notice. The effectiveness of a notice required pursuant to Subsection 053.01.a. of this rule may be renewed each year for an additional one (1) year period of effectiveness by filing on or before the expiration of the effectiveness of such notice: (3-24-05)

- i. A properly completed Form NF clearly indicating the state file number of the Notice to be renewed; (3-24-05)
- ii. A consent to service of process (Form U-2) in accordance with Section 30-14-611, Idaho Code; and (3-24-05)
- iii. A renewal fee of three hundred dollars (\$300) for mutual funds and one hundred dollars (\$100) for unit investment trusts. (3-24-05)

d. Amendments. Amendment filings are required for the following: (3-24-05)

- i. Issuer name change; (3-24-05)
- ii. Address change for contact person; and (3-24-05)
- iii. Notification of termination or completion. (3-24-05)

e. Other Documents. Documents other than those required in Subsections 053.01.b., 053.01.c., and 053.01.d. of this rule, unless specifically requested by the Department, should not be filed with the Department. Documents that should be filed with the Department only if specifically requested include, but are not limited to, registration statements, prospectuses, amendments, statements of additional information, quarterly reports, annual reports, and sales literature. (3-29-17)

02. Regulation D Rule 506 Notice Filing. (3-24-05)

a. Notice Requirement. Issuers offering a security in this state in reliance upon Section 30-14-301, Idaho Code, by reason of compliance with Regulation D, Rule 506, adopted by the United States Securities and Exchange Commission, shall be required to file a notice with the Department or with EFD pursuant to the authority of Section 30-14-302(c), Idaho Code, if a sale of a security in this state occurs as a result of such offering. (3-29-17)

b. Terms of Notice Filing. The issuer shall file with the Department or with EFD no later than fifteen (15) days after the first sale of a security in this state for which a notice is required under Subsection 053.02.a. of this rule: (3-29-17)

i. One (1) copy of the SEC-filed Form D; and (3-29-17)

ii. The notice filing fee of fifty dollars (\$50). (3-24-05)

iii. A cover letter should be included in the notice filing which states the date in which the first sale of securities occurred in Idaho. (3-24-05)

c. Terms of Late Notice Filing. An issuer failing to file with the Administrator as provided in Subsection 053.02.b. of this rule may submit its notice filing as provided in Subsection 053.02.b. of this rule with an additional fifty dollars (\$50) late filing payment within thirty (30) days after the first sale of a security in this state. Failure to file a notice on or before the thirtieth day after the first sale of a securities in Idaho will result in the inability of the issuer to rely on Section 30-14-302(c), Idaho Code, for qualification of the offering in Idaho. ()

d. Issuer Agent Registration. Pursuant to Section 30-14-402(b)(5), Idaho Code, an individual who represents an issuer who effects transactions in a federal covered security under Section 18(b)(4)(D) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)(D)) is not exempt from the registration requirements of Section 30-14-402(a), Idaho Code, if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities. In addition, if such person is registered as a broker-dealer or agent in another state or with FINRA, or affiliated with a broker-dealer registered in another state, with the SEC or FINRA, then such person must also be similarly registered in Idaho. (3-29-17)

054. NOT FOR PROFIT DEBT SECURITIES NOTICE FILING.

01. Securities Exempt. With respect to the offer or sale of a note, bond, debenture, or other evidence of indebtedness, such issuers relying upon the exemption from registration provided in Section 30-14-201(7), Idaho Code, shall file a notice with the Administrator at least thirty (30) days prior to the first offering of sale pursuant to such claim. Such exemption shall become effective thirty (30) days after the filing of a complete notice if the Administrator has not disallowed the exemption. (3-24-05)

02. Notice Information. The notice required in Subsection 054.01 of this rule shall specify, in writing, the material terms of the proposed offer or sale to include, although not limited to, the following: (3-24-05)

a. The identity of the issuer; (3-24-05)

b. The amount and type of securities to be sold pursuant to the exemption; (3-24-05)

c. A description of the use of proceeds of the securities; and (3-24-05)

d. The person or persons by whom offers and sales will be made. (3-24-05)

03. Notice Requirements. The following items must be included as a part of the notice in Subsection 054.01 of this rule: (3-24-05)

a. The offering statement, if any; and (3-24-05)

b. A consent to service of process (Form U-2). (3-24-05)

04. Sales and Advertising Literature. All proposed sales and advertising literature to be used in connection with the proposed offer or sale of the securities shall be filed with the Administrator only upon request. (3-24-05)

05. NASAA Statements of Policy or Guidelines. The Statements of Policy or guidelines adopted by

NASAA may be applied, as applicable, to the proposed offer or sale of a security for which a notice must be filed pursuant to this rule. Failure to comply with the provisions of an applicable Statement of Policy or guideline promulgated by NASAA may serve as the grounds for disallowance of the exemption from registration provided by Section 30-14-201(7), Idaho Code. (3-24-05)

06. Waiver. The Administrator may waive any term or condition set forth in this rule. (3-24-05)

055. MORTGAGE NOTE EXEMPTION.

01. Investment Contract or Profit-Sharing Agreement. The exemption specified in Section 30-14-202(11), Idaho Code, shall not extend to any transaction in a security in the nature of an investment contract or profit-sharing agreement. (3-24-05)

02. Definition “Offered and Sold as a Unit.” As used in Section 30-14-202(11), Idaho Code, “offered and sold as a unit” means an offer and sale of the entire mortgage or other security agreement to a single purchaser at a single sale. (3-24-05)

056. MANUAL EXEMPTION.

For the purpose of the manual exemption (Section 30-14-202(2), Idaho Code), the following securities manuals or portions of the manuals are recognized. (3-24-05)

a. Best’s Insurance Reports- Life-Health. (3-24-05)

b. Mergent’s Industrial Manual. (3-24-05)

c. Mergent’s International Manual. (3-24-05)

d. Walkers Manual of Western Corporations. (3-24-05)

057. MINING, OIL OR GAS EXPLORATION EXEMPTION REQUIREMENTS.

01. Legal Opinion for Extractive Industries. If the Department deems it necessary or advisable in the public interest or for the protection of investors, it may require an issuer engaged in mining, gas, or oil exploration or extraction to submit an opinion of counsel on the nature of the title held to the property noting any defects or liens or both, and the principal terms of any lease or option with respect to the property. If continued possession of the property by the issuer depends upon the satisfaction of certain working conditions, describe these conditions and state the extent to which they have been met. The Department may require other issuers to submit a status of title to any real estate which is material to the business of the issuer. (3-29-17)

02. Quarterly Reports. The issuer shall file quarterly reports, on the “Quarterly Report Form for Small Mining Issues.” during the time the securities remain registered. Such reports are due within thirty (30) days following the end of the issuer’s quarter. Failure to comply with this rule could be grounds for suspension or revocation of a permit. (3-24-05)

03. Advertising. The only advertising of exempt mining securities, whether on radio, television, print media, or other medium, shall be restricted to announcing the securities offering and stating the name and address of the issuer, the type of security, the underwriter, and where additional information may be obtained. (3-24-05)

04. Offering Circulars. All offers of the security must be accompanied by a complete, current offering circular previously reviewed by the Administrator adequate to satisfy the antifraud provisions of the Act. (3-24-05)

058. STOCK EXCHANGE LISTED SECURITIES.

Stock exchanges specified by or approved under Section 30-14-201(6), Idaho Code, are as follows: (3-24-05)

01. The New York Stock Exchange; (3-24-05)

02. The American Stock Exchange; (3-24-05)

- 03. The NASDAQ Global Market and Global Select Market; (3-29-17)
- 04. The Chicago Stock Exchange; (3-24-05)
- 05. The Chicago Board Options Exchange; (3-24-05)
- 06. Tier I of the Pacific Stock Exchange; and (3-24-05)
- 07. Tier I of the Philadelphia Stock Exchange, Inc. (3-24-05)

059. (RESERVED)

060. REGISTRATION OR EXEMPTION OF “BLIND POOL” OFFERINGS PROHIBITED.

An offering in which it is proposed to issue stock or other equity interest without an allocation of proceeds to sufficiently identifiable properties or objectives shall be considered a “blind pool” offering and one in which the duty to provide full disclosure cannot be met. Because of the inability or failure to make full disclosure, the Department is of the position that the offering would work a fraud upon purchasers and, therefore, the offering may not be registered or qualify for an exemption from registration in Idaho. (3-24-05)

061. CROSS-BORDER TRANSACTIONS EXEMPTION.

By authority delegated to the Administrator in Section 30-14-203, Idaho Code, transactions effected by a Canadian broker-dealer and its agents that meet the requirements for exemption from registration pursuant to Section 084 of these rules, are determined to be classes of transactions for which registration is not necessary or appropriate for the protection of investors and are exempt from Sections 30-14-301 and 30-14-504, Idaho Code. (3-24-05)

062. DESIGNATED MATCHING SERVICES.

01. In General. Sections 30-14-301 through 30-14-305, Idaho Code, shall not apply to any offer or sale of a security by an issuer in a transaction that meets the requirements of this rule. A designated matching service shall not be deemed a broker-dealer subject to registration within the meaning of the Act or the rules thereunder. (3-24-05)

02. Definitions. The following words and terms, when used in this rule, shall have the following meanings, unless the context clearly indicates otherwise. (3-24-05)

a. Designated Matching Service. Means a matching service designated by the Administrator under Section 062 of these rules. (3-24-05)

b. Designated Matching Service Facility. Means a computer system operated, or a seminar or meeting conducted, by a designated matching service. (3-24-05)

c. Individual Accredited Investor. Means any natural person whose individual net worth, or joint net worth with that person’s spouse, at the time of his or her purchase, exceeds one million dollars (\$1,000,000) or any natural person who had an individual income in excess of two hundred thousand dollars (\$200,000) in each of the two (2) most recent years or joint income with that person’s spouse in excess of three hundred thousand dollars (\$300,000) in each of those years and has a reasonable expectation of reaching the same income level in the current year. In addition each purchaser must evidence such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment. The term “individual accredited investor” also includes any self-directed employee benefit plan with investment decisions made solely by persons that are “individual accredited investors” as defined in Subsection 062.02.c. of this rule, and the individual retirement account of any such individual accredited investor. (3-24-05)

d. Investor Member. Means an investor who has been properly qualified by and uses a designated matching service. Either of the following investors may be properly qualified: any institutional investor as described in Section 30-14-102(11), Idaho Code, or an individual accredited investor as defined in this rule. (3-29-17)

- e. Issuer Member. Means an issuer who uses a designated matching service facility. (3-24-05)
- f. Summary Business Plan. Means a brief statement specifically describing the issuer, its management, its products or services, and the market for those products or services. Other information, including, specifically, financial projections, must not be included in a summary business plan. (3-24-05)
- 03. Application.** A person may apply to the Administrator to be a designated matching service by filing such forms as required by the Administrator. No designation will be made unless the applicant demonstrates that it: (3-24-05)
- a. Owns, operates, sponsors, or conducts a matching service facility limited to providing investor members with the summary business plans and identities of issuer members; (3-24-05)
- b. Will not be involved in any manner in the sale, offer for sale, solicitation of a sale or offer to buy, a security other than as set forth in Subsection 062.03.a. of this rule; (3-24-05)
- c. Will make a reasonable factual inquiry to determine whether an investor member is properly qualified; (3-24-05)
- d. Is a governmental entity, quasi-governmental entity, an institution of higher education or an Idaho nonprofit corporation that is associated with a governmental or quasi-governmental entity or an institution of higher education; (3-24-05)
- e. Does not employ any person required to be registered under the Act as a broker-dealer, investment adviser, agent, or investment adviser representative; (3-24-05)
- f. Does not have, and does not employ any person who has a business relationship with any investor member or issuer member other than to provide such member access to the matching service facility; (3-24-05)
- g. Charges fees only in an amount necessary to cover its reasonable operating costs and that are unrelated to the amount of money being raised by any issuer member or the amount of securities sold by any issuer member; (3-24-05)
- h. Agrees to not use any advertisement of its matching service facility that advertises any particular issuer or any particular securities or the quality of any securities or that is false or misleading or otherwise likely to deceive a reader thereof; and (3-24-05)
- i. Meets such other conditions as the Administrator considers appropriate for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act, and the rules thereunder. (3-24-05)
- 04. Designation Consistent with Act.** Designation under this rule is not available to any matching service formed in a manner that constitutes part of a scheme to violate or evade the provisions of the Act or rules thereunder. (3-24-05)
- 05. Withdrawal of Designation.** The Administrator, upon ten (10) days notice and hearing before the Administrator or a hearing officer, may withdraw a person's designation as a matching service if the person does not meet the standards for designation provided in this rule. (3-24-05)
- 06. Disqualifications.** (3-24-05)
- a. No exemption under this rule shall be available for the securities of any issuer if the issuer: (3-24-05)
- i. Within the last five (5) years, has filed a registration statement which is the subject of a currently effective registration stop order entered by the United States Securities and Exchange Commission or any state securities administrator; (3-24-05)

ii. Within the last five (5) years, has been convicted of any criminal offense in connection with the offer, purchase, or sale of any security or any felony involving fraud or deceit or a misdemeanor involving financial fraud; (3-24-05)

iii. Is the subject of any state or federal administrative enforcement order, entered within the last five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or (3-24-05)

iv. Is the subject of any order, judgment or decree of any court of competent jurisdiction, entered within the last five (5) years, temporarily, preliminarily or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security. (3-24-05)

b. For purposes of this rule, the term “issuer” includes: (3-24-05)

i. Any of the issuer’s predecessors or any affiliated issuer; (3-24-05)

ii. Any of the issuer’s directors, officers, general partners, or beneficial owners of ten percent (10%) or more of any class of its equity securities (beneficial ownership meaning the power to vote or direct the vote or the power to dispose or direct the disposition of such securities); (3-24-05)

iii. Any of the issuer’s promoters presently connected with the issuer in any capacity, including: (3-24-05)

(1) Any person who, acting alone or in conjunction with one (1) or more other persons, directly or indirectly takes initiative in founding and organizing the business or enterprise of an issuer; or (3-24-05)

(2) Any person who, in connection with the founding and organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property, or both services and property, ten percent (10%) or more of any class of securities of the issuer or ten percent (10%) or more of the proceeds from the sale of any class of such securities; however, a person who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of Subsection 062.06.b.iii. of this rule, if such person does not otherwise take part in founding and organizing the enterprise. (3-24-05)

iv. Any underwriter of the issuer. (3-24-05)

c. The exemption under this rule is not available to an issuer that is in the development stage that either has no specific business plan or purpose or had indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person. (3-24-05)

07. Notice of Transaction. The issuer shall file with the Administrator a notice of transaction, consent to service of process (Form U-2), and a copy of its summary business plan within fifteen (15) days after the first sale in this state. (3-24-05)

063. -- 077. (RESERVED)

078. IMPLEMENTATION OF CRD.

01. Designation and Use of CRD System. Pursuant to Section 30-14-406, Idaho Code, the Administrator designates the web-based Central Registration Depository (CRD) operated by FINRA to receive and store filings and collect related fees from broker-dealers, agents and investment adviser representatives on behalf of the Administrator. Forms U-4, U-5, BD, BR, and BDW shall be used to register or terminate agents, investment adviser representatives or broker-dealers, respectively, in the state of Idaho through the CRD system. The CRD system will be utilized to effect FINRA registration as well as registration, termination, and renewal in the state. (3-29-17)

02. Registrations Not Automatic. A filing of Form U-4, BD, or BR with the CRD system does not constitute an automatic registration in Idaho. Broker-dealers and investment advisers should not consider agents or investment adviser representatives registered until such approval from the state of Idaho has been received by them through CRD. (3-29-17)

03. Electronic Signature. When a signature or signatures are required by the particular instructions of any filing to be made through CRD, a duly authorized officer of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing to CRD. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing. (3-24-05)

079. IMPLEMENTATION OF IARD.

01. Designation. Pursuant to Section 30-14-406, Idaho Code, the Administrator designates the web-based Investment Adviser Registration Depository (IARD) operated by FINRA to receive and store filings and collect related fees from investment advisers on behalf of the Administrator. (3-29-17)

02. Use of IARD. Unless otherwise provided, all investment adviser applications, amendments, reports, notices, related filings and fees required to be filed with the Administrator pursuant to the rules promulgated under the Act, shall be filed electronically with and transmitted to IARD. The following additional conditions relate to such electronic filings: (3-24-05)

a. Electronic Signature. When a signature or signatures are required by the particular instructions of any filing to be made through IARD, a duly authorized officer of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing to IARD. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing. (3-24-05)

b. When Filed. Solely for purposes of a filing made through IARD, a document is considered filed with the Administrator when all fees are received and the filing is accepted by IARD on behalf of the state. (3-24-05)

03. Electronic Filing. The electronic filing of any particular document and the collection of related processing fees shall not be required until such time as IARD provides for receipt of such filings and fees and thirty (30) days notice is provided by the Administrator. Any documents or fees required to be filed with the Administrator that are not permitted to be filed with or cannot be accepted by IARD shall be filed directly with the Administrator. (3-24-05)

04. Hardship Exemptions. Subsection 079.04 of this rule provides two (2) "hardship exemptions" from the requirements to make electronic filings as required by the rules. (3-24-05)

a. Temporary Hardship Exemption. (3-24-05)

i. Investment advisers registered or required to be registered under the Act who experience unanticipated technical difficulties that prevent submission of an electronic filing to IARD may request a temporary hardship exemption from the requirements to file electronically. (3-24-05)

ii. To request a temporary hardship exemption, the investment adviser must file Form ADV-H which can be found at 17 CFR 279.3 in paper format with the Administrator where the investment adviser's principal place of business is located, no later than one (1) business day after the filing (that is the subject of the Form ADV-H) was due; and submit the filing that is the subject of the Form ADV-H in electronic format to IARD no later than seven (7) business days after the filing was due. (3-24-05)

iii. Effective Date - Upon Filing. The temporary hardship exemption will be deemed effective upon receipt by the Administrator of the complete Form ADV-H. Multiple temporary hardship exemption requests within the same calendar year may be disallowed by the Administrator. (3-24-05)

b. Continuing Hardship Exemption. (3-24-05)

i. Criteria for Exemption. A continuing hardship exemption will be granted only if the investment adviser is able to demonstrate that the electronic filing requirements of this rule are prohibitively burdensome.

(3-24-05)

ii. To apply for a continuing hardship exemption, the investment adviser must file Form ADV-H which can be found at 17- CFR 279.3 in paper format with the Administrator at least twenty (20) business days before a filing is due; and, if a filing is due to more than one (1) securities regulator, the Form ADV-H must be filed with the Administrator where the investment adviser's principal place of business is located. The Administrator who receives the application will grant or deny the application within ten (10) business days after the filing of Form ADV-H.

(3-24-05)

iii. Effective Date - Upon Approval. The exemption is effective upon approval by the Administrator. The time period of the exemption may be no longer than one (1) year after the date on which the Form ADV-H is filed. If the Administrator approves the application, the investment adviser must, no later than five (5) business days after the exemption approval date, submit filings to IARD in paper format (along with the appropriate processing fees) for the period of time for which the exemption is granted.

(3-24-05)

080. BROKER-DEALER REGISTRATION -- APPLICATION/RENEWAL.

01. Initial Application -- FINRA Member Firms. Broker-dealers applying for initial registration pursuant to Section 30-14-406, Idaho Code, and who are contemporaneously applying for FINRA membership or who are a FINRA member, shall file:

(3-29-17)

a. With CRD, a completed Form BD, including Schedules A-D; (3-29-17)

b. With CRD, a filing fee as specified in Section 30-14-410, Idaho Code; (3-24-05)

c. With CRD, the Form BR. (3-29-17)

02. Initial Application -- Non-FINRA Member Firms. Broker-dealers applying for initial registration pursuant to Section 30-14-406, Idaho Code, and who are not contemporaneously applying for FINRA membership or are not a FINRA member, shall file with the Department:

(3-29-17)

a. A completed Form BD, including Schedules A-E; (3-24-05)

b. The filing fee specified in Section 30-14-410, Idaho Code; (3-24-05)

c. Audited financial statements; (3-24-05)

d. Documentation of compliance with the minimum capital requirements of Section 087 of these rules; (3-24-05)

e. Designation and qualification of a principal officer; (3-24-05)

f. A list of the addresses, telephone numbers and resident agents of all office locations within the state of Idaho, to be provided within sixty (60) days of becoming registered; (3-24-05)

g. A copy of the written supervisory procedures of the broker-dealer; (3-24-05)

h. Any additional documentation, supplemental forms and information as the Administrator may deem necessary. (3-24-05)

03. Incomplete Applications. After a period of six (6) months from date of receipt, an incomplete application will automatically be considered abandoned and withdrawn if the requirements have not been fulfilled.

(3-24-05)

04. Annual Renewal. (3-24-05)

a. A FINRA member shall renew its registration by submitting the renewal fee specified in Section 30-14-410, Idaho Code, to the CRD according to their policies and procedures. A non-FINRA member shall renew its registration by submitting to the Department current information required for initial registration, and the renewal fee specified in Section 30-14-410, Idaho Code. (3-29-17)

b. It is required that an application for the renewal of the registration of a broker-dealer must be filed with the Department before the registration expires, which is the thirty-first day of December next following such registration, per the provisions of Section 30-14-406(d), Idaho Code. Any registration that is not renewed within that time limit will be deemed to have lapsed, thus requiring the broker-dealer to reapply for registration with the Department in accordance with the requirements of the Act. (3-24-05)

05. Updates and Amendments. (3-24-05)

a. A broker-dealer must file with CRD, in accordance with the instructions in Form BD, any amendments to the broker-dealer's Form BD. All broker-dealers must assure that current and accurate information is on file with the Department at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form BD or by direct notice to the Department. (3-24-05)

b. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment. (3-29-17)

c. **Litigation Notice.** Any broker-dealer shall notify the Administrator in writing or through the CRD of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement does not include minor traffic violations or minor civil actions unrelated to the registrant's business as a broker-dealer. (3-24-05)

d. **Notice of Address.** Every broker-dealer shall provide the Department, with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. (3-24-05)

e. **Change of Name.** If a registered broker-dealer desires to change its name, notice of such an intent must be submitted to the CRD or this Department for non-FINRA members, either before or within a reasonable time after the effective date of the change. The name change will not be effective in this state until the notice is received. (3-29-17)

06. Completion of Filing. An application for initial or renewal registration is not considered filed for purposes of Section 30-14-406, Idaho Code, until the required fee and all required submissions have been received by the Administrator. (3-24-05)

07. Deferral of Effectiveness. The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

081. WITHDRAWAL OF BROKER -- DEALER AND AGENT REGISTRATION.

01. Application Withdrawal. Withdrawal from registration as a broker-dealer or agent becomes effective thirty (30) days after receipt of an application to withdraw or within such shorter period of time as the Administrator may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within sixty (60) days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the Administrator by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the Administrator may nevertheless institute a revocation or suspension proceeding under Section 30-14-412, Idaho Code, within one (1) year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration is effective. (3-24-05)

02. Broker-Dealer. The application for withdrawal of registration as a broker-dealer shall be completed by following the instructions on Form BDW and filing Form BDW with CRD. (3-24-05)

03. Agents. The application for withdrawal of registration as an agent shall be completed by following the instructions on Form U-5 and filed upon Form U-5 with CRD. (3-24-05)

082. WITHDRAWAL OF AGENT OF ISSUER REGISTRATION.

01. Pending Revocation or Suspension. Withdrawal from registration as an agent of issuer becomes effective thirty (30) days after receipt of an application to withdraw or within such shorter period of time as the Administrator may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within sixty (60) days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the Administrator by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the Administrator may nevertheless institute a revocation or suspension proceeding under Section 30-14-412, Idaho Code, within one (1) year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration is effective. (3-24-05)

02. Agent of Issuer. The application for withdrawal of registration as an agent of issuer shall be completed by following the instructions on Form U-5 and filed upon Form U-5 with the Department. (3-24-05)

083. BROKER-DEALER AGENT/ISSUER AGENT REGISTRATION.

01. Broker-Dealer Agents. Agents of broker-dealers applying for initial registration in the state of Idaho pursuant to Section 30-14-406, Idaho Code, shall file the following: (3-24-05)

- a.** With CRD, a completed Form U-4; (3-24-05)
- b.** With CRD, the filing fee specified in Section 30-14-410, Idaho Code; (3-24-05)
- c.** With CRD, proof of successful completion of the applicable examinations specified in Section 103 of these rules; (3-24-05)
- d.** With the Department, any additional documentation, supplemental forms and information as the Administrator may deem necessary; (3-24-05)
- e.** With the Department, Subsections 083.01.a. through 083.01.d. of this rule, for any agent of a non-FINRA member. (3-29-17)

02. Agents of Issuer. (3-24-05)

a. Agents of issuers applying for initial registration in the state of Idaho pursuant to Section 30-14-406, Idaho Code, shall file the following with the Department: (3-24-05)

- i.** A completed Form U-4; (3-24-05)
- ii.** The fee specified in Section 30-14-410, Idaho Code; (3-24-05)
- iii.** Proof of successful completion of the applicable examination(s) specified in Section 103 of these rules; (3-24-05)
- iv.** Proof of a bond of a surety company duly authorized to transact business in this state, said bond to be in the sum of ten thousand dollars (\$10,000) and conditioned upon faithful compliance with the provisions of the Act by the agent, such that upon failure to so comply by the agent, the surety company shall be liable to any and all persons who may suffer loss by reason thereof. Provided, however, that the obligation of the surety bond must be maintained at all times in the amount therein provided; and provided further, that a certificate of deposit issued by any bank in the state of Idaho and assigned to the Administrator in an amount equal to the bond which would otherwise be

required may be accepted by the administrator in lieu of a bond, if the certificate of deposit is maintained at all times in the amount and manner herein provided during the term for which the registration is effective and for three (3) years thereafter; (3-24-05)

v. Any additional documentation, supplemental forms and information as the Administrator may deem necessary. (3-24-05)

b. An individual who represents an issuer that effects transactions in a federal covered security under Section 18(b)(3) (transactions relating to “qualified purchasers” as that term may be defined by the SEC) or 18(b)(4)(D) (commonly known as Regulation D, Rule 506) of the Securities Act of 1933 is not exempt from the registration requirements of Section 30-14-402(a), Idaho Code, if the individual is compensated, directly or indirectly, for participation in the specified securities transactions. (3-24-05)

c. Exceptions for officers. If there are not more than two (2) officers of an issuer, such officers may be registered as agents for a particular original offering of the issuer’s securities without being required to pass such written examination or file an agent’s bond as provided in Subsection 083.02.a.iii. and 083.02.a.iv. of this rule, unless such person has registered under this rule within the prior five (5) years. ()

03. Incomplete Applications. After a period of six (6) months from date of receipt, an incomplete application will automatically be considered abandoned and withdrawn if the requirements have not been fulfilled. (3-24-05)

04. Annual Renewal. (3-24-05)

a. Broker-Dealer Agent. Agents of FINRA members shall renew their registrations by submitting the renewal fee specified in Section 30-14-410, Idaho Code, to the CRD. Agents of non-FINRA members shall renew their registrations by submitting a completed renewal application and a renewal fee as specified in Section 30-14-410, Idaho Code. (3-29-17)

b. Issuer Agent. Issuer agents shall renew their registrations by submitting a completed renewal application and a renewal fee as specified in Section 30-14-410, Idaho Code. (3-24-05)

05. Updates and Amendments. (3-24-05)

a. A broker-dealer agent or agent of issuer must file with CRD, or with this Department, in accordance with the instructions in Form U-4, any amendments to the broker-dealer agent’s or issuer agent’s Form U-4. It is the responsibility of each broker-dealer agent or issuer agent to assure that current and accurate information is on file with the Department at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form U-4 or by direct notice to the Department. (3-24-05)

b. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment. (3-29-17)

c. Litigation Notice. Any broker-dealer agent or issuer agent shall notify the Administrator in writing or through the CRD of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement does not include minor traffic violations or minor civil actions unrelated to the registrant’s business as a broker-dealer. (3-24-05)

d. Notice of Address. Every broker-dealer agent and issuer agent shall provide the Department with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. (3-24-05)

e. Change of Name. If a registered broker-dealer agent or issuer agent changes his or her name, notice of such must be submitted to the CRD or this Department within a reasonable time after the effective date of the change. The name change will not be effective in this state until the notice is received. (3-24-05)

06. Completion of Filing. An application for initial or renewal registration is not considered complete for purposes of Section 30-14-406(c), Idaho Code, until the required fee and all amendments, including submissions requested by the Department, have been received by the Department. ()

07. Deferral of Effectiveness. The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

084. CROSS-BORDER LICENSING EXEMPTION.

By authority delegated to the Administrator in Section 30-14-401(d), Idaho Code, a Canadian broker-dealer meeting all of the following conditions is determined to be exempt from the registration requirement in Section 30-14-401(a), Idaho Code: (3-24-05)

01. Canadian Broker-Dealer. The broker-dealer is registered in Canada, does not have an office or other physical presence in this state, and is not an office or branch of a broker-dealer domiciled in the United States. (3-24-05)

02. Registered Broker-Dealer. The broker-dealer is registered with or a member of a Canadian self-regulatory organization, stock exchange, or the Bureau des Services Financiers and maintains that registration or membership in good standing. (3-24-05)

03. Customers. The broker-dealer and its agents effect transactions in securities with or for, or induce or attempt to induce the purchase or sale of any security by: (3-24-05)

a. An individual from Canada that temporarily resides or is temporarily present in this state and with whom the broker-dealer had a bona fide broker-dealer-customer relationship before the individual entered the United States; or (3-24-05)

b. An individual present in this state whose transactions relate to a self-directed, tax advantaged Canadian retirement plan of which the individual is the holder or contributor. (3-24-05)

04. Disclosure. The broker-dealer prominently discloses in writing to its clients in this state that the broker-dealer and its agents are not subject to the full regulatory requirement of the Act. (3-24-05)

05. Jurisdiction. Neither the broker-dealer nor its agents disclaim the applicability of Canadian law or jurisdiction to any transaction conducted pursuant to this exemption. (3-24-05)

06. Anti-Fraud Provisions. The broker-dealer and its agents comply with the antifraud provisions of the Act and of federal securities laws. (3-24-05)

07. Consent to Service. Prior to or contemporaneously with the first transaction in Idaho, the broker-dealer must file a consent to service of process (Form U-2) in a manner that effectively appoints the Administrator as agent for service of process. (3-24-05)

08. Provide Requested Information. Any Canadian broker-dealer or agent relying on this exemption shall, upon written request, furnish the Department any information relative to a transaction covered by Section 084, of these rules, that the Administrator deems relevant. (3-24-05)

085. RELICENSING (FORMERLY TEMPORARY AGENT TRANSFER (TAT) SYSTEM).

01. Relicensing Agents. Transfer of agents from one broker-dealer to another shall be effected pursuant to, and in accordance with, the NASAA/CRD relicense program which allows for an automatic temporary license. (3-24-05)

02. Relicensing Investment Adviser Representatives. Transfer of investment adviser representatives from one (1) investment adviser to another shall be effected pursuant to, and in accordance with, the NASAA/CRD relicense program which allows for an automatic temporary license. (3-24-05)

03. Temporary License Expiration. An agent or investment adviser representative may not transact business in Idaho after the expiration of a temporary license unless a permanent license has been issued. In all cases, the Administrator retains the right to deny, suspend, or revoke a temporary license for the causes listed in Section 30-14-412, Idaho Code. (3-24-05)

086. AGENT TERMINATION.

Termination notice pursuant to the requirements of Section 30-14-408, Idaho Code, shall be given by filing within thirty (30) calendar days of termination, a completed Form U-5. For agents terminating registration with a FINRA member, such notice shall be filed with the CRD. For agents terminating registration with a non-FINRA member, such notice shall be filed with the Department. (3-29-17)

087. NET CAPITAL REQUIREMENTS FOR BROKER-DEALERS.

Every registered broker-dealer shall have and maintain an adjusted net capital in compliance with 17 CFR 240.15c3-1 under the Securities Exchange Act of 1934, as currently amended. (3-24-05)

088. RECORDS REQUIRED FOR BROKER-DEALERS.

01. Required Books and Records. Unless otherwise provided by order of the SEC, each broker-dealer registered or required to be registered under the Act shall make, maintain and preserve books and records in compliance with the SEC rules 17a-3 (17 CFR 240.17a-3), 17a-4 (17 CFR 240.17a-4), 15g-9 (17 CFR 240.15g-9) and 15c2-11 (17 CFR 240.15c2-11), which are adopted and incorporated by reference. (3-24-05)

02. Compliance. To the extent that the SEC promulgates changes to the above referenced rules, broker-dealers in compliance with such rules as amended are not subject to enforcement action by the Department for violation of this rule to the extent that the violation results solely from the broker-dealer's compliance with the amended rule. (3-24-05)

089. INVESTMENT ADVISER REGISTRATION -- APPLICATION/RENEWAL.

01. Initial Application. The application for initial registration as an investment adviser, pursuant to Section 30-14-406, Idaho Code, shall be made by completing Form ADV which can be found at 17 CFR 279.1 in accordance with the form instructions and by filing the form with IARD. The application for initial registration shall also include the following: (3-24-05)

a. Proof of compliance by the investment adviser with the examination requirements of Section 103 of these rules; (3-24-05)

b. A bond of a surety company duly authorized to transact business in this state, said bond to be in the sum of twenty-five thousand (\$25,000) and conditioned upon faithful compliance with the provisions of the Act by the investment adviser such that upon failure to so comply by the investment adviser, the surety company shall be liable to any and all persons who may suffer loss by reason thereof. Except that an investment adviser that has its principal place of business in a state other than this state shall be excluded from these bonding requirements provided that such investment adviser is registered as an investment adviser in the state where it maintains its principal place of business and is in compliance with such state's bonding or minimum net worth requirements; (3-29-17)

c. A copy of the investment advisory contract to be executed by Idaho clients; (3-24-05)

d. A balance sheet, prepared substantially in accordance with Generally Accepted Accounting Principles, dated as of the investment adviser's prior fiscal year-end; however, if the investment adviser has not been in operation for an entire year, a balance sheet dated within ninety (90) days of filing shall be submitted; (3-29-17)

e. The fee required by Section 30-14-410, Idaho Code; and; (3-24-05)

f. Any other information the Department may reasonably require. (3-24-05)

02. Incomplete Applications. After a period of six (6) months from the date of receipt by the

Department, an incomplete application will automatically be considered abandoned and withdrawn if the requirements have not been fulfilled. (3-24-05)

03. Annual Renewal. The application for annual renewal registration as an investment adviser shall be filed with IARD according to their policies and procedures. The application for annual renewal registration shall include the fee required by Section 30-14-410, Idaho Code. (3-24-05)

04. Applications Prior to Expiration. An application for the renewal of the registration of an investment adviser must be filed with the Department before the registration expires, which is the thirty-first day of December next following such registration, per the provisions of Section 30-14-406(d), Idaho Code, unless an order is in effect under Section 30-14-412, Idaho Code. Any registration that is not renewed within that time limit will be deemed to have lapsed, thus requiring the investment adviser to reapply for registration with the Department in accordance with the requirements of the Act. (3-29-17)

05. Updates and Amendments. (3-24-05)

a. An investment adviser must file with IARD, in accordance with the instructions in Form ADV, any amendments to the investment adviser's Form ADV. All investment advisers must assure that current and accurate information is on file with the Department at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form ADV or by direct notice to the Department. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment. (3-24-05)

b. Within ninety (90) days of the end of the investment adviser's fiscal year, an investment adviser must file a copy of the investment adviser's balance sheet as of the prior fiscal year-end. (3-24-05)

c. Litigation Notice. Any investment adviser shall notify the Administrator in writing or through the IARD of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement does not include minor traffic violations or minor civil actions unrelated to the registrant's business as an investment adviser. (3-24-05)

d. Notice of Address. Every investment adviser shall provide the Department, through IARD, with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. (3-29-17)

06. Completion of Filing. An application for initial or renewal registration is not considered filed for purposes of Section 30-14-406, Idaho Code, until the required fee and all submissions have been received by the Administrator and until the investment adviser is registered in the jurisdiction where it maintains its principal place of business. ()

07. Deferral of Effectiveness. The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

090. INVESTMENT ADVISER REPRESENTATIVE REGISTRATION – APPLICATION/RENEWAL.

01. Initial Application. The application for initial registration as an investment adviser representative pursuant to Section 30-14-406, Idaho Code, shall be made by completing Form U-4 in accordance with the form instructions and by filing Form U-4 with CRD. The application for initial registration also shall include the following: (3-24-05)

a. Proof of compliance by the investment adviser representative with the examination requirements of Section 103 of these rules; and (3-24-05)

b. The fee required by Section 30-14-410, Idaho Code. (3-24-05)

02. Incomplete Applications. After a period of six (6) months from the date of receipt by the Department, an incomplete application will automatically be considered abandoned and withdrawn if the

requirements have not been fulfilled. (3-24-05)

03. Annual Renewal. The application for annual renewal registration as an investment adviser representative shall be filed with CRD. The application for annual renewal registration shall include the fee required by Section 30-14-410, Idaho Code. (3-24-05)

04. Updates and Amendments. (3-24-05)

a. The investment adviser representative is under a continuing obligation to update information required by Form U-4 as changes occur. All investment adviser representatives must assure that current and accurate information is on file with the Department, through CRD, at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form U-4. (3-29-17)

b. An investment adviser representative and the investment adviser must file promptly with CRD any amendments to the representative's Form U-4. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment. (3-24-05)

c. **Litigation Notice.** Any investment adviser representative shall notify the Administrator in writing, through CRD, of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement shall not include minor traffic violations or minor civil actions unrelated to the registrant's business as an investment adviser representative. (3-24-05)

d. **Change of Name.** If a registered investment adviser representative changes his or her name, notice of such must be submitted to the CRD or this Department either before or within a reasonable time after the effective date of the change. The name change will not be effective in this state until the notice is received. (3-24-05)

e. **Notice of Address.** Every investment adviser representative shall provide the Department, through CRD, with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. (3-29-17)

05. Completion of Filing. An application for initial or renewal registration is not considered filed for purposes of Section 30-14-406, Idaho Code, until the required fee and all submissions have been received by the Administrator. ()

06. Dual Registration Exemption. A person may transact business in this state as an investment adviser representative if he is registered as an agent pursuant to Section 30-14-402, Idaho Code, and is employed by a broker-dealer registered pursuant to Section 30-14-401, Idaho Code, and (3-24-05)

a. The person's investment advisory activities are limited to recommending the investment advisory services of an investment adviser registered under Section 30-14-403, Idaho Code, or a federal covered adviser that has made a notice filing pursuant to Section 30-14-405, Idaho Code, and all such recommendations are made on behalf of the employing broker-dealer; (3-24-05)

b. The person is not compensated directly for making such recommendations; and (3-24-05)

c. The person provides written notice to the administrator that he is relying on this exemption from the requirement to be registered as an investment adviser representative. (3-24-05)

07. Deferral of Effectiveness. The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

091. WITHDRAWAL OF INVESTMENT ADVISER AND INVESTMENT ADVISER REPRESENTATIVE REGISTRATION.

01. Application Withdrawal. Withdrawal from registration as an investment adviser or investment

adviser representative becomes effective thirty (30) days after receipt of an application to withdraw or within such shorter period of time as the Administrator may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within sixty (60) days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the Administrator by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the Administrator may nevertheless institute a revocation or suspension proceeding under Section 30-14-412, Idaho Code, within one (1) year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration is effective.

(3-24-05)

02. Investment Adviser. The application for withdrawal of registration as an investment adviser shall be completed by following the instructions on Form ADV-W which can be found at 17 CFR 279.2 and filed upon Form ADV-W with IARD.

(3-24-05)

03. Investment Adviser Representative. The application for withdrawal of registration as an investment adviser representative shall be completed by following the instructions on Form U-5 and filed upon Form U-5 with CRD.

(3-24-05)

092. NOTICE FILING REQUIREMENTS FOR FEDERAL COVERED ADVISERS.

01. Notice Filing. The notice filing for a federal covered adviser pursuant to Section 30-14-405, Idaho Code, shall be filed with IARD on an executed Form ADV which can be found at 17 CFR 279.1. A notice filing of a federal covered adviser shall be deemed filed when the fee required by Section 30-14-410, Idaho Code, and the Form ADV are filed with and accepted by IARD on behalf of the state.

(3-24-05)

02. When Deemed Filed. The Administrator will deem filed Part 2 of Form ADV if a federal covered adviser provides, within five (5) days of a request, Part 2 of Form ADV to the Administrator. Because the Administrator deems Part 2 of the Form ADV to be filed, a federal covered adviser is not required to submit Part 2 of Form ADV to the Administrator unless requested.

(3-29-17)

03. Renewal. The annual renewal of the notice filing for a federal covered adviser pursuant to Section 30-14-405, Idaho Code, shall be filed with IARD. The renewal of the notice filing for a federal covered adviser shall be deemed filed when the fee required by Section 30-14-410(e), Idaho Code, is filed with and accepted by IARD on behalf of the state.

(3-24-05)

04. Updates and Amendments. A federal covered adviser must file with IARD, in accordance with the instructions in the Form ADV, any amendments to the federal covered adviser's Form ADV.

(3-24-05)

093. RECORDS REQUIRED OF INVESTMENT ADVISERS.

Pursuant to provisions of the Act, every investment adviser registered or required to be registered under the Act shall make and keep true, accurate and current books and records as listed in 17 CFR 275.204-2 under the Investment Advisers Act of 1940, as currently amended.

(3-29-17)

094. CLIENT CONTRACTS – INVESTMENT ADVISERS.

01. Contract. As used in this rule, “investment advisory contract” means any contract or agreement whereby a person agrees to act as investment adviser or to manage any investment or trading account for a person other than an investment company, as defined in the Investment Company Act of 1940, as amended.

(3-24-05)

02. Contents of Client Contract. No investment adviser shall enter into, extend, or renew any investment advisory contract, or in any way perform any investment advisory contract entered into, extended, or renewed, after the effective date of this rule, unless such contract is in writing and contains the following:

(3-24-05)

a. Provides that an investment adviser shall not receive compensation based on a share of capital gains upon or capital appreciation of funds or any portion of the funds of the client, except as exempted in 17 CFR 275.205-3 under the Investment Adviser Act of 1940;

(3-29-17)

- b.** Provides that no assignment of the contract shall be made by the investment adviser without the written consent of the client; (3-24-05)
- c.** Provides that if the investment adviser is a partnership, the investment adviser shall notify the client of any change in the membership of such partnership within a reasonable time after such change; (3-24-05)
- d.** Provides the investment adviser's policy regarding termination of the contract, in compliance with 17 CFR 275.204-3(b). (3-24-05)
- e.** Detailed description of the services to be provided; (3-24-05)
- f.** Terms of the contract; (3-24-05)
- g.** Amount of the advisory fee, the formula for computing the fee, and the amount of any prepaid fee to be returned in the event of contract termination or non-performance; (3-24-05)
- h.** Discloses whether the contract grants discretionary power to the investment adviser; (3-24-05)
- i.** A contract may not contain any provision that limits or purports to limit the liability of the investment adviser for conduct or omission arising from the advisory relationship that does not conform to the Act, applicable federal statutes, or common law fiduciary standard of care; or the remedies available to the client at law or equity or the jurisdiction where any action shall be filed or heard. (3-24-05)

095. INVESTMENT ADVISER BROCHURE RULE.

An investment adviser registered or required to be registered under the Act shall, in accordance with 17 CFR 275.204-3 under the Investment Advisers Act of 1940, deliver to each advisory client and prospective advisory client with a written disclosure statement that may be either a copy of Part 2 of its Form ADV which complies with 17 CFR 275.201(b) of the Investment Advisers Act of 1940, or a written document containing at least the information then so required by Part 2 of Form ADV. (3-29-17)

096. REQUIREMENTS FOR CUSTODY.

If an investment adviser registered or required to be registered under the Act maintains custody of client funds, it shall be done in accordance with the requirements and standards set forth in 17 CFR 275.206(4)-2 of the Investment Advisers Act of 1940. (3-29-17)

097. INVESTMENT ADVISER AFFILIATION WITH BROKER-DEALERS/ISSUERS/AGENTS.

If an investment adviser becomes affiliated with a broker-dealer or issuer, he will be under a continuing obligation to make full disclosure of the affiliation to all parties to the affiliation, and must provide written notice to the Administrator of any material changes concerning any affiliation. Compliance with Part 2 of Uniform Form ADV and delivery of Part 2 of that form, or of a separate brochure or document containing substantially the same information that meets the requirements of the federal brochure rule, will be deemed to be in compliance with this rule. (3-29-17)

098. NAMES USED BY BROKER-DEALERS AND INVESTMENT ADVISERS.

01. Unregistered Names. (3-24-05)

a. Broker-dealers, Broker-dealer Agents. Upon written request, the Administrator, in his discretion, may allow use by a broker-dealer of the name of an entity which is not registered with the Department as a broker-dealer if, in all communications and advertising, a notation is prominently displayed indicating that all securities transactions are made through a named registered broker-dealer. However, any and all payments received must be in the name of the registered broker-dealer. The Administrator may impose any further conditions or restrictions on the use of the nonregistered name that he deems appropriate for the protection of the public. Except as provided in this rule, the use of unregistered names by a broker-dealer is prohibited. (3-24-05)

b. Investment Advisers, Investment Adviser Representatives. All advising, transactions, communications, and advertising regarding securities and the conducting of business as an investment adviser must be accomplished under the name of the investment adviser that is currently registered with the Department. Upon

written request, the Administrator, in his discretion, may allow use by an investment adviser or investment adviser representative of the name which is not registered with the Department. (3-24-05)

02. Change of Name. If a registered broker-dealer, investment adviser, investment adviser representative or agent desires a name change, notice of such an intent must be submitted through CRD or to the Department within thirty (30) days after the effective date of the change. The name change will not be effective in this state until the notice is received. Any notice of a name change must include a copy of the rider to be attached to the investment adviser's surety bond, if such bond is required, reflecting the name change. (3-24-05)

099. CIRCUMVENTION OF ORDERS PROHIBITED.

A broker-dealer, investment adviser, agent, or investment adviser representative may not circumvent the imposition of an order denying registration or revoking registration by withdrawing the application through the CRD system after such order has been issued. Such action will not be recognized by the Administrator, and will have no effect on the outcome of the order. (3-24-05)

100. WAIVER BY ADMINISTRATOR.

The Administrator may, either upon request or upon his own motion, waive or modify the application of any particular section to a particular agent, broker-dealer or investment adviser when, in his opinion, just and reasonable cause exists for such action and the waiving or modifying of such rule would not be contrary to the provisions of the Act or to the public interest. (3-24-05)

101. NOTIFICATION OF OPENING, CLOSING OR RELOCATION OF BRANCH OFFICES.

Any broker-dealer or investment adviser, registered as such with the Department, shall notify the Administrator in writing or through CRD, no later than thirty (30) days after the opening, closing or relocation of any branch office. For purposes of this rule, "branch office" is defined by FINRA. (3-29-17)

102. CANCELLATION OF REGISTRATION OR APPLICATION -- GROUNDS.

If the Administrator finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, investment adviser, salesman or investment adviser representative, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator or guardian, or cannot be located after reasonable search, the Administrator may by order cancel the registration or application. (3-24-05)

103. EXAMINATION REQUIREMENTS.

- 01. Examination Required.** The following examinations are required for the following applicants: (3-24-05)
- a.** Broker-dealer agent application. General agents of securities broker-dealers are required to take and pass:
 - i. The applicable FINRA examinations; and (4-11-19)
 - ii. Either the Series 63 or the Series 66 examination. (3-24-05)
 - b.** Investment adviser representative and investment adviser qualifying officer application. Applicants for registration as investment adviser representatives or as an investment adviser qualifying officer shall take and pass:
 - i. The Series 65; or (3-24-05)
 - ii. The Series 66, the Series 7, and the Securities Industry Essentials examinations. (4-11-19)
 - c.** Specialized agent of a broker-dealer, issuer agent and qualifying officer for non-FINRA broker-dealer application. Specialized agents of broker-dealers, issuer agents and qualifying officers for non-FINRA broker-dealers application are required to take and pass:
 - i. The applicable FINRA examinations; and (3-29-17)
 - ii. Either the Series 63 or the Series 66 examination. (3-24-05)

d. Sales of Viaticals. Persons selling viatical investments are required to take and pass the Securities Industry Essentials and Series 7 examinations. (4-11-19)

02. Specialized Examination Authority. Any registration granted pursuant to a specialized examination will be restricted, and the registrant will be authorized to effect securities transactions only in securities of the type specified by the conditions of the license. (3-24-05)

03. Investment Adviser Representatives - Waiver. An applicant for investment adviser representative or investment adviser qualifying officer registration may qualify for a waiver of the examination requirement if the applicant currently holds one (1) of the following designations: (3-24-05)

a. Certified Financial Planner (CFP) awarded by the Certified Financial Planner Board of Standards, Inc.; (3-24-05)

b. Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, Pennsylvania; (3-24-05)

c. Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts; (3-24-05)

d. Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants; (3-24-05)

e. Chartered Investment Counselor (CIC) awarded by the Investment Counsel Association of America, Inc.; or (3-24-05)

f. Such other professional designation as the Administrator may by rule or order recognize. (3-24-05)

04. Waiver. The Administrator, in his sole discretion, may waive any examination required by this rule upon a sufficient showing of good cause and upon any conditions he may impose. (3-24-05)

104. FRAUDULENT, DISHONEST AND UNETHICAL PRACTICES - BROKER-DEALER, BROKER-DEALER AGENTS, ISSUER AGENTS, INVESTMENT ADVISERS, INVESTMENT ADVISER REPRESENTATIVES.

01. Fraudulent, Dishonest and Unethical Practices. Any broker-dealer, agent, issuer agent, investment adviser or investment adviser representative who engages in one (1) or more of the practices identified in Subsections 104.02 through 104.47 of this rule shall be deemed to have engaged in one (1) or both of the following: (3-29-17)

a. An “act, practice, or course of business that operates or would operate as a fraud or deceit” as used in Section 30-14-501 and Section 30-14-502, Idaho Code; (3-29-17)

b. A dishonest and unethical practice as used in Section 30-14-412(d)(13), Idaho Code, and such conduct may constitute grounds for denial, suspension, or revocation of registration or such other action authorized by statute. (3-24-05)

c. This rule is not intended to be all-inclusive, and thus, acts or practices not enumerated herein may also be deemed fraudulent, or dishonest and unethical. (3-24-05)

02. Delivery Delays. Engaging in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers and/or in the payment upon request of free credit balances reflecting completed transactions of any of its customers. (3-24-05)

03. Churning. Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account. (3-24-05)

- 04. Unsuitable Recommendations.** (3-29-17)
- a.** Recommending to a customer the purchase, sale, or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer, agent, or issuer agent. (3-29-17)
- b.** Recommending to a customer, to whom investment advice is provided, the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer on the basis of information furnished by the customer after reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other information known by the investment adviser or investment adviser representative. (3-29-17)
- 05. Unauthorized Transactions.** Executing a transaction on behalf of a customer without authorization to do so. (3-24-05)
- 06. Discretionary Authority.** Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the executing of orders. (3-24-05)
- 07. Margin Accounts.** Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement before or promptly after the initial transaction in the account. (3-24-05)
- 08. Segregation of Client Securities.** Failing to segregate customers' free securities or securities held in safekeeping. (3-24-05)
- 09. Hypothecating Customer Securities.** Hypothecating a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent before or promptly after the initial transaction, except as permitted by rules of the Securities and Exchange Commission. (3-24-05)
- 10. Unreasonable Price, Commission.** Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit. (3-24-05)
- 11. Failure to Supervise.** Failure by a broker-dealer or investment adviser to exercise diligent supervision over the securities activities of all its broker-dealer agents, investment adviser representatives and employees as set forth in Section 105 of these rules. (3-24-05)
- 12. Unreasonable Fees.** Charging unreasonable and inequitable fees for services performed, including miscellaneous services such as collection of monies due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business. (3-24-05)
- 13. Sales at the Market.** Representing that a security is being offered to a customer "at the market" or a price relevant to the market price unless such broker-dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created, or controlled by such broker-dealer, or by any such person for whom the broker-dealer is acting or with whom the broker-dealer is associated in such distribution, or any person controlled by, controlling, or under common control with such broker-dealer. (3-24-05)
- 14. Manipulative, Deceptive or Fraudulent Practices.** Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive, or fraudulent device, practice, plan, program, design, or contrivance, which may include: (3-24-05)
- a.** Effecting any transaction in a security which involves no change in the beneficial ownerships thereof; (3-24-05)

b. Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security. However, nothing in Subsection 104.14, of this rule, prohibits a broker-dealer from entering bona fide agency cross transactions for customers; or (3-24-05)

c. Effecting, alone or with one (1) or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others. (3-24-05)

15. Loss Guarantees. Guaranteeing a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer. (3-24-05)

16. Bona Fide Price Reports. Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona fide bid for, or offer of, such security. (3-24-05)

17. Deceptive or Misleading Advertising. Using any advertising or sales presentation in such a fashion as to be deceptive or misleading. (3-24-05)

18. Disclosure of Control. Failing to disclose that the broker-dealer or investment adviser is controlled by, controlling, affiliated with, or under common control with the issuer of any security before entering into any contract with or for a customer for the purchase or sale of such security, the existence of such control to such customer, and if such disclosure is not made in writing, it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction. (3-24-05)

19. Bona Fide Distribution. Failing to make a bona fide public offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member, or from a member participating in the distribution as an underwriter or selling group member by, among other things, transferring securities to a customer, another broker-dealer or a fictitious account with the understanding that those securities will be returned to the broker-dealer or its nominees or parking or withholding securities. (3-24-05)

20. Customer Communication. Failure or refusal to furnish a customer, upon reasonable request, information to which the customer is entitled, or to respond to a formal written request or complaint. (3-24-05)

21. Loans from Customers. Borrowing money or securities from a customer, unless the customer is a broker-dealer, an affiliate, or a financial institution engaged in the business of loaning funds or securities, or immediate family. For purposes of this rule, the term "immediate family" means parents, mother-in-law, father-in-law, husband, wife, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, and children. (3-24-05)

22. Loans to Customers. Loaning money to a customer, other than an immediate family member, unless the broker-dealer or investment adviser is a financial institution engaged in the business of loaning funds or the customer is an affiliate of the broker-dealer or investment adviser. (3-29-17)

23. Unrecorded Transactions. Effecting securities transactions not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction. (3-24-05)

24. Fictitious Accounts. Establishing or maintaining an account containing fictitious information in order to execute transactions which would otherwise be prohibited. (3-24-05)

- 25. Profit/Loss Sharing.** Sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which the agent represents. (3-24-05)
- 26. Splitting Commissions.** Dividing or otherwise splitting the agent's commissions, profits, or other compensation from the purchase or sale of securities with any person not also registered in Idaho as an agent for the same broker-dealer, or for a broker-dealer under direct or indirect common control. (3-24-05)
- 27. Unsolicited Transactions.** Marking any order tickets or confirmations as unsolicited when in fact the transaction was solicited. (3-24-05)
- 28. FINRA and NASD Rules Compliance.** Failing to comply with any applicable provision of the NASD Conduct Rules and any other FINRA Rules or any applicable fair practice or ethical standard promulgated by the Securities and Exchange Commission or by a self-regulatory organization approved by the Securities and Exchange Commission. (3-29-17)
- 29. Contradicting Prospectus Information.** Contradicting or negating the importance of any information contained in a prospectus or other offering materials with intent to deceive or mislead. (3-24-05)
- 30. Inside Information.** In connection with the offer, sale, or purchase of a security, falsely leading a customer to believe that the broker-dealer, agent, investment adviser or investment adviser representative is in possession of material, non-public information which would impact the value of the security, or communicating to customers or other persons bona fide information not generally available to the public that may be used in the person's decision to buy, sell, or hold a security. (3-29-17)
- 31. Contradictory Recommendations.** In connection with the solicitation of a sale or purchase of a security, engaging in a pattern or practice of making contradictory recommendations to different investors of similar investment objective for some to sell and others to purchase the same security, at or about the same time, when not justified by the particular circumstance of each investor. (3-24-05)
- 32. Prospectus Delivery.** Failure to comply with any prospectus delivery requirement promulgated under federal law. (3-24-05)
- 33. Penny Stock Sales.** Effect any transaction in, or to induce or attempt to induce the purchase or sale of, any penny stock by any customer except in accordance with the requirements as set forth in the 1934 Securities Exchange Act, Section 15(h) and the rules and regulations prescribed thereunder. (3-29-17)
- 34. Misrepresentations Concerning Advisory Services.** To misrepresent to any advisory client, or prospective advisory client, the qualifications of the investment adviser, investment adviser representative or any employee of the investment adviser, or to misrepresent the nature of the advisory services being offered or fees to be charged for such service, or to omit to state a material fact necessary to make the statements made regarding qualifications, services, or fees, in light of the circumstances under which they are made, not misleading. (3-24-05)
- 35. Unreasonable Advisory Fees.** Charging a client an unreasonable advisory fee. (3-24-05)
- 36. Conflicts of Interest.** Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the adviser or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including: (3-24-05)
- a.** Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; and (3-24-05)
 - b.** Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the adviser or its employees. (3-24-05)
- 37. Guaranteeing Specific Results.** Guaranteeing a client that a specific result will be achieved (gain or no loss) with advice which will be rendered. (3-24-05)

38. Advertising. Publishing, circulating, or distributing any advertisement that does not comply with 17 CFR 275.206(4)-1 under the Investment Advisers Act of 1940. (3-29-17)

39. Disclosure of Private Information. Disclosing the identity, affairs, or investments of any client unless required by law to do so, or unless consented to by the client. (3-24-05)

40. Advisory Contract Disclosures. Entering into, extending, or renewing any investment advisory contract unless such contract is in writing and discloses, in substance the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or non-performance, whether the contract grants discretionary power to the adviser and that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract. (3-24-05)

41. Protection of Non-Public Information. Failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information, or that are contrary to the provisions of Section 204A, and rules associated with it, of the Investment Advisers Act of 1940. (3-29-17)

42. Advisory Contract to Comply with Federal Law. To indicate, in an advisory contract, any condition, stipulation, or provisions binding any person to waive compliance with any provision of the Act or of the Investment Advisers Act of 1940, or any other practice contrary to the provisions of Section 215, and rules associated with it, of the Investment Advisers Act of 1940. (3-29-17)

43. Waiver of State or Federal Law Prohibited. Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative in contrary to the provisions and associated rules of Section 206(4) of the Investment Advisers Act of 1940, notwithstanding the fact that such investment adviser is not registered or required to be registered under Section 203 of the Investment Advisers Act of 1940. (3-29-17)

44. Fraudulent, Deceptive or Manipulative Acts. Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative in contrary to the provisions and associated rules of Section 206(4) of the Investment Advisers Act of 1940, notwithstanding the fact that such investment adviser is not registered or required to be registered under Section 203 of the Investment Advisers Act of 1940. (3-29-17)

45. Outside Business Activities - Selling Away. Any agent or investment adviser representative associated with a broker-dealer or investment adviser registered under the Act shall not engage in business activities, for which he receives compensation either directly or indirectly, outside the scope of his regular employment unless he has provided prior written notice to his employer firm. (3-24-05)

46. Third Party Conduct. Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Act or any rules thereunder, or engaging in other conduct such as nondisclosure, incomplete disclosure, or deceptive practices shall be deemed an unethical business practice. The federal statutory and regulatory provisions referenced herein shall apply to investment advisers and federal covered advisers, to the extent permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290). (3-24-05)

47. Misleading Filings. For purposes of Section 30-14-505, Idaho Code, the term "proceeding" includes, but is not limited to, any investigation, examination or other inquiry initiated by the Department. (3-24-05)

105. SUPERVISION OF AGENTS, INVESTMENT ADVISER REPRESENTATIVES AND EMPLOYEES.

01. Supervision Required. Every broker-dealer, investment adviser, and designated supervisor shall exercise diligent supervision over the securities activities of all of his agents, investment adviser representatives and employees. (3-24-05)

02. Broker-Dealer Procedures. Every agent and employee of the broker-dealer shall be subject to the supervision of a supervisor designated by such broker-dealer. The supervisor may be the broker-dealer in the case of

a sole proprietor, or a partner, officer, office manager, or any other qualified person. (3-24-05)

03. Written Compliance Procedure. Every broker-dealer shall establish, maintain and enforce written procedures and keep a copy in each business office, that set forth the procedures adopted by the broker-dealer to comply with the following duties imposed by this rule, and state at which business office or offices the broker-dealer keeps and maintains the records required by Section 30-14-411, Idaho Code: ()

a. The review and written approval by the designated supervisor of the opening of each new customer account; (3-24-05)

b. The frequent examination of all customer accounts to detect and prevent irregularities or abuses, including a review for churning and switching of securities in customers' accounts, as well as unsuitable recommendations and sales of unregistered securities; (3-24-05)

c. The prompt review and written approval by the designated supervisor of all securities transactions and all correspondence pertaining to the solicitation or execution of all securities transactions; (3-24-05)

d. The review of back office operations, i.e., all systems and procedures, including the currency and accuracy of books and records, the status and causes of "Fails to Receive" and "Fails to Deliver." net capital, credit extensions and financial reports; (3-24-05)

e. The review of form, content and filing of all correspondence related in any way to the purchase or sale or solicitation for the purchase or sale of securities; (3-24-05)

f. The review and written approval by the designated supervisor of the delegation by any customer of discretionary authority with respect to his account to a stated agent or associate of the broker-dealer and the prompt written approval of each discretionary order entered on behalf of that account; and (3-24-05)

g. The prompt review and written approval of the handling of all customer complaints. As used in these rules, "complaint" is considered to be any written statement by a customer or by any person acting for a customer which complains about the activities of the broker-dealer, agent or associate in connection with the solicitation or execution of a transaction or the disposition of funds of that customer. (3-24-05)

04. Investment Adviser Procedures. Every investment adviser shall establish, maintain and enforce written procedures and keep a copy in each business office, that set forth procedures reasonably designed to prevent violation of the Idaho Uniform Securities Act and Rules and comply with the following duties as applicable to the business of the investment adviser: ()

a. The review and written approval by the designated supervisor of the opening of each new customer account; (3-24-05)

b. The frequent examination of all customer accounts to detect and prevent irregularities or abuses, including a review for unsuitable recommendations and recommendations of unregistered securities; (3-24-05)

c. The prompt review and written approval by the designated supervisor of all securities recommendations and all correspondence pertaining to the solicitation or execution of all securities recommendations; (3-24-05)

d. The review of form, content and filing of all correspondence related in any way to the recommendation of the purchase of any securities; (3-24-05)

e. The prompt review and written approval of the handling of all customer complaints. As used in these rules, a "complaint" is considered to be any written statement by a customer, or by any person acting for a customer, questioning the activities of the investment adviser or representative in connection with recommendations concerning, or disposition of, funds in the account. (3-24-05)

106. -- 999. (RESERVED)

IDAPA 17 – INDUSTRIAL COMMISSION

DOCKET NO. 17-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 72-301, 72-301A, 72-304, 72-327, 72-432, 72-508, 72-528, 72-602, 72-803, and 72-806, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter promulgated as a proposed rule under this docket number under IDAPA 17, rules of the Industrial Commission:

IDAPA 17

- 17.01.01, *Administrative Rules Under the Worker's Compensation Law*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 3598–3627](#). The Industrial Commission has made minor changes in the pending rules from the proposed rules to clarify their expectations.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The application fees charged to employers seeking approval to become self-insured is needed to defray added costs incurred by the Commission in evaluating these applications. This fee or charge is being imposed pursuant to Section 72-301, Idaho Code.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Kamerron Monroe, Commission Secretary, (208) 334-6017.

Dated this 9th day of October, 2019.

Mindy Montgomery, Director
Industrial Commission
11321 W. Chinden Blvd
Boise, Idaho 83714
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 72-301, 72-301A, 72-304, 72-327, 72-432, 72-508, 72-528, 72-602, 72-803, and 72-806, 72-1004, 72-1013, and 72-1104, Idaho Code.

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

ORIGINATING LOCATION – LIVE MEETING	
Idaho Industrial Commission 11321 W. Chinden Blvd. Building #2 Boise, Idaho 83714	
Tuesday, August 6th, 2019 – 2:00 p.m. to 4:00 p.m. (MDT)	
VIA VIDEOCONFERENCE	
IIC Coeur d’Alene Field Office 1111 W. Ironwood Drive, Suite A Coeur d’Alene, ID 83814	IIC Lewiston Field Office 1118 “F” Street Lewiston, ID 83501
IIC Idaho Falls Field Office 1820 E. 17th Street, Suite 300 Idaho Falls, ID 83404	IIC Twin Falls Field Office 1411 Falls Avenue East, Suite 915 Twin Falls, ID 83301

The hearing sites 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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and reorganized chapter with edits under IDAPA 17, rules of the Industrial Commission:

IDAPA 17

- 17.01.01, *Administrative Rules Under the Worker’s Compensation Law*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the

benefit intended by these rules. These three chapters contain those rules necessary for the Industrial Commission to properly administer and carry out its responsibilities under the Idaho Workers' Compensation Act (Chapter 1).

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. IDAPA 17.01.01: The application fees charged to employers seeking approval to become self-insured is needed to defray added costs incurred by the Commission in evaluating these applications.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The \$250 application fee charged to employers applying for Commission approval to become self-insured is set out in the new temporary and proposed rule at IDAPA 17.01.01.301.02.b.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kamerron Monroe, Commission Secretary, (208) 334-6017.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned or kamerron.monroe@iic.idaho.gov within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 17-0000-1900F

17.01.01 – ADMINISTRATIVE RULES UNDER THE WORKER'S COMPENSATION LAW

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of 72-301, 72-301A, 72-304, 72-327, 72-432, 72-508, 72-528, 72-602, 72-803, and 72-806, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Administrative Rules Under the Worker's Compensation Law” IDAPA 17, Title 01, Chapter 01. ()

02. Scope. This chapter includes the Industrial Commission's worker's compensation rules. ()

002. WRITTEN INTERPRETATIONS.

The Industrial Commission uses the following guidelines for implementing the EDI reporting requirements set out in this Chapter: ()

01. EDI Guide and Tables. The Idaho Industrial Commission Claims EDI Implementation Guide and Trading Partner Tables (“EDI Guide and Tables”). The Idaho Industrial Commission Claims EDI Implementation Guide and Trading Partner Tables are available on the Commission's website at <https://iic.idaho.gov/>. ()

02. EDI Implementation Guide. International Association of Industrial Accidents Boards and Commissions (IAIABC) EDI Claims Release 3.0 Implementation Guide (“EDI Implementation Guide”). The IAIABC Claims Release 3.0 Implementation Guide is available at the IAIABC website at <https://www.iaabc.org>. ()

003 – 009. (RESERVED)

010. DEFINITIONS.

The definitions set forth in Chapter 72, Idaho Code apply to these rules. In addition, the following terms have the meaning set forth below: ()

01. Adjustor. Means an individual who adjusts worker's compensation claims. ()

02. Ambulatory Payment Classification. Means the payment system adopted by CMS for outpatient services ()

03. Available Funds. Means a sum of money to which a Charging Lien may attach. It does not include any compensation paid or not disputed to be owed prior to Claimant's agreement to retain the attorney. ()

04. Ambulatory Surgery Center. Means a facility providing medical services on an outpatient basis only. ()

05. Approval by Commission. Means the Commission has approved attorney fees in conjunction with an award of compensation or an LSS or otherwise in accordance with Section 802 of this rule upon a proper showing by the attorney seeking to have the fees approved. ()

06. Average Wholesale Price. Means the average wholesale price for medicine obtained from pricing data provided by the original manufacturer of that medicine to industry-wide compilers of drug prices, e.g., Red Book and Medi-Span. ()

07. Charge. Means the expense or cost. For hospitals and ASCs, “charge” means the total charge. ()

a. Acceptable charge. Means a charge calculated in compliance with Section 803 of this rule or as billed by the Provider, whichever is lower, or the charge agreed to pursuant to a written contract. ()

b. Customary charge. Means a charge that has 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. Means a charge that does not exceed the Provider's “usual” charge and does not

exceed the “customary” charge. ()

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

08. Charging Lien. Means a lien against a Claimant's right to any compensation under the Worker's Compensation Law, which may be asserted by an attorney who is able to demonstrate that: ()

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

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

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

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

e. There are equitable considerations that necessitate the recognition and application of the Charging Lien. ()

09. Claim. Means filing for worker's compensation benefits through a Form 1A-1, First Report of Injury or Illness (FROI) or an application for hearing, referred to as a Complaint, with the Commission. ()

10. Claims Administrator. Means an organization, including insurers, third party administrators, independent adjusters, or self-insured employers, that services worker's compensation claims. ()

11. Claimant. Means a person who has filed a Claim for worker's compensation benefits and includes their agents, such as attorneys. ()

12. Commission. Means the Idaho Industrial Commission. ()

13. Critical Access Hospital. Means a hospital currently designated as a critical access hospital by CMS. ()

14. Current Procedural Terminology. Means the medical code published by the American Medical Association. ()

15. Death Claim. Means a Claim arising from the death of a worker as a result of a work-related injury or occupational disease. ()

16. Electronic Data Interchange. Means a computer to computer exchange of data in a standardized format. ()

17. Fee Agreement. Means a written agreement between a worker and an attorney in conformity with the Idaho Rules of Professional Conduct. ()

a. Reasonable, as used in Section 802 of this rule, 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 Idaho Rules of Professional Conduct 1.5. ()

18. First Degree of Consanguinity. Means the relationship between parents and their children whether related by blood or affinity. Adopted or step children and their adoptive or step parents are deemed to be within the first degree of consanguinity. ()

19. First Report of Injury. Means the first filing of information with the Industrial Commission that a

reportable workplace injury has occurred or an occupational disease has been manifested, as required by Section 72-602(1), Idaho Code; filed in accordance with these rules. ()

20. Gross Direct Premiums Written. Means the gross sum of premiums on policies written, without any deduction for refunds or repayments resulting from cancellations. It does not include premiums on contracts between insurers or reinsurers. For all policies written, gross direct premiums written may reflect experience modifications, deviations, and retrospective rating. ()

21. Healthcare Common Procedure Coding System. Means the set of healthcare procedure codes based on the American Medical Association's Current Procedural Terminology. ()

22. Hospital. Means an acute care facility providing medical or rehabilitation services on an inpatient and outpatient basis. ()

23. IAIABC EDI Release 3.0. Means the IAIABC authored EDI Release 3.0 standards that cover the transmission of claims (FROI and SROI) information through electronic reporting. ()

24. Impairment Rated Claim. Means those claims in which the Provider establishes an impairment rating for the injured worker. ()

25. Implantable Hardware. Means 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. ()

26. Indemnity Benefits. Means payments made to or on behalf of worker's compensation Claimants, including temporary or permanent total or partial disability benefits, death benefits paid to dependents, retraining benefits, and any other type of income benefits, but excluding medical and related benefits. ()

27. Indemnity Claim. Means any claim made for the payment of indemnity benefits. ()

28. Legacy Claim. Means a FROI that was filed prior to the EDI implementation. ()

29. Litigated Case. Means a case in which a complaint has been filed. ()

30. Medical Only Claim. Means the injured worker will not suffer a disability lasting more than five (5) calendar days as a result of a job-related injury or occupational disease, nor be admitted to a hospital as an inpatient. ()

31. Medical Report. Means and includes without limitation, all bills, chart notes, surgical records, testing results, treatment records, hospital records, prescriptions, and medication records. ()

32. Medicare Severity - Diagnosis Related Group. Means a system adopted by CMS that groups hospital admissions based on diagnosis codes, surgical procedures, and patient demographics. ()

33. Net Premiums Written. Means the amount of gross direct premiums on policies written less returned premiums and premiums on policies not taken. Paid dividends shall not be deducted for the purposes of calculating net premiums written. ()

34. Payor. Means the entity that is responsible for making payment to a Provider for services rendered to treat an industrially injured patient and includes self-insured employers, sureties, adjusters, and their agents. ()

35. Payroll. Means the gross amount paid by an employer for salaries, wages, or commissions earned by its own direct employees, but not including any money paid to another entity or received from another entity for leased employees. ()

36. Pharmacy. Means a facility as defined in Section 54-1705(29), Idaho Code. ()

37. Supplemental or Subsequent Report of Injury. Means the filing of additional information with the Industrial Commission, regarding benefits paid or changes in the status or condition of an injured worker, of a Claim for benefits, as required by Sections 72-602(2), (3), and (4), Idaho Code; filed in accordance with these rules. ()

38. Termination of Disability. Means the date upon which the obligation of the Employer/Surety becomes certain as to duration and amount whether by settlement, decision, or periodic payments in the ordinary course of claims processing. If resolved by LSS, the termination of disability shall occur on the date the LSS is approved and an order approving is filed by the Industrial Commission. If resolved by decision, the termination of disability shall occur on the date the decision resolving all issues becomes final. ()

39. Time Loss Claim. Means the injured worker will suffer, or has suffered, a disability that lasts more than five (5) calendar days as a result of a job-related injury or occupational disease, or the injured worker requires, or required, in-patient treatment as a result of such injury or disease. ()

40. Trading Partner. Means an insurance carrier, self-insured employer, or Claims Administrator that has entered into a Trading Partner Agreement with the Industrial Commission. ()

41. Trading Partner Agreement. Means an agreement between the Industrial Commission and a Trading Partner that sets out the terms and conditions for the electronic reporting of information to the Commission. ()

011. ABBREVIATIONS.

The following abbreviations have the meaning set forth below: ()

01. APC. Means Ambulatory Payment Classification. ()

02. ASC. Means Ambulatory Surgery Center. ()

03. AWP. Means Average Wholesale Price. ()

04. CMS. Means Centers for Medicare and Medicaid Services. ()

05. CPT. Means Current Procedural Terminology. ()

06. EDI. Means Electronic Data Interchange. ()

07. FROI. Means First Report of Injury. ()

08. HCPCS. Means Healthcare Common Procedure Coding System. ()

09. IAIABC. Means International Association of Industrial Accident Boards and Commissions. ()

10. ISIF. Means the Industrial Special Indemnity Fund, which is commonly referred to as the Second Injury Fund. ()

11. LSS. Means Lumps Sum Settlement. ()

12. MSDRG. Means Medicare Severity Diagnosis Related Group. ()

13. NCCI. Means National Council on Compensation Insurance. ()

14. NDC. Means National Drug Code. ()

- 15. **RRVS.** Means Resource-Based Relative Value Scale. ()
- 16. **RVU.** Means Relative Value Unit. ()
- 17. **SROI.** Means Supplemental or Subsequent Report of Injury. ()

012. LIBERAL CONSTRUCTION.

Rulemaking before the Industrial Commission should be just, speedy, and economical; unless prohibited by statute, the Industrial Commission may permit deviation from these rules when it finds compliance with them is impracticable, unnecessary, or not in the public interest. ()

013. -- 200. (RESERVED)

201. RULE GOVERNING 72-212(5) EXEMPTIONS.

01. Exemptions. Each person who elects to exempt themselves from coverage or revoke their exemption under Section 72-212(5), Idaho Code, must file an IC53 Declaration form with the Industrial Commission. The form is available on the Commission's website. ()

02. Form. The form must be signed by both the employee and the employer. An original and one (1) copy of the IC53 form shall be filed with the Commission. Upon approval by the Commission, the copy will be returned to the employee filing for an exemption or revocation of an exemption. ()

03. Approval by Commission. The Commission must approve the exemption or revocation of exemption. The Commission may require verification of information submitted. Fraud or misrepresentation in the information provided will void the exemption or revocation. ()

04. IC53 Form. If the employer is insured, it is the employer's responsibility to file a copy of the IC53 form with the employer's insurance company. ()

05. Effective Date. The effective date of the exemption or revocation of exemption shall be the date the properly completed form is received by the Commission. ()

06. Exemption Effective. The exemption shall remain in effect until a revocation of exemption is filed with the Commission, or, termination of employment with the designated employer, or upon the death of the employee, whichever occurs first. ()

202. -- 300. (RESERVED)

301. RULES GOVERNING QUALIFICATIONS TO WRITE INSURANCE OR SELF-INSURE.

01. Insurance Carriers. In order to gain approval from the Industrial Commission to underwrite worker's compensation insurance under Section 72-301, Idaho Code, an insurance carrier shall comply with the following requirements: ()

a. Deposit With State Treasurer. The carrier must receive approval from the Director of the Idaho Department of Insurance to underwrite casualty and surety insurance under Sections 41-506 and 41-507, Idaho Code, and 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. ()

b. Application. To receive approval from the Industrial Commission, an insurance carrier must supply an application with: ()

i. A statement from the Director of the Idaho Department of Insurance documenting compliance with Paragraph 01.a, above; ()

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

- iii. The name and address of the agent for service of process in Idaho; ()
 - iv. The name and address of the Claims Administrator employing an Idaho licensed resident adjuster or the insurance carrier's own in-house Idaho adjusting staff with authority to make compensation payments and adjustments of claims arising under the Act. Each Claims Administrator shall have only one (1) mailing address on record at the Commission for claims adjusting purposes. If more than one (1) Claims Administrator is utilized in Idaho, a list of every such Claims Administrator and all corresponding policyholders shall be provided; ()
 - v. A statement that the carrier will distribute blank forms that are prescribed by the Commission to its insured; ()
 - vi. A statement that all surety bonds covering the payment of compensation will be filed with the Idaho State Treasurer for all employers insured. All carriers will use the continuous bond form set out on the Commission's website. ()
 - vii. A statement that renewal certificates on said bonds will be issued and filed with the Industrial Commission immediately, when and if renewed; ()
 - viii. A statement that all surety contract cancellations will be canceled in compliance with Section 72-311, Idaho Code; ()
 - ix. A statement that said carrier will deposit, in addition to other security required by this rule, further security equal to all unpaid outstanding awards of compensation; ()
 - x. A statement that said carrier will comply with the statutes of the state of Idaho and rules of the Industrial Commission and that payments of compensation shall be sure and certain and not unnecessarily delayed; and ()
 - xi. A statement that the carrier will make reports to the Commission as are required. ()
- 02. Self-Insured Employers.** In order to gain approval from the Industrial Commission to self-insure under Section 72-301, Idaho Code, an employer shall comply with the following requirements: ()
- a.** Payroll. Have an average annual Idaho Payroll over the preceding three (3) years of at least four million dollars (\$4,000,000). ()
 - b.** Application. Submit a completed application, available from the Industrial Commission's Fiscal Department, along with the application fee of two hundred fifty dollars (\$250), to the Idaho Industrial Commission, Attention: Fiscal Department. ()
 - c.** Documentation. Submit documentation demonstrating the sound financial condition of the employer, such as the most recent CPA reviewed or, if available, audited, financial statement. ()
 - d.** Claims Adjusting. Designate in writing a Claims Administrator employing an Idaho licensed resident adjuster including name and address. Each Claims Administrator shall have only one (1) mailing address on record at the Commission for claims adjusting purposes. ()
 - e.** Previous Claims. Provide a history of all worker's compensation claims filed with the employer or the employer's worker's compensation carrier, as well as all compensation paid, during the previous five (5) calendar years. ()
 - f.** Excess Insurance. Provide an insurance plan that must include excess insurance coverage and copies of all proposed policies of excess worker's compensation insurance coverage. ()
 - g.** Actuarial Study. Provide an actuarial study prepared by a qualified actuary determining adequate rates for the proposed self-funded worker's compensation plan based upon a fifty percent (50%) confidence level. ()

()

h. Feasibility Study. Provide a self-insurance feasibility study that includes an analysis of the advantages and disadvantages of self insurance as compared to current coverage, and the related costs and benefits. ()

i. Custodial Agreement. Set up a custodial agreement with the State Treasurer for securities required to be deposited under Sections 72-301 and 72-302, Idaho Code. ()

j. Supplemental Information. Provide supplemental information as requested. ()

k. Initial Security Deposit. Prior to final approval, deposit an initial security deposit with the Idaho State Treasurer in the form permitted by Section 72-301, Idaho Code, or a self-insurer's bond in substantially the form as the Commission's self-insurer's compensation bond, available on the Commission's website, in the amount of one hundred fifty thousand dollars (\$150,000), plus five percent (5%) of the first ten million dollars (\$10,000,000) of the employer's average annual Payroll in the state of Idaho for the three (3) preceding years; along with such additional security as may be required by the Commission based on prior claims history. ()

l. Initial Guaranty Agreement. The Commission may allow or, where financial reports or other factors such as the high risk industry of the employer indicate the need, require an employer that is organized as a joint venture or a wholly owned subsidiary to provide a guaranty agreement from each member of the joint venture or the parent company. This guaranty agreement confirms the continuing agreement of each of the joint venture members or the parent company to guarantee the payment of all Idaho worker's compensation claims of employees of that joint venture or subsidiary employer. The guaranty agreement shall be in substantially the same form as the current sample Indemnity and Guaranty Agreement and, as applicable, the companion Consent of the Board of Directors, available on the Commission's website. ()

m. Written Approval. Obtain written approval from the Industrial Commission. ()

n. Idaho National Laboratory. An employer meeting the requirements of Section 72-301A, Idaho Code, does not have to comply with the requirements of Paragraphs 302.02.a., 02.f., 02.i., and 02.k., above. ()

302. RULES GOVERNING CONTINUING REQUIREMENTS TO UNDERWRITE INSURANCE OR SELF-INSURE.

01. Insurance Carriers. An insurance carrier approved under IDAPA 17.01.01.301.01 shall comply with the following requirements: ()

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

i. 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 subsequently. ()

ii. In addition to the security required in Subsection 01.a.i, 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 available on the Commission's website. 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. ()

iii. 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. ()

b. 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. ()

c. Maintain Resident Idaho Office. Each insurance carrier shall maintain a Claims Administrator employing an Idaho licensed resident adjuster or the carrier's own adjusting offices or officers residing in Idaho. ()

i. 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. ()

ii. 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. Further each in-state Adjustor must have full authority to: ()

(1) Investigate and adjust all claims for compensation; ()

(2) Pay all compensation benefits due; ()

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

(4) Enter into compensation agreements and LSSs with Claimants; ()

(5) Provide at the employer's expense necessary forms to any employee who wishes to file a Claim under the Worker's Compensation Law. ()

d. Supply Forms. Each insurance carrier shall distribute the required forms prescribed by the Commission to all employers it insures. A list of required forms is available on the Commission's website. ()

e. Comply with Industrial Commission Reporting Requirements. Each insurance carrier shall, within the time prescribed, file such reports and respond to such information requests as the Commission may require from time to time concerning matters under the Worker's Compensation Law. ()

f. Report Proof of Coverage. ()

i. Each insurance carrier shall report all proof of coverage to NCCI. NCCI is the designated agent to receive, process, and forward the proof of coverage information required by these rules to the Commission. The address of the Commission's designated agent is available on the Commission's website. ()

ii. The Industrial Commission adopts the IAIABC's electronic proof of coverage record layout and transaction standards as the required reporting mechanism for new policies, renewal policies, endorsements, cancellations, and non-renewals of policies. A copy of the record layout, data element requirements, and transaction standards is available on the Commission's website. Each insurance carrier shall report data for all mandatory elements in the current IAIABC proof of coverage record layout and transaction standards on each policy reported. ()

iii. 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. ()

g. Report New Policy, Renewal Policy, and Endorsement Information Within Thirty Days. Each insurance carrier shall report the issuance of any new worker's 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. ()

h. Report Cancellation and Non-Renewal of Policy Within Time Prescribed by Statute. Each insurance carrier shall report the cancellation and/or nonrenewal of any worker's 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. ()

i. 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," available on the Commission's website. ()

j. Report Deductible Policy. On or before March 3rd of each year, every insurance carrier shall submit a report of all deductible policies that were issued and in effect during the previous calendar year. That report shall be submitted in a form substantially similar to the current "Deductible Policy Report" available on the Commission's website. The report shall include the following information: insured name, policy number, effective and expiration dates, deductible amount, the premium charged for the policy before credit for the deductible, and the final premium after credit for the deductible. ()

k. 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. ()

i. 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. ()

ii. 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. ()

iii. The report shall be submitted on or in a format that is substantially the same as the current Form IC36A, "Report of Outstanding Awards - Insurance Carriers" available on the Commission's website. The report may be produced as a computerized spreadsheet or database printout. ()

iv. 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 worker's compensation claims in Idaho, a corporate officer of the insurance carrier shall prepare, certify, and file a consolidated report of outstanding awards. ()

v. 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. ()

l. 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. ()

02. Self-Insured Employers. A self-insured employer approved under Subsection 301.02 shall comply with the following requirements: ()

a. Payroll Requirements. Maintain an average annual Idaho Payroll over the preceding three (3) years of at least four million dollars (\$4,000,000). Any self-insured employer that does not meet the Payroll requirement of this rule for two consecutive semi-annual premium tax reporting periods shall be allowed to maintain their self-insured status for six (6) months from the end of the last reporting period in order to permit them time to increase their Payroll or obtain worker's compensation coverage with an insurance carrier authorized to write worker's compensation insurance in the state of Idaho. ()

b. Security Deposit with Treasurer. ()

i. Maintain a primary security deposit with the Idaho State Treasurer in the form permitted by Section 72-301, Idaho Code, a self-insurer's bond form available on the Commission's website, or in substantially the same form, or in such other form approved by the Commission, in the amount of one hundred fifty thousand dollars (\$150,000), plus five percent (5%) of the employers' average annual Payroll in the state of Idaho for the three (3) preceding years, not in excess of ten million dollars (\$10,000,000). 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. In

addition thereto, the self-insured employer shall deposit additional security in such amount as the Commission determines is necessary to secure the self-insured employer's total unpaid liability for compensation under the Worker's Compensation Law. No approved security shall be accepted for deposit above its par value. Additional deposits of approved security may be required semi-annually if the market value of an approved investment falls below its par value or if the total value of the employer's security deposit falls below the total security required to be maintained on deposit when calculated in accordance with this rule. ()

ii. Self-insured employers shall receive a credit for the primary security deposit against the self-insured employer's obligation to post the additional security required by Subparagraph 302.02.b.i. of this rule. ()

iii. Excess insurance coverage approved by the Commission may apply as a credit against the self-insured employer's obligation to post the additional security required by Subparagraph 302.02.b.i. of this rule. The Commission must be provided with thirty (30) days advance written notice of any change or cancellation of an approved excess insurance policy. No credit will be given for any excess insurance coverage provided by a surplus lines carrier, as described in Chapter 12, Title 41, Idaho Code. ()

iv. All security deposited by the self-insured employer shall be maintained as provided by Section 72-302, Idaho Code. ()

v. Any withdrawal or partial release of security deposited hereunder must be requested in writing and approved by the Commission. ()

c. Continue or Provide Guaranty Agreement. ()

i. A self-insured employer that is organized as a joint venture or a wholly owned subsidiary shall continue in effect any guaranty agreement that the Commission has previously allowed or required, until termination is permitted by the Commission. ()

ii. Where an adverse change in financial condition or other relevant factors such as claims history or industry risk indicates the need, a self-insured employer that is organized as a joint venture or a wholly owned subsidiary may be allowed to, or shall upon request, provide a guaranty agreement from each member of the joint venture or the parent company. This guaranty agreement confirms the continuing agreement of each of the joint venture members or the parent company to guarantee the payment of all Idaho worker's compensation claims of employees of that joint venture or subsidiary self-insured employer. The guaranty agreement shall be in substantially the same form as the current sample Indemnity and Guaranty Agreement, and as applicable, the companion Consent of the Board of Directors, available on the Commission's website. ()

d. Maintain a Licensed Resident Adjuster. Maintain an Idaho licensed, resident claims adjuster located within the state of Idaho who shall have full authority to make decisions and to authorize the payment of all compensation on said claims on behalf of the employer including, but not limited to, the following: ()

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 Worker's Compensation Law; ()

iv. Enter into compensation agreements and LSSs with Claimants; ()

v. Provide at the employer's expense necessary forms to any employee who wishes to file a Claim under the Worker's Compensation Law. ()

e. File Reports. Report to the Industrial Commission semi-annually, or more often as required by the Commission, total unpaid liability on all open claims. ()

i. The semi-annual report of total unpaid liability shall be filed with the Industrial Commission by the end of the months of January and July. ()

ii. The report shall provide the aggregate number of open claims, including indemnity with medical and Medical Only Claims, along with the amount of any compensation paid on open claims, as of the end of each June and December. ()

iii. The report shall be filed even if there are no open claims. In that event, the employer shall certify the fact that there are no open claims to be reported. ()

iv. The report shall be submitted on or in a format that is substantially the same as the current Form IC-211, “Self-Insured Employer Report of Total Unpaid Liability,” available on the Commission's website. The report may be produced as a computerized spreadsheet or database printout. ()

v. The report shall be signed and certified to be correct by a corporate officer. If an employer has designated more than one adjuster for worker's compensation claims in Idaho, a corporate officer of the employer shall prepare, certify, and file a consolidated report of all unpaid liability. ()

vi. A self-insured employer shall also make, within the time prescribed, such other reports and respond to such information requests as the Commission may require from time to time concerning matters under the Worker's Compensation Law. ()

f. Submit to Audits by Industrial Commission. Each year a self-insured employer shall provide the Industrial Commission with a copy of its annual financial statements, or other acceptable documentation. Each self-insured employer shall submit to audit by the Commission or its designee at any time and as often as it requires to verify the amount of premium such self-insured employer would be required to pay as premium to the State Insurance Fund, and to verify compliance with the provisions of these rules and the Idaho Worker's Compensation Law. For the purpose of determining such premium for uninsured contractors of a self-insured employer, the most recent proof of coverage information contained in the Industrial Commission's database shall be presumed to be correct for the purpose of determining such coverage. ()

g. Comply with Law and Rules. Comply with the statutes of the state of Idaho and the rules of the Industrial Commission to the end that payment of compensation shall be sure and certain and not unnecessarily delayed. The Commission may withdraw its approval of any employer to operate as a self-insurer if it shall appear to the Commission that workers secured by said self-insured employer are not adequately protected and served, or the employer is failing to comply with the provisions of these rules or the Worker's Compensation Law. ()

h. Idaho National Laboratory. An employer meeting the requirements of Section 72-301A, Idaho Code, does not have to comply with Paragraph 303.02.a. and 302.02.b., above. ()

303. RULE GOVERNING THE COLLECTION OF PREMIUM TAX ON WORKER'S COMPENSATION INSURANCE POLICIES.

This rule governs the collection of premium tax on worker's compensation insurance policies. This procedure applies to all worker's compensation policies. ()

01. Procedure for Submitting Premium Tax Forms. The form IC 4008, available on the Commission's website, shall be used to report numbers of policies and the total gross premiums written. The original shall be sent to the Commission; a copy shall also be attached to the reporting entity's annual premium tax statement that is filed with the Idaho Department of Insurance. This form is due to the Commission by July 31 for the reporting period of January 1 through June 30; it is due by March 3 for the reporting period of July 1 through December 31. ()

304. RULE GOVERNING PREMIUM TAX COMPUTATION FOR SELF-INSURED EMPLOYERS.

01. Payroll Reports. No later than March 3rd and July 31st, self-insured employers shall file a semi-annual premium tax report with the Fiscal Department of the Commission. Self-insured employers shall use the Commission's current report form IC 4010, along with the accompanying computation form IC 4010a, available on

the Commission's website. The premium tax payment due from a self-insured employer shall be based upon the manual premium calculated for each reporting period, as modified by an experience modification factor calculated by NCCI and submitted to the Commission in accordance with Subsection 304.02 of this rule. No other rating factor shall be allowed. If the self-insured employer elects to not provide such experience modification factor, the premium tax will be computed based upon the manual premium only. ()

02. Experience Modification. A self-insured employer that elects to use an experience modification factor in computing premium tax shall make an annual application to NCCI for an experience modification factor using the NCCI form ERM-6 and paying to NCCI any fees charged for providing that calculation. An NCCI experience modification factor may only be based on the employer's Idaho operations for which self-insured status is authorized. In order to have an experience modification factor considered for any reporting period, an employer must timely submit to the Commission's Fiscal Department: ()

- a. A copy of the completed form ERM-6 filed with NCCI; ()
- b. The resulting experience modification factor received from NCCI; and ()
- c. The completed IC 4010 Semi-Annual Premium Tax Form for Self-Insurers and IC 4010a Computation Form. ()

305. REQUIREMENTS FOR MAINTAINING IDAHO WORKER'S COMPENSATION CLAIMS FILES.

All insurance carriers, self-insured employers, and licensed adjusters servicing Idaho worker's compensation claims shall comply with the following requirements: ()

01. Idaho Office. ()

a. All insurance carriers, self-insured employers, and licensed adjusters servicing Idaho worker's 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 or self-insured employer shall authorize and require a member of its in-state staff or an Idaho licensed resident adjuster to service and make decisions regarding claims pursuant to Section 72-305, Idaho Code. ()

c. As staffing changes occur and, at least annually, the insurance carrier, self-insured employer, or licensed adjuster shall submit to the Commission Secretary the names of those authorized to make decisions regarding claims pursuant to Section 72-305, Idaho Code. Each authorized insurance carrier shall designate only one (1) Claims Administrator for each policy of worker's compensation insurance. ()

02. Claim Files. All Idaho worker's 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. FROI 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, 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 worker's compensation claims shall be authorized from and maintained at in-state offices. ()

04. Date Stamp. Each of the documents listed in Subsections 305.02 and 305.03, above, 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 for the insurance carrier or self-insured employer. The original copy of the FROI, Claim for Benefits, and notices of occupational illness and fatality shall be sent directly to the Industrial Commission. ()

06. Compensation Payments - Generally. ()

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

b. Except as ordered otherwise by the Commission, the insurance carrier or self-insured employer may make compensation payments by either: ()

i. Check or other readily negotiable instrument; ()

ii. When requested by the Claimant, electronic transfer payment to an account designated by the Claimant in accordance with the requirements of Subsection 305.07; or ()

iii. When requested by the Claimant, electronic transfer payments made through an access card; if that option is made available by the carrier or self-insured employer, in accordance with the requirements of Subsection 305.08. ()

c. If the Claimant is represented by an attorney who may have an attorney's lien for fees due on such compensation payments, the attorney must agree to payment by electronic transfer to Claimant's account or payment through an access card before such compensation may be paid other than by a check made payable to the Claimant and the attorney. ()

07. Electronic Transfer Payments. ()

a. A Claimant may request that the insurance carrier or self-insured employer make compensation payments by electronic transfer to a personal bank account by providing the insurance carrier or self-insured employer in writing: the name and routing transit number of the financial institution and the account number and type of account to which the Claimant wants to have the compensation electronically transferred. The insurance carrier or self-insured employer shall provide the Claimant with a written form to fill out the required information by this subsection within seven (7) days of receiving a request for electronic transfer of payments from the Claimant unless the Claimant has already completed an on-line electronic form provided by the carrier or employer. ()

b. The insurance carrier or self-insured employer may make compensation payments to the Claimant by electronic transfer to an account designated by the Claimant if the Claimant: ()

i. Requests in writing that payment be made by electronic transfer; ()

ii. Provides the information required by Paragraph 305.07.a. above; and ()

iii. Is reasonably expected to be entitled to receive compensation payments for a period of eight (8) weeks or more from the point that Subparagraphs 305.07.b.i. and 07.b.ii. are satisfied. ()

c. The insurance carrier or self-insured employer shall initiate payment by electronic transfer starting with the first benefit payment due on or after the twenty first day after the requirements of Paragraph 305.07.b., above are met, but shall continue to make timely payments by check until the insurance carrier or self-insured employer

initiates benefit payment delivery by electronic transfer. ()

d. If the Claimant has previously been receiving benefit payments by electronic transfer and wants to receive benefits by check, the insurance carrier or self-insured employer shall initiate benefit payment delivery by check starting with the first benefit payment due to the Claimant on or after the seventh day after receiving a written request for such payments. ()

08. Access Card Payments. ()

a. Access card means any card or other payment method that may be used by a Claimant to initiate electronic fund transfer from an insurance carrier's or a self-insured employer's bank account. The term “access card” does not include stored value cards or prepaid cards that store funds directly on the card and that are not linked to an insurance carrier's or a self-insured employer's bank account. ()

b. An insurance carrier or a self-insured employer may pay compensation through an access card to a Claimant if there is written mutual agreement signed by the insurance carrier or self-insured employer and the Claimant. The insurance carrier or self-insured employer shall maintain accurate records of the mutual agreement for, at a minimum, four hundred and one (401) weeks from the date of injury. The written agreement shall contain an acknowledgment that the Claimant received and agreed to the written disclosure required by Paragraph 305.08.d. ()

c. An insurance carrier or a self-insured employer providing compensation payments to a Claimant through an access card shall: ()

i. Permit the Claimant to withdraw the entire amount of the balance of an access card in one transaction; ()

ii. Not reduce compensation payments paid to a Claimant through an access card for the following fees, surcharges, and adjustments: ()

(1) Overdraft services under which a financial institution pays a transaction (including a check or other item) when the Claimant has insufficient or unavailable funds in the account; ()

(2) ATM withdrawal or point of sale purchase for more than the card holds and the transaction is denied; ()

(3) ATM balance inquiries; ()

(4) Withdrawing money from network ATMs; ()

(5) Withdrawing money from a teller; ()

(6) Customer service calls; ()

(7) Activating the card; ()

(8) Fees for card inactivity; ()

(9) Closing account; ()

(10) Access card replacement through standard mail; ()

(11) Withdrawing the entire payment in one transaction; ()

(12) Point of sale purchases, or ()

(13) Any other fees or charges that are not authorized under Subparagraph 305.08.c.iii., and ()

- iii. Only permit a Claimant to be charged for the following: ()
 - (1) Fees for access card replacement through an expedited mail service; ()
 - (2) International transaction fees, and ()
 - (3) Out-of-network ATM fees. ()
- d. Insurance carriers or self-insured employers shall provide a written disclosure to the Claimant contemporaneously with the written mutual agreement required under Paragraph 305.08.b. that includes: ()
 - i. A summary of the Claimant's liability for unauthorized electronic fund transfers; ()
 - ii. The telephone number and address of the person or office to be notified when the Claimant believes that an unauthorized electronic fund transfer has been or may be made; ()
 - iii. The type of electronic fund transfers that the Claimant may make and any limitations on the frequency of transfers; ()
 - iv. Any fees imposed for electronic fund transfers or for the right to make transfers, including a statement that fees may be imposed by an ATM operator that is out-of-network; ()
 - v. Fees for expedited card replacement or international transaction fees will be removed from the balance maintained in the bank account linked to the access card; ()
 - vi. A summary of the Claimant's right to receipts and periodic statements; ()
 - vii. All bank locations and network ATMs in the United States where the Claimant may access his or her funds at no cost; ()
 - viii. A statement informing the Claimant that they have a right to receive payments directly into their personal bank account through direct deposit or by check. ()
- e. An insurance carrier or a self-insured employer shall provide the written disclosure and any notice of term or condition changes required under Paragraph 305.08.d. that: ()
 - i. Are printed in not less than twelve (12) point font; ()
 - ii. Include the full text to communicate all terms and conditions; ()
 - iii. Are written in a clear and coherent manner and wherever practical, words with common and everyday meaning shall be used to facilitate readability; and ()
 - iv. Are appropriately divided and captioned in a meaningful sequence such that each section contains an underlined, boldfaced, or otherwise conspicuous title or caption at the beginning of the section that indicates the nature of the subject matter included in or covered by the section. ()
- f. An access card issued to a Claimant under this Subsection 305.08 shall: ()
 - i. Not bear any information that could reasonably identify the Claimant as a participant in the worker's compensation system; and ()
 - ii. Include on the front or back of the access card a toll-free customer service number and website address. Customer service personnel shall be available by phone Monday through Friday during normal business hours (9 a.m. to 6 p.m. Mountain Time). ()

g. The insurance carrier or self-insured employer shall provide a written notice to the Claimant at least twenty one (21) days before the effective date of any change in a term or condition of the mutual agreement or disclosure, including terminating the access card program, increased fees, or liability for unauthorized electronic fund transfers. Any terms or conditions that violate the requirements of this Subsection 305.08 are null and void and may result in administrative action against the carrier or employer. An insurance carrier or employer shall provide a written notice of term or condition changes that: ()

i. Provides a comparison of the current terms and the changes; and ()

ii. References the Claimant's ability to request a change in method of payment to electronic fund transfer to his or her personal bank account in accordance with Subsection 305.07 or to payment by check. ()

h. An insurance carrier or a self-insured employer may close the access card account by issuing a check to the Claimant with the remaining balance of the access card if the account has been inactive for twelve (12) months or longer. ()

i. The insurance carrier or self-insured employer shall not remove money from the Claimant's account or access card except to remove permitted fees under Subparagraph 305.08.c.iii. or to close the account for inactivity of a period of twelve (12) months or more. An insurance carrier or a self-insured employer seeking to recoup overpayments shall follow the requirements of section 72-316, Idaho Code. ()

j. An insurance carrier or a self-insured employer is considered to have made a compensation payment the date the payment is available on the Claimant's access card. ()

09. 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 305.06 and 305.09 of this rule to permit an insurance carrier or a self-insured employer 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 or self-insured employer, attesting to the fact that the insurance carrier or self-insured employer 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 or self-insured employer for which a waiver under this rule has been granted to assure that the insurance carrier or self-insured employer 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 or self-insured employer 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 or self-insured employer an opportunity to be heard, may revoke the waiver and order the insurance carrier or self-insured employer to comply with the requirements of Subsections 305.06 and 305.09 of this rule. ()

10. 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 income benefit check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance. ()

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

a. Making an initial decision to accept or deny a Claim for an injury or occupational disease within thirty (30) days of the date the Claims Administrator receives knowledge of the same. The worker shall be given

notice of that initial decision in accordance with Section 72-806, Idaho Code. Nothing in this rule shall be construed as amending the requirement to start payment of income benefits no later than four (4) weeks or twenty-eight (28) days from the date of disability under the provisions of Section 72-402, Idaho Code. ()

b. Payment of medical bills in accordance with the provisions of Section 803 of these rules. ()

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

i. The first payment of income benefits under Section 72-408, Idaho Code, shall constitute application by the insurance carrier or self-insured employer for a waiver to pay Temporary Total Disability (TTD) benefits on a bi-weekly basis, Temporary Partial Disability (TPD) benefits on other than a weekly basis, Permanent Partial Disability (PPD) benefits based on permanent impairment and Permanent Total Disability (PTD) benefits every twenty-eight (28) days, rather than on a weekly basis. ()

ii. Such waiver application shall be granted upon receipt and remain in effect unless revoked by the Industrial Commission in accordance with Subparagraph 305.11.c.iii. ()

iii. If at any time after a waiver has been granted pursuant to this section the Commission receives information permitting the inference that the insurance carrier or self-insured employer has failed to service claims in accordance with Idaho law, or that such waiver has created an undue hardship on a Claimant, the Commission may issue an order to show cause why the Commission should not revoke that waiver, and after affording the insurance carrier or employer an opportunity to be heard, may revoke the waiver with respect to all or certain Claimants and order the insurance carrier or self-insured employer to comply with the requirements of Subsection 305.11.c. of this rule. ()

d. Payment of the first Permanent Partial Disability (PPD) benefit based on permanent impairment no later than fourteen (14) days after receipt of the Medical Report providing the impairment rating. The first payment shall include payment of benefits retroactive to the date of medical stability. ()

e. Temporary Partial Disability (TPD) payments shall be calculated using the employee's pay period, whether weekly, bi-weekly, or semi-monthly. For employees paid pursuant to any other schedule, TPD benefits shall be calculated semi-monthly. TPD payments owed for a particular pay period shall issue no later than seven (7) days following the date on which employee is ordinarily paid for that pay period. ()

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

13. Non-Compliance. Non-compliance with the above requirements may result in the revocation of the authority of an insurance carrier to write worker's compensation insurance or self-insured employer to self-insure its worker's compensation insurance obligations in the state of Idaho, or such lesser sanctions as the Industrial Commission may impose. ()

306. RULE PROHIBITING USE OF SICK LEAVE OR OTHER ALTERNATIVE COMPENSATION.

01. Employee Not Required to Take Sick Leave in Lieu of Compensation. No employer obligated to pay worker's compensation benefits to an employee as provided by the Worker's Compensation Law may require an employee to accept "sick leave" or other comparable benefit in lieu of the worker's compensation benefits provided by law. Section 72-318(2), Idaho Code, specifically provides that no agreement by an employee to waive his rights to compensation under the Worker's Compensation Law shall be valid. ()

02. Election of Sick Leave or Alternative Compensation Prohibited. Further, an employee may not elect to accept "sick leave" or other comparable benefit from an employer in lieu of worker's compensation benefits to which the employee is entitled under the Worker's Compensation Law. ()

307. RULE GOVERNING REPORTING INDEMNITY AND MEDICAL PAYMENTS AND MAKING PAYMENT OF INDUSTRIAL SPECIAL INDEMNITY FUND ASSESSMENT.

Pursuant to Section 72-327, Idaho Code, the state insurance fund, every authorized insurance carrier, and self-insured employer in Idaho shall report annually to the Industrial Commission the total gross amount of medical only and Indemnity Benefits paid on Idaho worker's compensation claims during the applicable reporting period. This report is used to calculate the pro rata share of the annual assessment for the ISIF, under Section 72-327, Idaho Code. ()

01. Filing. The report of indemnity and medical payments shall be filed with the Industrial Commission simultaneously with the first Semi-Annual Premium Tax Report; which, pursuant to Section 72-523, Idaho Code, is due each year on March 3rd. ()

02. Form. The report of indemnity and medical payments shall be submitted in writing on, or in a format substantially the same as the current Form IC2-327, available on the Commission's website. ()

03. Report Required When No Indemnity Paid. If an entity required to report under this rule has no claims against which indemnity or medical 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 and medical payments later than March 3rd each year. ()

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

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

c. A penalty assessed by the Commission shall be payable to the Industrial Commission and be submitted with the April 1 payment of the ISIF 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. ()

308. – 400. (RESERVED)

401. RULE GOVERNING COMPUTATION OF AVERAGE WEEKLY WAGE.

01. Amounts Paid over Base Rate. Sums paid by an employer to an employee, over and above the base rate of compensation agreed upon by the employer and the employee in a contract of hire, which are contingent and dependent upon the employee's increased physical exertion and/or efficiency shall be included in computing the employee's average weekly wage pursuant to Section 72-419(4)(a), Idaho Code. Said sums shall not be considered premium pay. ()

02. Fringe Benefits. Also, in computing the average weekly wage, it shall be presumed that wages include, but are not limited to, cost of living increases, vacation pay, holiday pay, and sick leave. ()

03. Premium Pay. Further, in computing the average weekly wage, it shall be presumed that premium pay includes, but is not limited to, shift differential pay and overtime pay. ()

04. Examples Not Exclusive. The above-listed examples shall not be taken as exclusive in computing the average weekly wage. ()

402. RULE GOVERNING CONVERSION OF IMPAIRMENT RATINGS TO “WHOLE MAN” STANDARD.

01. Converting Single Rating of Body Part to Whole Person Rating. Impairment ratings shall be converted in accordance with the Industrial Commission Schedule, Section 72-428, Idaho Code, with the base of five hundred (500) weeks for the whole man. ()

02. Averaging Multiple Ratings. Where more than one (1) evaluating physician has given ratings, these shall be converted to the statutory percentage of the whole man, and averaged for the applicable rating. ()

03. Correcting Manifest Injustice. In the event that the Commission deems a manifest injustice would result from the above ruling, it may at its discretion take steps necessary to correct such injustice. ()

403. RULE GOVERNING COMPENSATION FOR DISABILITY DUE TO LOSS OF TEETH.

01. Compensation for Disability. A Claimant under the Worker's Compensation Law shall be entitled to compensation for permanent disability for the loss of each tooth other than wisdom teeth at the rate of one tenth of one percent (.1%) of the whole man. The loss of wisdom teeth shall not constitute any permanent disability. Compensation hereunder shall be in addition to payments for medical services including dental appliances and bridgework necessitated by the injury and any income benefits during the period of Claimant's recovery to which the Claimant be entitled. ()

02. Prima Facie Evidence. This rule and schedule shall be prima facie evidence of the percentage of permanent disability to be attributed to the loss of teeth. ()

404. SUBMISSION OF MEDICAL REPORTS FROM PROVIDERS

This procedure applies to all open worker's compensation claims where medical services are provided and which have not been denied by the Payor. ()

01. Procedure. In all cases in which a particular injury or occupational disease results in a worker's compensation Claim, the Provider shall submit written Medical Reports for each medical visit to the Payor. Payors and Providers may contract with one another to identify specific records that will be provided in support of billings. The Provider shall also submit the same written Medical Reports to the Claimant upon request. These reports shall be submitted within fourteen (14) days following each evaluation, examination, and/or treatment. The first copy of any such reports shall be provided to the Payor and the Claimant at no charge. If duplicate copies of reports already provided are requested by either the Payor or the Claimant, the Provider may charge the requesting party a reasonable charge to provide the additional reports. Whenever possible, billing information shall be coded using CPT. In the case of Hospitals, reports shall include a Uniform Billing Form 04. In the case of physicians and other Providers supplying outpatient services, this reporting requirement shall include a CMS 1500 form. ()

a. If an injury or occupational disease results in a Claim, the Employer/Surety or Provider shall submit written reports to the Commission upon request. Such request may either be in writing or telephonic. If a Claim is referred to the Rehabilitation Division, Medical Reports shall be furnished by the Payor or Provider directly to the office that requests such reports. The Payor or Provider shall consider this an on-going request until notice is received that the reports are no longer required. ()

b. If the injury or occupational disease results in a time-loss Claim, the Payor shall submit copies of medical records containing information regarding the beginning and ending of disability, releases to work whether light duty or regular duty, impairment ratings, physical restrictions to the Commission. Other Medical Reports shall be submitted to the Commission only upon request. ()

c. ISIF shall receive all copies of Medical Reports, without charge, from either the Claimant or the Payor, depending upon who seeks to join it as a party to a worker's compensation Claim. ()

d. If the Commission requests Medical Reports from the Payor or Provider, the information shall be provided within a reasonable time period without charge. If information is received for which the Commission has no need, the information may be discarded or destroyed. ()

02. Report Form and Content. Upon approval of the Commission, Medical Reports may be submitted in electronic or other machine-readable form usable to all parties. ()

03. Timely Response Requirement. When the Commission requests a Medical Report from a Payor or Provider for use in monitoring a worker's compensation Claim, the Payor or Provider shall provide the requested information promptly. ()

04. Forfeiture of Payment. If a Provider fails to give records to the Payor or Claimant, the Payor or Claimant may petition the Commission for an order requiring the Provider to provide the requested information. The petition shall set forth the Petitioner's efforts to obtain the information, the responses to those efforts, and why the Petitioner believes that the Provider has the information. In response to the petition, the Commission may enter an order requiring the Provider to furnish the requested records or demonstrate that the records are not available. If a Provider fails to provide records when ordered by the Commission, the Commission may enter an Order of Forfeiture. In the event such an order is entered, the Provider will forfeit its right to payment from both the Payor and Claimant, until such time as the records are provided. ()

405. RULE GOVERNING REIMBURSEMENT FOR TRAVEL EXPENSES.

01. Mileage Rate. If Claimant has access to, and is able to operate, a vehicle for transportation covered by Sections 72-432(13) or 72-433(3), Idaho Code, employer shall reimburse Claimant at the mileage rate then allowed by the State Board of Examiners for State employees. Such rate shall be published annually by the Industrial Commission, together with the average state wage for the upcoming period. All such miles shall be reimbursed, with fractions of a mile greater than one-half (1/2) mile rounded to the next higher mile and fractions of a mile below one-half (1/2) mile disregarded. ()

02. Commercial Transportation. If Claimant has no vehicle, or has access to a vehicle and is reasonably unable to utilize the vehicle for transportation covered by Sections 72-432(13) or 72-433(3), Idaho Code, Claimant's employer shall reimburse Claimant the actual cost of commercial transportation as evidenced by actual receipts. Notwithstanding the above provision, no Claimant shall be eligible for reimbursement of the actual cost of commercial transportation where such Claimant is unable to operate a motor vehicle due to the revocation or suspension of driving privileges because Claimant was under the influence of alcohol and/or drugs. ()

03. Request for Reimbursement. It shall be Claimant's responsibility to submit a travel reimbursement request to the employer. Such request shall be made on a form substantially the same as Industrial Commission Form IC 432(1), posted on the Commission's website. The Claimant must attach to the form a copy of a bill or receipt showing that the visit occurred. The employer shall furnish the Claimant with copies of this form. ()

04. Frequency of Requests. Claimant shall not request transportation reimbursement more frequently than once every thirty (30) days. However, notwithstanding this provision, should a Claimant request transportation reimbursement more frequently than every thirty (30) days, employer need not issue more than one reimbursement check in any thirty-day (30) period. ()

406. -- 500. (RESERVED)

501. RULE GOVERNING PROTECTION AND DISCLOSURE OF REHABILITATION DIVISION RECORDS.

01. Request for Disclosure. Pursuant to Section 74-105(10), Idaho Code, a party requesting rehabilitation records shall do so in writing and identify which provision of 74-105(10), Idaho Code, authorizes their request. ()

02. Requests from Other Agencies. If records are in the possession of the Rehabilitation Division by reason of an agreement to comply with valid confidentiality regulations of any agency of the state of Idaho, or agency of the United States, then disclosure shall be requested from the source agency, and not from the Rehabilitation Division. ()

502. RULE GOVERNING REPORTS OF ATTORNEY COSTS AND FEES IN LITIGATED CASES.

When requested by the Commission, parties to a Litigated Case shall provide the Commission the information required by Section 72-528, Idaho Code. The form for Sureties is Form 1022 and the form for Claimant's attorneys is Form 1023; both are available on the Commission's website. ()

529. -- 600. (RESERVED)

601. SUBMISSION OF FROI AND SROI.

01. Purpose. Pursuant to Sections 72-602(1)-(2), Idaho Code, employers must submit a FROI and/or SROI in accordance with these rules. ()

02. EDI Reporting. The Commission requires electronic submission of FROIs and SROIs in accordance with the most current versions of the IAIABC EDI Release 3.0 and the Commission's EDI Guides and Tables from any employer not otherwise exempt by these rules. Each FROI and SROI must comply with formatting requirements and must contain the information identified as mandatory or mandatory conditional, as applicable. ()

03. Trading Partner Agreements. Before commencing with electronic reporting, Trading Partners shall sign a Trading Partner Agreement with the Commission, which the Commission must approve prior to submitting reports. This agreement must provide the effective date to send and receive electronic reports, the acceptable data to be sent and received, the method of transmission to be used, and other pertinent elements. This agreement will identify the insurance carrier, the Claims Administrator, the sender of the electronic files, and the electronic filing method. To ensure the accuracy of reported data, the Trading Partner must maintain their profile to reflect changes as they occur and the Commission may make periodic audits of Trading Partner files. In the event that a Trading Partner Agreement is entered into by a Claims Administrator, notice to the Trading Partner of a FROI shall be deemed to be notice to the underlying insurance carrier or self-insured employer. ()

04. Report Form and Content for Parties Exempt from EDI Requirements. ()

a. Individual injured workers, injured worker's legal counsel, and employers that are not insured are not required to comply with EDI requirements for FROIs and SROIs. SROIs filed on Legacy Claims will not be accepted via EDI. ()

b. Parties exempt from EDI requirements must submit FROIs on a form 1A-1 and SROIs on a form SROI-1, or in a format substantially similar. Both forms are available on the Commission's website. ()

05. Retaining Claims Files. Upon request of the Commission, insurance carriers, Claims Administrators, or employers shall provide to the Commission, in whole or in part according to the request, a copy of the claim file at no cost to the Commission. All insurance carriers, Claims Administrators, or employers shall retain complete copies of claims files for the life of the Claim and a minimum of five (5) years from the date of closure. ()

06. Filing Not an Admission. Filing a FROI is not an admission of liability and is not conclusive evidence of any fact stated therein. If a Claim is submitted electronically, no signatures are required. ()

07. Filing Considered Authorization. Filing of a Claim shall be considered an authorization for the release of medical records that are relevant to or bearing upon the particular injury or occupational disease for which the Claimant is seeking compensation. ()

08. Timely Response Requirement. When the Commission requests additional information in order to process the Claim, the Claimant or employer shall provide the requested information promptly. The Commission request may be either in writing or telephonic. ()

602. SUMMARIES OF PAYMENTS.

01. Summaries Requirement. A summary of payment shall be filed, in duplicate, by the surety or self-insured employer within one hundred twenty (120) days of Termination of Disability for all legacy indemnity

claims upon which a surety or self-insured employer has made payments, except for those claims which are resolved by LSS. If all claim information has been provided via EDI as prescribed by Commission rules, an electronic summary of payment transaction must be filed within one hundred twenty (120) days of Termination of Disability for all Indemnity Claims. In the case of medical-only claims, no summaries of payment need to be filed. In the context of Death Claims and permanent total disability claims, interim summaries of payments shall be filed annually within the first quarter of each calendar year. Interim summaries shall be submitted setting forth substantially the same information required by Final Summaries of Payment, including the balance of payments made to the beginning of the current calendar year, payments during the calendar year, and a total of payments made. This total balance shall be carried forward as the amount of payments made to the beginning of the current year. The Final Summary shall be so designated. Supporting documentation shall be attached to any Legacy Claim summary of payment filed with the Commission. If all claim information has been filed electronically, supporting documentation must be provided upon Commission request. ()

02. Form. The summary of payment for Legacy Claims shall be submitted in a format substantially similar to IC Form 6, available on the Commission's website. The final SROI transaction shall be reported electronically for non-Legacy Claims. ()

03. Approval. Within ninety (90) days of receipt of the Legacy Claim Summary of Payment or SROI electronic transaction as set forth above, the Industrial Commission shall notify the surety or self-insured employer of any inability to reconcile the summary to its records and request additional information. If the surety or self-insured employer does not receive a request for additional information within the ninety (90) day period, the surety or self-insured employer may proceed with closure. In the event the Commission requests additional information, whether in writing or telephonic, the surety or self-insured employer shall submit the requested information within fifteen (15) working days. If the surety or self-insured employer is unable to furnish the requested information, the surety or self-insured employer shall notify the Commission, in writing, of its inability to respond and the reasons therefor within the fifteen (15) working days. The Commission may schedule a show cause hearing to determine whether or not the surety or self-insured employer should be allowed to continue its status under the worker's compensation laws, including whether the employer should be allowed to continue self-insured status. ()

04. Change in Status of Employer. In case of any default by the Employer or in the event the Employer shall fail to pay any final award or awards, by reason of insolvency or because a receiver has been appointed, the Employer shall submit a summary of payments for every time-loss and Death Claim within one hundred twenty (120) days of the default, insolvency, or appointment of a receiver. This summary will be designated as an interim summary and does not relieve the Employer, successor or receiver from continued reporting requirements. The receiver or successor shall continue to report to the Commission, including the submission of summaries of payments and schedules of outstanding awards. ()

603. -- 800. (RESERVED)

801. RULE GOVERNING CHANGE OF STATUS NOTICE TO CLAIMANTS.

01. Notice of Change of Status. As required and defined by Section 72-806, Idaho Code, a worker shall receive written notice within fifteen (15) days of any change of status or condition, including, but not limited to, whenever there is an acceptance, commencement, denial, reduction, or cessation of medical or monetary compensation benefits to which the worker might presently or ultimately be entitled. Such notice is required when benefits are curtailed to recoup any overpayment of benefits in accordance with the provisions of Section 72-316, Idaho Code. ()

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

03. Form of Notice. Any notice to a worker required by Section 72-806, Idaho Code, 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 in a format substantially similar to IC Form 8, available on the Commission's website. ()

04. Medical Reports. As required by Section 72-806, Idaho Code, 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 Section 72-806, Idaho Code, 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. The party giving notice may supply the copy to the Industrial Commission in accordance with the Commission's rule on electronic submission of documents. ()

802. RULE GOVERNING APPROVAL OF ATTORNEYS FEES

01. Purpose. The Industrial Commission promulgates this rule to govern the approval of attorney fees. ()

02. Charges Presumed Reasonable: ()

a. 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 ()

b. 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 ()

c. 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. ()

03. 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 Worker's Compensation matter shall in any proposed LSS, 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 LSS, along with counsel's explanation of the treatment to be given such bills/claims following approval of the LSS. ()

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. ()

04. 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 Paragraph 802.02.b 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 Subsection 802.02 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. ()

05. Disclosure Statement. 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 following text: ()

a. In worker’s 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. ()

b. 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 Industrial Commission, PO Box 83720, Boise, ID 83720-0041, to resolve the dispute. ()

803. MEDICAL FEES.

01. General Provisions for Medical Fees. The following provisions shall apply to Commission approval of claims for medical benefits. ()

a. Acceptable Charge. Payors shall pay Providers the acceptable charge for medical services. ()

b. Coding. The Commission will generally follow the coding guidelines published by CMS and by the American Medical Association, including the use of modifiers. ()

c. Disputes. Disputes between Providers and Payors are governed by Subsection 803.06 of this rule and JRP 19. ()

d. Outside of Idaho. Reimbursement for medical services provided 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 worker’s compensation fee schedule in effect in the state in which services are rendered. If there is no 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. ()

02. Acceptable Charges For Medical Services Provided By Physicians Under The Idaho Worker's Compensation Law. ()

a. The Commission adopts the RBRVS, published by CMS, as amended, as the standard to be used to determine acceptable charges by physicians. ()

b. Modifiers. Modifiers for physicians will be reimbursed as follows: ()

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

ii. 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. ()

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

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

c. Conversion Factors. The standard for determining the acceptable charge for a medical service, identified by a code assigned to that service in the latest edition of the Physician's CPT, published by the American Medical Association, as amended, is calculated by the application of the total facility or non-facility RVU for services as determined by place of service in the latest RBRVS in effect on the first day of January of the current calendar year, to the following corresponding conversion factors. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. ()

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR
Anesthesia	00000 - 09999	Anesthesia	\$60.33
Surgery - Group One	22000 - 22999	Spine	\$135.00
	23000 - 24999	Shoulder, Upper Arm, & Elbow	
	25000 - 27299	Forearm, Wrist, Hand, Pelvis & Hip	
	27300 - 27999	Leg, Knee, & Ankle	
	29800 - 29999	Endoscopy & Arthroscopy	
	61000 - 61999	Skull, Meninges & Brain	
	62000 - 62259	Repair, Neuroendoscopy & Shunts	
Surgery - Group Two	28000 - 28999	Foot & Toes	\$124.00
	64550 - 64999	Nerves & Nervous System	
Surgery - Group Three	10000 - 19999	Integumentary System	\$88.54
	20000 - 21999	Musculoskeletal System	
	29000 - 29799	Casts & Strapping	
	30000 - 39999	Respiratory & Cardiovascular	
	40000 - 49999	Digestive System	
	50000 - 59999	Urinary System	
	60000 - 60999	Endocrine System	
	62260 - 62999	Spine & Spinal Cord	
	64000 - 64549	Nerves & Nervous System	
	65000 - 69999	Eye & Ear	
Radiology	70000 - 79999	Radiology	\$88.54

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR
Pathology & Laboratory	80000 - 89999	Pathology & Laboratory	To Be Determined
Medicine - Group One	90000 - 90749 94000 - 94999 97000 - 97799 97800 - 98999	Immunization, Injections, & Infusions Pulmonary / Pulse Oximetry Physical Medicine & Rehabilitation Acupuncture, Osteopathy, & Chiropractic	\$49.00
Medicine - Group Two	90750 - 92999 93000 - 93999 95000 - 96020 96040 - 96999 99000 - 99607	Psychiatry & Medicine Cardiography, Catheterization, Vascular Studies Allergy / Neuromuscular Procedures Assessments & Special Procedures E / M & Miscellaneous Services	\$70.00

()

d. Anesthesiology. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the current Anesthesia Base Units assigned to that CPT Code by CMS, 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. ()

e. 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 Paragraph 02.c, above, determine the acceptable charge for that service, based on all relevant evidence in accordance with the procedures set out in Subsection 06, below. ()

f. Medicine Dispensed by Physicians. Reimbursement to physicians for any medicine shall not exceed the acceptable charge calculated for that medicine as if provided by a Pharmacy under Subsection 04 of this rule without a dispensing or compounding fee. Reimbursement to physicians for repackaged medicine shall be the AWP for the medicine prior to repackaging, identified by the NDC reported by the original manufacturer. Reimbursement may be withheld until the original manufacturer's NDC is provided by the physician. ()

g. Adjustment of Conversion Factors. The conversion factors set out in this rule may be adjusted each fiscal year (FY) by the Commission to reflect changes in inflation or market conditions in accordance with Section 72-803, Idaho Code. ()

03. Acceptable Charges For Medical Services Provided By Hospitals And Ambulatory Surgery Centers Under The Idaho Worker's Compensation Law. The following standards shall be used to determine the acceptable charge for Hospitals and ASCs. ()

a. Critical Access Hospitals. The standard for determining the acceptable charge for inpatient and outpatient services provided by a Critical Access 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 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 two hundred dollars (\$10,200). 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 ASC Services. The standard for determining the acceptable charge for outpatient services provided by Hospitals (other than Critical Access Hospitals) and for services provided by ASCs is calculated by multiplying the base rate by the Medicare Hospital Outpatient Prospective Payment System 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 forty dollars and seventy-five cents (\$140.75). The base rate for ASC services is ninety-one dollars fifty cents (\$91.50). ()

i. Medical services for which there is no APC weight listed shall be reimbursed at seventy-five percent (75%) of the reasonable charge. ()

ii. Status code N items or items with no CPT or HCPCS code shall receive no payment except as provided in Subparagraph 803.03.c.ii.(1) or 803.03.c.ii.(2) of this rule. ()

(1) Implantable Hardware may be eligible for separate payment under Subparagraph 03.d.iii. of this rule. ()

(2) Outpatient laboratory tests provided with no other Hospital outpatient service on the same date, or outpatient laboratory tests provided on the same date of service as other Hospital outpatient services that are clinically unrelated may be paid separately if billed with modifier L1. Payment shall be made in the same manner that services with no APC weight are paid under Subparagraph 803.03.c.i. of this rule. ()

iii. When no medical services with a status code J1 appears on the same Claim, two (2) 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%). When a medical service with a status code J1 appears on the same Claim, all medical services with a status code T shall be paid at fifty percent (50%). ()

iv. When no medical services with a status code J1 appears on the same Claim, status code Q items with an assigned APC weight will not be discounted. When a medical service with a status code J1 appears on the same Claim, status code Q items shall be paid at fifty percent (50%). ()

d. Additional Hospital Payments. When the charge for a medical service provided by a Hospital (other than a Critical Access 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 Paragraph 03.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. ()

e. Adjustment of Hospital and ASC Base Rates. The Commission may periodically adjust the base rates set out in Paragraphs 803.03.b. and 803.03.c. of this rule to reflect changes in inflation or market conditions. ()

04. Acceptable Charges For Medicine Provided By Pharmacies. The following standards shall be used to determine the acceptable charge for medicine provided by pharmacies. ()

a. Brand/Trade Name Medicine. The standard for determining the acceptable charge for brand/trade name medicine shall be the AWP, plus a five dollar (\$5) dispensing fee. ()

b. Generic Medicine. The standard for determining the acceptable charge for generic medicine shall be the AWP, plus an eight dollar (\$8) dispensing fee. ()

c. Compound Medicine. The standard for determining the acceptable charge for compound medicine shall be the sum of the AWP for each drug included in the compound medicine, plus a five dollar (\$5) dispensing fee and a two dollar (\$2) compounding fee. All components of the compound medicine shall be identified by their original manufacturer's NDC when submitted for reimbursement. Payors may withhold reimbursement until the original manufacturer's NDC assigned to each component of the compound medicine is provided by the Pharmacy. Components of a compound medicine without an NDC may require medical necessity confirmation by the treating physician prior to reimbursement. ()

d. Prescribed Over-the Counter Medicine. The standard for determining the acceptable charge for prescribed over-the-counter medicine filled by a Pharmacy shall be the reasonable charge plus a two dollar (\$2) dispensing fee. ()

05. Acceptable Charges For Medical Services Provided By Other Providers Under The Idaho Worker's Compensation Law. The standard for determining the acceptable charge for Providers other than physicians, Hospitals or ASCs shall be the reasonable charge. ()

06. Billing And Payment Requirements For Medical Services And Procedures Preliminary To Dispute Resolution. This rule governs billing and payment requirements for medical services provided under the Worker's Compensation Law and the procedures for resolving disputes between Payors and Providers over those bills or payments. ()

a. 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. ()

b. 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 Paragraph 06.b 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 Paragraph 803.06.i. of this rule for that service. ()

i. A Provider's bill shall, whenever possible, describe the Medical Service provided, using the American Medical Association's appropriate CPT coding, including modifiers, the appropriate HCPCS code, the diagnostic and procedure code set version required by CMS and the original NDC for the year in which the service was performed. ()

ii. 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. ()

iii. If requested by the Payor, the bill shall be accompanied by a written report as defined by Subsection 010.31 and required by Section 404 of these rules. Where a bill is not accompanied by such Report, the periods expressed in Paragraphs 803.06.c and 803.06.e. of this rule, shall not begin to run until the Payor receives the Report. ()

c. Prompt Payment. Unless the Payor denies liability for the Claim or, pursuant to Paragraph 803.06.e. of this rule, 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 or upon acceptance of liability, if made after

bill is received from Provider. ()

d. Partial Payment. If the Payor acknowledges liability for the Claim and, pursuant to Paragraph 803.06.e. of this rule, 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. ()

e. Preliminary Objections and Requests for Clarification. ()

i. 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. ()

ii. 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. ()

iii. 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. ()

iv. 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 Subparagraph 06.e.iii., it shall be precluded from objecting to such charge as failing to comport with the applicable administrative rule. ()

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

i. 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. ()

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

iii. 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. ()

g. Payor Shall Pay or Issue Final Objection. The Payor shall pay the Provider's bill in whole or in part or 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. ()

h. 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. ()

i. 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 Paragraph 803.01.c. 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. ()

804. – 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

DOCKET NO. 18-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 41-211, 41-254, and 41-401, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 18, rules of the Department of Insurance:

IDAPA 18

All Lines:

- 18.01.02, Schedule of Fees, Licenses, and Miscellaneous Charges; All rules *except Subsection 030.02.a*.

State Fire Marshal:

- 18.08.02, Fire Protection Sprinkler Contractors; All rules *except Subsections 013.02*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of these proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 4064–4076](#). In preparation for adopting the pending fee rule, in addition to the specific changes per chapter noted above, each chapter has undergone cleanup for technical and housekeeping language to support the Governor's Red Tape Reduction Act. For example, sections on Written Interpretations and Office Hours / Address, etc., have been removed as well as definitions, etc., found in statute.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. This fee or charge is being imposed pursuant to Section 41-401, Idaho Code.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Weston Trexler, (208)334-4214, weston.trexler@doi.idaho.gov.

Dated this 11th day of October, 2019.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720,
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 41-211, 41-254, and 41-401, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 18, rules of the Department of Insurance:

IDAPA 18

All Lines:

- 18.01.44, *Schedule of Fees, Licenses, and Miscellaneous Charges* – all rules **except for Subsections 040.04, 040.08, and 020.03.vii.**; Subsection 005.04 was modified to update the Department’s web address; hereby re-designated as **IDAPA 18.01.02**

State Fire Marshal:

- 18.01.49, *Fire Protection Sprinkler Contractors*, hereby re-designated as **IDAPA 18.08.02**

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. The inclusion of these rules is critical to the Department of Insurance (DOI). The DOI is completely run, operated, and budgeted based on the collection of fees from licensed agents, carriers, and miscellaneous entities. The inability to collect fees would dramatically disrupt the operations of the DOI and it would cause the department to lose its accreditation which would in turn cause carriers to leave the state. The Department seeks the reauthorization of the aforementioned fees with the exception of two.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state’s obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho’s constitutional requirement that it balance its budget. The Department of Insurance is funded solely based on fees from agents, carriers, and miscellaneous entities, as the premium tax and other non-fee funds collected by the Department go to the state general fund. Elimination of these fees would force the Department to be funded by the general fund

which would create a constitutional conflict. The fees within the rulemaking on 18.01.02 apply to insurers and related entities (020), producers and other licensees (030), and miscellaneous fees (040). The fees within the rulemaking on 18.08.02 apply to the State Fire Marshal's actions on applications and licenses (015).

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. This rulemaking seeks to eliminate two 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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Pamela Murray, (208) 334-4217, pamela.murray@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 within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 18-0000-1900F

18.01.02 – SCHEDULE OF FEES, LICENSES, AND MISCELLANEOUS CHARGES

000. LEGAL AUTHORITY.

Title 41, Chapters 2 and 4, Idaho Code, Idaho Code. (7-1-00)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.01.02, “Schedule of Fees, Licenses, and Miscellaneous Charges.” (7-1-00)

02. Scope. The purpose of this rule is to provide for the amounts to be collected for fees, licenses and miscellaneous charges. (7-1-00)

002. -- 010. (RESERVED)

011. FEES PAYABLE IN ADVANCE.

The director will collect in advance fees, licenses, and miscellaneous charges as outlined in this rule. (7-1-00)

012. -- 019. (RESERVED)

020. INSURER FEES.

01. Annual Continuation Fee. All insurers and other entities (set forth in Section 020) licensed, listed, or approved to do business in the state of Idaho will pay an annual continuation fee. (7-1-00)

a. The annual continuation fee is due on March 1st each year and is payment of the insurer’s fees due through the following February. ()

b. The annual continuation fee is charged at the time the insurer applies for admission to do business in the state of Idaho. If the application is approved, the fee paid will cover the insurer’s fees through the following February. ()

02. Fee for Insurers. For all insurance companies receiving a certificate of authority pursuant to Title 41, Chapter 3, Idaho Code, the annual continuation fee is as follows: ()

a. If insurer’s policy holders’ surplus at the preceding December 31 is less than ten million dollars (\$10,000,000) - One thousand dollars (\$1,000). ()

b. If insurer’s policy holders’ surplus at the preceding December 31 is ten million (\$10,000,000) or more, but less than one hundred million (\$100,000,000) -- Two thousand five hundred dollars (\$2,500). ()

c. If insurer’s policy holders’ surplus at the preceding December 31 is one hundred million (\$100,000,000) or greater - Four thousand five hundred dollars (\$4,500). ()

03. Fees of Other Entities. The following entities will be assessed an annual continuation fee: ()

a. Five hundred dollars (\$500): (7-1-01)

i. All reinsurers, listed pursuant to Section 41-515, Idaho Code. ()

ii. Authorized surplus line insurers. (7-1-00)

iii. County mutual insurers. (7-1-00)

iv. Fraternal benefit societies. (7-1-00)

v. Hospital and/or professional service corporations. (7-1-00)

vi. Self-funded health care plans. (3-24-16)

vii. Domestic Risk retention groups. (7-1-01)

- viii. Petroleum clean water trusts. (7-1-00)
- ix. Rating organizations. (7-1-00)
- x. Advisory organizations. (7-1-00)
- b. One hundred dollars (\$100): Purchasing groups. (7-1-00)
- 04. Fees Provide.** The annual continuation fee includes, but is not limited to, the following: ()
 - a. Certificate of authority renewal, license renewal, and annual registration. (7-1-00)
 - b. Arson, fire and fraud investigation costs. ()
 - c. Annual statement filing. (7-1-00)
 - d. Agent appointment and renewal of appointment. (7-1-00)
 - e. Filings under Title 41, Chapter 38, Idaho Code, Acquisitions of Control and Insurance Holding Company Systems. (7-1-00)
 - f. Filing of amendments to Articles of Incorporation. (7-1-00)
 - g. Filing of amendments to Bylaws. (7-1-00)
 - h. Amendments to Certificate of Authority. (7-1-00)
 - i. Filing of notice of significant transactions pursuant to Section 41-345, Idaho Code. (7-1-00)
 - j. Quarterly statement filing. (7-1-00)
 - k. Examination expenses. (3-24-16)
- 05. Not Provided in Fees.** Payment of the annual continuation fee will not exempt the insurer or entity from the following: ()
 - a. Fees for application for producer license. (7-1-00)
 - b. Costs incurred by the Department for investigation of an applicant for producer license. (7-1-00)
 - c. Attorney's fees and costs incurred by the Department when allowed pursuant to Idaho Code. (7-1-00)
 - d. Costs incurred for experts and consultants when allowed by Idaho Code. (7-1-00)
 - e. Penalties or fines levied by or payable to the Department of Insurance. (7-1-00)
 - f. All fees set forth under Section 040. (7-1-00)
- 06. Failure to Pay Fee.** Failure to pay the annual continuation fee on or before March 1st each year will result in the expiration of the insurer's or entity's authority to do business in the state of Idaho pursuant to Section 41-324, Idaho Code. ()
- 07. Reinstatement Fee.** The reinstatement fee referenced in Section 41-324(3), Idaho Code, is the amount referenced above for the insurer or entity continuation fee. (7-1-00)
- 021. -- 029. (RESERVED)**

030. PRODUCER AND MISCELLANEOUS LICENSING FEES.

01. Original License Application. The following fees are due and needs to be paid with the filing application for original license: ()

- a. Administrators -- three hundred dollars (\$300). (7-1-00)
- b. Producers -- eighty dollars (\$80). (3-13-02)
- c. Designation as a managing general agent -- eighty dollars (\$80). (3-13-02)
- d. Adjusters and public adjusters -- eighty dollars (\$80). (3-24-16)
- e. Reinsurance intermediary -- eighty dollars (\$80). (3-13-02)
- f. Surplus line brokers -- eighty dollars (\$80). (3-13-02)
- g. Life settlement providers -- five hundred dollars (\$500). (3-29-10)
- h. Life settlement brokers -- three hundred dollars (\$300). (3-29-10)
- i. Independent review organization -- five hundred dollars (\$500). (3-29-10)
- j. Vendor of portable electronics insurance, a type of limited lines producer: (3-27-13)
 - i. A vendor of portable electronic insurance who is engaged in portable electronic transactions at more than ten (10) locations in the state of Idaho -- one thousand dollars (\$1,000). (3-27-13)
 - ii. A vendor of portable electronic insurance who is engaged in portable electronic transactions at ten (10) or fewer locations in the state of Idaho -- one hundred dollars (\$100). (3-27-13)

02. Examination Fees. Each time a producer or adjuster's examination is taken for licensing under Title 41, Chapters 10 and 11, Idaho Code, the applicant may pay a fee to a third-party testing vendor in the amount established by contract between the department and the vendor. ()

03. Fingerprint Processing. Processing fingerprints (as applicable) -- not to exceed eighty dollars (\$80). (3-27-13)

04. License Renewal. The following fees are due and needs to be paid for each license to renew or continue: ()

- a. Adjusters, public adjusters, and producers (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically. (3-24-16)
 - i. A vendor of portable electronic insurance who is engaged in portable electronic transactions at more than ten (10) locations in the state of Idaho -- five hundred dollars (\$500). (3-27-13)
 - ii. A vendor of portable electronic insurance who is engaged in portable electronic transactions at ten (10) or fewer locations in the state of Idaho -- one hundred dollars (\$100). (3-27-13)
- b. Redesignation as managing general agent (annual) -- eighty dollars (\$80). (3-13-02)
- c. Administrators (biennial) -- eighty dollars (\$80). (3-19-07)
 - i. Renewal form is filed on or before December 31. (3-19-07)

- ii. Any renewal form postmarked after December 31 includes a penalty in an amount equal to the renewal fee. (3-19-07)
- iii. A renewal form postmarked after January 31 needs to be submitted as a new application with supporting documents and the full application fee. (3-19-07)
- d. Surplus line brokers (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically. (3-16-04)
- e. Life settlement providers (biennial) -- three hundred dollars (\$300). (3-29-10)
- f. Life settlement brokers (biennial) -- eighty dollars (\$80). (3-29-10)
- g. Independent review organization (biennial) -- three hundred dollars (\$300). (3-29-10)

031. -- 039. (RESERVED)

040. MISCELLANEOUS FEES.

- 01. Certified Copy.** Certified copy of certificate of authority, license or registration - Fifty dollars (\$50). (7-1-00)
- 02. Certificate Under Seal.** Director's certificate under seal (except for those under Subsection 040.01 of this rule) - Twenty dollars (\$20). (7-1-00)
- 03. Documents Filed.** For each copy of a document filed in the DOI, a reasonable cost as fixed by the director. For rate and form filings not submitted electronically through the national System for Electronic Rate and Form Filing (SERFF) -- Twenty dollars (\$20) for each rate or form filed in excess of ten (10) per calendar year. ()
- 04. Insurer Service of Process.** For receiving and forwarding copy of summons or other process served upon the director as process agent of an insurer -- Thirty dollars (\$30). (7-1-00)
- 05. Agent Service of Process.** For receiving and forwarding copy of summons or other process served upon the director as process agent of a nonresident producer or other person for which the director is authorized to serve as statutory agent for service of process -- Thirty dollars (\$30). (3-24-16)
- 06. Continuing Education.** Filing continuing education applications for approval and certification of subjects of courses (each application) -- Twenty-five dollars (\$25). (7-1-00)

041. -- 049. (RESERVED)

050. REFUNDS.

All fees, licenses, and miscellaneous charges are non-refundable except as noted. (7-1-00)

051. OVERPAYMENTS.

Overpayments of published fees will be returned only when such overpayments exceed twenty dollars (\$20), or upon request of the payor. (7-1-00)

052. -- 999. (RESERVED)

18.08.02 – FIRE PROTECTION SPRINKLER CONTRACTORS

000. LEGAL AUTHORITY.

Title 41, Chapter 2, Section 41-254(2), (3) and Chapter 9 International Fire Code. (5-3-03)

001. TITLE AND SCOPE.

01. **Title.** IDAPA 18.08.02, “Fire Protection Sprinkler Contractors.” ()

02. **Purpose.** This rule is to assure the people of Idaho that fire sprinkler systems and their appurtenances are being installed and maintained by qualified persons and organizations that contract to sell, design, modify, install, service, or maintain such systems; to safeguard lives and property and protect the public interest; to require insurance, and bonding to register such persons and organizations; to establish regulation by the State Fire Marshal; and to set penalties and fees for the administration of this rule. (7-1-93)

03. **Persons Affected.** This rule will affect any person, individual, partnership, joint venture, corporation, or any combination thereof, association, business trust or organized group of persons, who by themselves or through others, offers to undertake, represents themselves as being able to undertake, or does undertake contracting for the sale, design, installation, modification, alteration, repair, maintenance, or maintenance inspection of any fire protection sprinkler system or its appurtenances. (7-1-93)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. **Fire Protection Sprinkler System.** An integrated system of underground and overhead piping designed in accordance with fire protection engineering standards. This installation includes a water supply, such as a gravity tank, fire pump, reservoir or pressure tank and/or connection by underground piping to a water supply. The portion of the sprinkler system above ground is a network of specially sized, or hydraulically designed, piping installed in a building, structure or area, generally overhead, and to which sprinklers are connected in a systematic pattern. The system include a controlling valve and a device for actuating an alarm when the system is in operation. The system is usually activated by heat from a fire and discharges water over the fire area. (1-1-94)

02. **Fire Protection Sprinkler Contractor.** Those persons described in Subsection 001.02 of this rule who contract to install, repair, modify, or maintain fire sprinkler systems. (1-1-94)

03. **Fitters.** Those persons who install and maintain fire sprinkler systems and who work under the supervision of a Fire Protection Sprinkler Contractor. (7-1-93)

04. **Responsible Maintenance Employee.** Any person who is employed by an owner of a premises that has a fire sprinkler system installed and who regularly inspects and maintains such system as follows: Inspects and maintains fire sprinkler system as detailed in the maintenance checklist provided by the State Fire Marshal; said checklist will follow the guidelines of National Fire Protection Association Standard 25 for the “Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems.” (5-3-03)

011. POWERS AND DUTIES OF THE STATE FIRE MARSHAL.

In addition to the powers and duties prescribed in this rule, the State Fire Marshal will: (7-1-93)

01. **Assistants, Inspectors and Other Employees.** Appoint an adequate number of assistants, inspectors and other employees that may be necessary to carry out the provisions of this rule, prescribe their duties, and fix their compensation within the amount appropriated. (7-1-93)

02. **Licensing Procedures.** Establish procedures for licensing of fire protection sprinkler contractors and fitters, set forth the form and content of applications, and investigate and examine all applicants as to their qualifications and fitness for such licensing. (7-1-93)

03. **Records.** Keep records of all licenses issued, suspended or revoked. (1-1-94)

04. **Suspension or Revocation of License.** Suspend or revoke any license for any cause prescribed by this rule, and refuse to grant any license for any cause which would be grounds for revocation or suspension. (7-1-93)

05. Examinations. Prepare, administer, and grade such applicable examinations and tests for applicants as may be needed for the purposes of this rule, and determine the score that will be deemed a passing score. ()

06. Fees. Collect fees, including applications, testing, licensing, renewals, and duplication fees from the applicants, and license holders for the purpose of administering and funding this rule. (7-1-93)

012. QUALIFICATIONS FOR CONTRACTORS LICENSE.

Applicants seeking registration to obtain licenses as fire protection sprinkler contractors will meet the following minimum qualifications: (7-1-93)

01. Owner, Officer or Manager. The applicant is an owner, officer or manager of their company, corporation, partnership or proprietorship. (7-1-93)

02. Examination, Education or Experience. The applicant needs to: ()

a. Satisfactorily pass an examination prescribed by the State Fire Marshal and provide proof to the effect that the applicant has supervised or installed at least four (4) fire sprinkler systems of more than two hundred (200) heads each (complete with name, description and location of each); or (1-1-94)

b. Provide proof of successful attainment of Level III Certification in fire protection, Automatic Sprinkler System Design from the National Institute for Certification in Engineering Technologies or equivalent. (1-1-94)

013. LICENSE REQUISITE.

No person within the purview of this rule may act, or assume to act, or advertise, as a fire protection sprinkler contractor without a license obtained under and in compliance with this rule. ()

014. LICENSE, DISPLAY, RENEWALS, DUPLICATES, APPLICATIONS.

01. Time Period. All licenses will be valid for a period of not longer than one (1) year and expire on the 31st day of December of each year, regardless of the month issued. (7-1-93)

02. Posting of License. Each license issued pursuant to this rule needs to be posted in a conspicuous place in the contractor's place of business. (7-1-93)

03. Renewal. Any license which has not been suspended or revoked may, upon payment of the renewal fees prescribed, be renewed for an additional period of one (1) year from its expiration upon filing an application for renewal on forms prescribed by the State Fire Marshal. (7-1-93)

04. Duplicate License. A duplicate license may be issued for one lost, destroyed, or mutilated upon application for such a form prescribed by the State Fire Marshal and the payment of the fee prescribed. Each duplicate license will have the word "duplicate" stamped across the face and bear the same number as the one it replaced. (7-1-93)

05. Bids Will Bear License Number. All written bids, proposals and offers, and all shop and field installation drawings will bear the contractor's license number. (7-1-93)

06. Forms and Fees. Application for a license will be made on forms prescribed by the State Fire Marshal. Each application will be accompanied by the prescribed fee. ()

015. ACTION ON APPLICATIONS AND LICENSE FEES.

Within one hundred and twenty (120) days after the filing of a complete application for a license and the payment of the prescribed fees, the State Fire Marshal will: ()

01. Investigation of Applicants. Conduct an investigation of applicants. Such investigation may inquire the name and address of the applicant; whether the applicant is associated in any partnership, corporation or

other entity; the names, addresses, and official capacities of all such associates; and any other pertinent information as the State Fire Marshal may deem relevant. (7-1-93)

- 02. Fees.** License fees for fire protection sprinkler contractors are as follows: (7-1-93)
 - a.** Examination Fee -- Twenty-five dollars (\$25). (7-1-93)
 - b.** License Fee -- Four hundred dollars (\$400). (7-1-93)
 - c.** Annual License Renewal Fee -- One hundred dollars (\$100). (7-1-93)
 - d.** Duplicate License Fee -- Ten dollars (\$10). (7-1-93)
 - e.** Branch Office Fee -- One hundred dollars (\$100). (7-1-93)
 - f.** Examination fees, when paid, are earned and are not subject to refund. (7-1-93)

03. Branch Office License. Branch offices of a licensed firm doing business in this state need obtain a branch office license. Each license needs to provide a shop or a vehicle as a place of business properly equipped and subject to inspection by the authority. A separate license is needed for each business location. Any advertisement that the services of installing or maintaining fire protection sprinkler systems constitutes prima facie evidence that the premises, building, room, shop, store, or establishment in or upon which it appears or to which it refers is a separate business location. (1-1-94)

04. Arson, Fire, and Fraud Prevent Account. All license fees collected will be deposited in the Arson, Fire, and Fraud Prevention Account as per Section 41-268(d), Idaho Code. (7-1-93)

016. FINANCIAL RESPONSIBILITY.

- 01. Bonding.** (7-1-93)

a. The State Fire Marshal will require each applicant, individual or corporation who is a contractor to put up a license bond in an amount not less than two thousand dollars (\$2,000) in favor of the state of Idaho by a surety company authorized to do business in the state of Idaho. ()

b. The bond remains in full force until released by the State Fire Marshal, or until canceled by the surety. Without prejudice to liability previously incurred, the surety may cancel the bond upon thirty (30) days advance notice to both the contractor and the State Fire Marshal. (7-1-93)

02. Insurance. Prior to issuance of a license as a fire protection sprinkler contractor, the applicant will obtain and maintain at all times will a full term comprehensive general liability insurance policy from an insurance company authorized to do business in the state of Idaho, which policy will have aggregate limits of not less than two hundred fifty thousand dollars (\$250,000) and including the following: (7-1-93)

- a.** Comprehensive Form. (7-1-93)
- b.** Premises Operations. (7-1-93)
- c.** Products/Completed Operations Hazard. (7-1-93)
- d.** Contractual Insurance. (7-1-93)
- e.** Broad Form Property Damage. (7-1-93)
- f.** Independent Contractors. (7-1-93)
- g.** Personal Injury. (1-1-94)

- h.** Evidence of such insurance should be filed with the State Fire Marshal's Office. (1-1-94)

017. REVOCATION, SUSPENSION, AND NON-RENEWAL OF LICENSE.

01. Causes for Revocation, Suspension, or Refusal to Renew License. The State Fire Marshal may revoke any license issued, or suspend the right of the license holder to use such license, or refuse to renew any such license for any of the following causes: (7-1-93)

a. Fraud, bad faith, misrepresentation, or bribery, either in securing a license or in the conduct of business under a license. (7-1-93)

b. The making of any false statement as to a material matter in any application for license. (7-1-93)

c. Failure by the contractor to perform their contract with the property owner. (7-1-93)

d. The manipulation of assets or of any accounts covering the subject matter of this rule, or by fraud or bad faith. (7-1-93)

e. Failure to display the license as provided in Subsection 013.02 of this rule. (7-1-93)

f. Failure to secure or maintain workmen's compensation insurance when not authorized to act as a self-insurer. (7-1-93)

g. Knowingly entering into a contract with an unregistered contractor involving the performance of work or activity which requires a license under this rule. (7-1-93)

h. The licensee has pled guilty to, or was found guilty of, a felony. (1-1-94)

i. Violation of any provision of this rule. (7-1-93)

02. Length of Suspension. No license will be suspended for longer than two (2) years. (7-1-93)

03. Eligibility to Reapply After Revocation. No person whose license is revoked will be eligible to apply for a new license until the expiration of two (2) years. (7-1-93)

018. HEARINGS.

In every case where it is proposed to refuse to grant a license, revoke a license, or to refuse to renew a license, the State Fire Marshal will give adequate notice and provide a hearing if requested. Notice of hearing will be given in writing by registered or certified mail with return receipt requested at least fifteen (15) days prior to the hearing. (7-1-93)

019. APPROVED EQUIPMENT AND MATERIALS.

No component or devices of an automatic fire sprinkler system may be sold, leased, or installed in this state unless it has been approved, labeled, or listed by Underwriters Laboratories, Inc., Underwriters Laboratories of Canada, Factory Mutual Laboratories, or other testing laboratories approved by the State Fire Marshal. ()

01. Sprinklers. Only new standard commercial or other listed sprinklers may be employed in the installation of a sprinkler system. (7-1-93)

02. Minimum Requirements. Automatic fire sprinkler systems installed in the State will meet the minimum NFPA standards. Partial installations prescribed for compliance with life safety codes need to be approved by the local fire department or the State Fire Marshal. ()

020. SERVICE EVIDENCE.

01. Submission of Plans. Where automatic fire sprinkler systems are installed, the installer completes

the contractor's material and test certificates NFPA 13 1-10.1. All systems need to be under the supervision of a contractor or a R.M.E. These persons will conduct proper tests and inspections at prescribed intervals and have general charge of all alterations and additions to the systems under their supervision. ()

02. Conformance to Standards. A service tag conforming to the requirements of this chapter will be attached to all systems. (7-1-93)

021. DESIGN REQUIREMENTS.

01. Submission of Plans. Detailed plans in accordance with applicable NFPA standards are submitted by a licensed contractor for approval to the local fire department and to the State Fire Marshal. (7-1-93)

02. Conformance to Standards. The specifications will state that the installation will conform to the applicable standards listed in this rule and be approved by the local fire department and the State Fire Marshal. (7-1-93)

03. Tests. The specifications need to include the specific tests needed to meet the standards for approval of the local fire department and the State Fire Marshal. (7-1-93)

04. Scale. Plans need to be drawn to an indicated scale or be suitably dimensioned, and made so that they can be easily reproduced. (7-1-93)

05. Detail. Plans need to contain sufficient detail to evaluate the effectiveness of the system. (7-1-93)

06. Prior Approval of Plans. Plans need to be submitted to the State Fire Marshal and the local fire department and approved, before work starts. Work may start prior to final plans submitted based on conceptual drawings if approved by the local fire department and the State Fire Marshal. A plan's review fee of two dollars (\$2) per sprinkler head up to one thousand (1000) heads per fire protection sprinkler system (maximum two thousand dollars (\$2,000)) or one hundred dollars (\$100) per fire protection sprinkler system if less than fifty (50) sprinkler heads. The applicable fee needs to accompany the plans sent to the State Fire Marshal. Two (2) sprinkler heads on an arm-over will be considered as one (1) sprinkler head for fee purposes. (4-11-19)

07. Corrected Plans. Where field conditions necessitate any substantial change from the approved plan, the corrected plan showing the system as installed need to be submitted to the local fire department and the State Fire Marshal for approval. (7-1-93)

08. Exemption. A City or County may request an exemption from the requirements of this Section that plans be submitted to the State Fire Marshal for review and approval. A request for exemption will be made in writing signed by the Fire Chief, designated representative or elected local official and set forth the reasons for the request. If the State Fire Marshal determines the request is justified, the requesting party will be provided a written notice of exemption. The exemption will continue until terminated by the State Fire Marshal. Any such exemption will not apply to plans or inspections relating to structures owned, leased or controlled by the state or any state agency. (4-5-00)

022. SERVICE TAG.

01. Form. Automatic fire sprinkler service tags need to be in a form prescribed by the State Fire Marshal and a new tag installed each time work is performed on the system. (7-1-93)

02. Control Valve Not Electrically Supervised. In the event the control valve is not electrically supervised, the service tag will serve as a seal for the valve. (7-1-93)

03. Electrically Supervised Control Valve. In the event the control valve is electrically supervised, the service tag will be attached in such a manner that the valve may be closed for testing of the supervision without removing the tag. (7-1-93)

023. FITTERS.

All fitters, as described in Subsection 004.03 may be licensed under this rule as follows: (7-1-93)

01. Examination. Show proof by affidavit signed by a licensed fire protection sprinkler contractor that he has worked as a fitter for at least one thousand (1,000) hours per year for three (3) consecutive years and then take and pass a written examination given by the State Fire Marshal, and pay the appropriate fee. (7-1-93)

02. Fees. The State Fire Marshal collects in advance fees, license fees and miscellaneous charges as follows: (7-1-93)

a. Examination Fee -- Twenty-five dollars (\$25). (7-1-93)

b. Original License Fee -- Fifty dollars (\$50). (7-1-93)

c. Annual License Renewal Fee -- Twenty-five dollars (\$25). (7-1-93)

d. Duplicate License Fee -- Ten dollars (\$10). (7-1-93)

e. All license fees collected are to be deposited to the Arson, Fire, and Fraud Prevention Account as per Section 41-268(d), Idaho Code. No examination will be taken or license issued pursuant to this rule until the appropriate fees, as listed above, are paid. Examination fees, when paid, are earned and are not subject to refund. (7-1-93)

03. Period of Time. No fitter's license is valid for a period of longer than one (1) year and expires on the 31st day of December of each year regardless of the month issued. (7-1-93)

04. Renewal. Any license which has not been suspended or revoked may, upon payment of the renewal fee prescribed, be renewed for an additional period of one (1) year from its expiration upon filing an application for such renewal on forms prescribed by the State Fire Marshal. (7-1-93)

05. Duplicate License. A duplicate license may be issued for one lost, destroyed, or mutilated upon application for such on a form to be prescribed by the State Fire Marshal, and the payment of the fee prescribed. Each such duplicate license will have the word "duplicate" stamped across the face and bear the same number as the one it replaced. (7-1-93)

024. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.01.01 – RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS

DOCKET NO. 24-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-308, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.01.01, Rules of the Board of Architectural Examiners:

IDAPA 24.01.01

- 24.01.01, *Rules of the Board of Architectural Examiners*: all proposed rules except 100.02.c. and 300.01.b.iii.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.01.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Board of Architectural Examiners was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.01.01, the Rules of the Board of Architectural Examiners. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02; and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant and unnecessary language, moves fees into an easier to read tabular format, and adds the phrase “not to exceed” before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4550 - 4556.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-313, Idaho Code, as follows:

Application fee: \$25;
Annual license renewal fee: \$50;
Endorsement license fee: \$50;
Temporary license fee: \$50.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-308, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 24.01.01, rules of the Board of Architectural Examiners:

IDAPA 24

- 24.01.01, *Rules of the Board of Architectural Examiners*
- All rules *except Subsections 010.02, 010.03, and 010.07.*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules establish and govern the standards necessary for architectural practice. Allowing these rules to expire would harm industry, public health, safety, and welfare because the Board could not renew current licenses and admit new licensees.

The fee or charge imposed by the rule is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which

makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and the immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Absent the ability to impose the licensure fees outlined in this chapter, the Board of Architectural Examiners would not be able to remain self-sufficient, contrary to its statutory mandate.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-313, Idaho Code, as follows: application fee: \$25; annual license renewal fee: \$50; endorsement license fee: \$50; and temporary license fee: \$50.

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 rulemaking is not anticipated to have any fiscal impact on the state General Fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rob McQuade 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 within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 24-0101-1900F

24.01.01 – RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS

000. LEGAL AUTHORITY.

These rules are hereby prescribed and established pursuant to the authority vested in the Board of Architectural Examiners by the provisions of Section 54-308, Idaho Code. (4-11-19)

001. TITLE AND SCOPE.

These rules are titled IDAPA 24.01.01, “Rules of the Board of Architectural Examiners.” (7-1-93)

002. INCORPORATION BY REFERENCE.

The document titled NCARB Rules of Conduct as published by the National Council of Architectural Registration Boards, dated July 2014, is hereby incorporated by reference. All documents incorporated by reference can be obtained at the office of the Bureau and on the Board website. (4-11-19)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. **AXP.** Architectural Experience Program. (3-29-17)

02. **Direct Supervision.** Direct supervision of an unlicensed individual in the practice of architecture means the exercise of management, control, authority, responsibility, oversight and guidance over the unlicensed individuals work, activities and conduct. (3-27-13)

03. **NAAB.** National Architectural Accrediting Board. (3-29-17)

04. **NCARB.** National Council of Architectural Registration Board. (3-29-17)

011. -- 099. (RESERVED)

100. ORGANIZATION.

01. **Organization of the Board.** At the first meeting of each calendar year, the Board shall organize and elect from its members a Chairman and Vice Chairman, who shall assume the duties of their respective offices immediately upon such selection. (3-29-17)

02. **Board Members and Duties.** (7-1-93)

a. **Chairman.** The Chairman shall be a voting member of the Board, and when present preside at all meetings, appoint with the consent of the Board, all committees, and shall otherwise perform all duties pertaining to the office of Chairman. The Chairman shall be an ex-officio member of all committees. (7-1-93)

b. **Vice Chairman.** The Vice Chairman shall, in the absence or incapacity of the Chairman exercise the duties and possess all the powers of the Chairman. (7-1-93)

101. -- 149. (RESERVED)

150. PROCEDURES AND DUTIES.

01. **Meetings.** The Board shall meet at least four (4) times annually at such times and places as designated by the Board or the Chairman of the Board. Special meetings may be held at the call of the Chairman or at the request of two (2) Board members, and all members shall be notified in writing, thereof. (4-11-19)

02. **Voting.** Any motion before the Board shall fail on a tie vote. ()

151. -- 174. (RESERVED)

175. APPLICANT PAST CRIME REVIEW.

01. **Review Authority.** In reviewing an Applicant for licensure who has been convicted of a felony or misdemeanor as set forth in section 54-314(1)(d) Idaho Code, the Board may utilize the follow process and factors to determine the applicant's suitability for licensure: (4-11-19)

02. Exemption Review. The exemption review shall consist of a review of any documents relating to the crime and any supplemental information provided by the applicant bearing upon his suitability for registration. The Board may, at its discretion, grant an interview of the applicant. (4-11-19)

- a.** During the review, the Board shall consider the following factors or evidence: (4-11-19)
 - i.** The severity or nature of the crime; (4-11-19)
 - ii.** The period of time that has passed since the crime under review; (4-11-19)
 - iii.** The number or pattern of crimes or other similar incidents; (4-11-19)
 - iv.** The circumstances surrounding the crime that would help determine the risk of repetition; (4-11-19)
 - v.** The relationship of the crime to the practice of architecture; and (4-11-19)
 - vi.** The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation. (4-11-19)
- b.** The applicant shall bear the burden of establishing their current suitability for licensure. (4-11-19)

176. -- 199. (RESERVED)

200. FEES FOR EXAMINATIONS AND LICENSURE.

No refund of fees shall be made.

FEE TYPE	AMOUNT (Not to Exceed)
Examination	Established by NCARB
Application	\$25.00
Annual renewal	\$50.00
Endorsement license	\$50.00
Temporary license	\$50.00
Reinstatement	As provided in Section 67-2614, Idaho Code

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201. -- 249. (RESERVED)

250. QUALIFICATIONS OF APPLICANTS FOR EXAMINATION.

01. Accredited Degree Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess a professional degree in architecture from a program that is accredited by the National Architectural Accrediting Board (NAAB) or that is approved by the Board. All applicants for the ARE must have started or completed the Architectural Experience Program (AXP) requirements. (4-11-19)

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 may include that necessary for completion of the AXP. 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 AXP. (3-29-17)

251. – 299. (RESERVED)

300. APPLICATION.

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. (4-11-19)

b. Applicants shall furnish all information required by the uniform application form and shall include the following: (3-15-02)

i. If applying based upon an accredited degree: Furnish certification of graduation and a certified transcript of all subjects and grades received for all college courses taken. (4-11-19)

ii. If applying based upon experience in lieu of an accredited degree: 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. (4-11-19)

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. Applications received less than seven (7) days prior to a Board meeting may be held over to the next meeting. (4-11-19)

02. Licensure by Endorsement -- Blue Cover. 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. (3-29-17)

03. Licensure by Endorsement -- Equivalency. (7-1-97)

a. Applicants for licensure by endorsement must submit a complete application, verified under oath, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation. (3-29-17)

b. Applicants shall provide proof of holding a current and valid license issued by another state, a licensing authority recognized by the Board. (3-29-17)

c. Applicants shall provide proof of satisfactorily passing the NCARB examinations or NCARB authorized equivalent examination, as determined by the Board. (3-29-17)

301. -- 349. (RESERVED)

350. REGISTRATION EXAMINATION.

The Board, having found that the content and methodology of the ARE prepared by NCARB is the most practicable and effective examination to test an applicant's qualifications for registration, adopts the ARE as the single, written and/or electronic examination for registration of architects in this state, and further adopts the following rules with respect thereto: (7-1-97)

01. When Taken. The Board will cause the ARE, prepared by NCARB, to be administered to all applicants eligible, in accordance with the requirements of the Board, by their training and education to be examined for registration on dates scheduled by the NCARB. The Board shall cause repeat divisions of the ARE to be administered to qualified candidates on such dates as are scheduled by the NCARB. The ARE examination is a multiple part examination prepared by NCARB. Content of the examination in all of its sections is available from the Board or NCARB. (4-11-06)

02. Grading. The ARE shall be graded in accordance with the methods and procedures recommended by the NCARB. To achieve a passing grade on the ARE, an applicant must receive a passing grade in each division. Grades from the individual division may not be averaged. Applicants will have unlimited opportunities to retake division which they fail except as set forth in these rules. The Board shall accept passing grades of computer administered divisions of the ARE as satisfying the requirements for said division(s) when such examinations are administered as prescribed by the NCARB. (4-11-06)

03. Passing (ARE). To pass the ARE, an applicant must achieve a passing grade on each division. Subject to certain conditions, a passing grade for any division of the ARE shall be valid for five (5) years, after which time the division must be retaken unless all divisions have been passed. The Board may allow a reasonable extension of such period in circumstances where completion of all divisions is prevented by a medical condition, active duty in military service, or other like causes. Approval to take the ARE will terminate unless the applicant has passed or failed a division of the ARE within a period of five (5) years. Any applicant whose approval has so terminated must reapply for approval to take the ARE. (3-29-17)

351. -- 374. (RESERVED)

375. ARCHITECTURAL INTERN.

An individual may represent themselves as an architectural intern only under the following conditions: (3-15-02)

01. Supervision. Each architectural intern shall be employed by and work under the direct supervision of an Idaho licensed architect. (3-15-02)

02. AXP Enrollment. Each architectural intern shall be enrolled in NCARB's AXP and shall maintain a record in good standing. (3-29-17)

03. Record. Each architectural intern shall possess either: (3-15-02)

a. A record with the NCARB establishing that AXP training has been started; or (3-29-17)

b. A record establishing completion of all AXP training regulations as specified by NCARB. (3-29-17)

04. Prohibitions. An architectural intern shall not sign or seal any architectural plan, specification, or other document. An architectural intern shall not engage in the practice of architecture except under the direct supervision of an Idaho licensed architect. (3-15-02)

376. -- 399. (RESERVED)

400. FIRM NAME.

01. Firm Names. Firm names incorporating the use of names of unlicensed individuals are considered in violation of Section 54-315, Idaho Code. A firm may continue to utilize the name of a retired or deceased formerly licensed architect so long as their unlicensed status is clearly disclosed. (4-11-19)

401. -- 409. (RESERVED)

410. USE OF AN ARCHITECT'S SEAL.

An architect's seal may be placed on all technical submissions prepared personally by the architect or prepared under the architect's responsible control or as otherwise allowed under the provisions of Section 54-304, Idaho Code.

Nothing in this rule shall limit an architect's responsibility to the owner for the work of other licensed professionals to the extent established by contract between the owner and architect. (4-11-19)

411. -- 449. (RESERVED)

450. CONTINUING EDUCATION.

In order to protect the public health and safety and promote the public welfare, the Board has adopted the following rules for continuing education. (3-20-04)

01. Continuing Education Requirement. Each Idaho licensed architect must successfully complete a minimum of twelve (12) hours of continuing education in architectural health, safety and welfare in the calendar year prior to license renewal. (3-29-17)

a. Each licensee will submit to the Board their annual renewal application form and required fees, and will certify that they have complied with annual CE requirements for the previous calendar year. Each licensee will provide to the Board together with their application for reinstatement of an expired license form and required fees, proof of compliance with annual CE requirements for each year that their license was expired. A license that has been canceled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. (3-29-17)

b. A licensee shall be considered to have satisfied their CE requirements for the first renewal of their initial license. Licensees who have failed to meet the annual continuing education requirement may petition the Board for additional time to complete their continuing education requirements. (3-20-04)

c. A licensee may carryover a maximum of six (6) hours of continuing education to meet the next year's continuing education requirement. (3-29-12)

d. One (1) continuing education hour shall be equal to one (1) learning unit, as determined by the American Institute of Architects, or one (1) clock hour of education, as determined by the Board. (3-20-04)

02. Architectural Health, Safety and Welfare Requirement. To qualify for continuing education, a course must involve architectural health, safety and welfare, which generally relates to the structural integrity or unimpairedness of a building or building sites and be germane to the practice of architecture. Courses may include the following subject areas: (3-29-17)

a. Legal, which includes laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public. (3-29-12)

b. Building systems, which includes structural, mechanical, electrical, plumbing, communications, security, and fire protection. (3-29-12)

c. Environmental, which includes energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, and insulation. (3-29-12)

d. Occupant comfort, which includes air quality, lighting, acoustics, ergonomics. (3-29-12)

e. Materials and methods, which includes construction systems, products, finishes, furnishings, and equipment. (3-29-12)

f. Preservation, which includes historical, reuse, and adaptation. (3-29-12)

g. Pre-Design, which includes land use analysis, programming, site selection, site and soils analysis, and surveying. (3-29-12)

h. Design, which includes urban planning, master planning, building design, site design, interiors, safety and security measures. (3-29-12)

i. Construction documents, which includes drawings, specifications, and delivery methods. (3-29-12)

- j. Construction contract administration, which includes contracts, bidding, contract negotiations. (3-29-12)
- 03. Approved Credit.** Continuing education courses must be in the subject of architectural health, safety and welfare and be presented by: (3-20-04)
- a. Providers approved by the National Architectural Accreditation Board (NAAB) schools of architecture; or (3-20-04)
- b. Providers approved by the National Council of Architectural Registration Board (NCARB); or (3-20-04)
- c. Providers approved by the American Institute of Architects (AIA); or (3-20-04)
- d. Providers as otherwise approved by the Board. All requests for approval or pre-approval of continuing education credits must be made to the Board in writing and must be accompanied by a statement that includes the name of the instructor or instructors, his or her qualifications, the date, time and location of the course, the specific agenda for the course, the number of continuing education hours requested, and a statement of how the course is believed to be in the nature of architectural health, safety and welfare. (3-20-04)
- 04. Verification of Attendance.** It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. This verification shall be maintained by the licensee for a period of five (5) years and provided to the Board upon request of the Board or its agent. (3-29-12)
- 05. Failure to Fulfill the Continuing Education Requirements.** The license will not be renewed for those licensees who fail to certify or otherwise provide acceptable documentation of meeting the CE requirements. Licensees who make a false attestation regarding compliance with the CE requirements shall be subject to disciplinary action by the Board. (3-20-04)
- 06. Exemptions.** A licensed architect shall be deemed to have complied with the CE requirements if the licensee attests in the required affidavit that for not less than ten (10) months of the preceding one (1) year period of licensure, the architect has met one (1) of the following criteria: (3-20-04)
- a. Meets the military exemption set forth in Section 67-2602A, Idaho Code. (4-11-19)
- b. Is a government employee working as an architect and assigned to duty outside the United States. (3-20-04)
- c. Special Exemption. The Board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The architect must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. (3-20-04)

451. -- 749. (RESERVED)

750. CODE OF ETHICS.

01. Rules of Conduct. The NCARB Rules of Conduct are hereby adopted as the Code of Ethics for all Idaho licensed architects. (3-15-02)

751. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.04.01 – RULES OF PROCEDURE OF THE BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS

DOCKET NO. 24-0401-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2808, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 24.04.01, rules of the Idaho Board of Registration for Professional Geologists:

IDAPA 24.04.01

- 24.04.01, *Rules of the Board of Registration for Professional Geologists*: all proposed rules except 100.03.a., 200.01.b., 200.02, 300.01.a., 300.01.b., 300.02.a., 300.02.b., 300.02.d., and 300.08.

The Idaho Administrative Code expired on June 30, 2019, including then IDAPA 14.01.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Board of Registration for Professional Geologists was published as IDAPA 24.04.01. This pending fee rule will allow the Legislature to review for codification IDAPA 24.04.01, the Rules of the Board of Professional Geologists. On August 5, 2019, the Board of Registration for Professional Geologists held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties were given the opportunity to comment as this chapter was reviewed. Changes made to the pending rule which differ from the proposed text were made to accomplish the Recommendations for Improvement, Modification, or Elimination of Requirements from the Licensing Freedom Act of 2017, Executive Order No. 2017-06; the directives set forth in the Licensing Freedom Act of 2019, Executive Order No. 2019-01; the directives set forth in the Red Tape Reduction Act, Executive Order No. 2019-02; and the Board's continued efforts to clarify and streamline its rules. This pending fee rule removes outdated language and processes, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which will allow for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 4623 - 4629](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. This fee or charge is being imposed pursuant to Sections 54-2813, 54-2814, 54-2815, and 54-2816, Idaho Code as follows:

Application fee: not to exceed \$100;
Initial certificate: not to exceed \$20;
Annual renewal: not to exceed \$60;
Annual renewal fee for registrants 70 years of age or older: one-half of the current renewal fee;
Duplicate certificate fee: \$20.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2808, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 14.01.01, re-designated as IDAPA 24.04.01, Rules of Procedure of the Board of Registration for Professional Geologists:

IDAPA 24

- 24.04.01, *Rules of Procedure of the Board of Registration for Professional Geologists* — all rules *except Subsections 010.01, 010.02, 010.03, 010.05, 100.05, 100.07.a., 100.09, 160, 300.05.a., and 300.06.*

This chapter was formerly designated as *IDAPA 14.01.01*. It has been moved under the administration of the Bureau of Occupational Licenses and is hereby re-designated *IDAPA 24.04.01*.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules govern the qualifications for registered geologists who protect the public health, safety and welfare by providing reasoned input in minimizing potential danger from geologic hazards during construction projects; alerting the public to potential danger in areas of seismic risk; defining impacts of human activities and natural occurrences on aquifers, recharge areas, and other water resources; and outlining steps in geohazard mitigation for features such as: fault zones, landslides, and unstable foundation areas. Not reauthorizing these rules would hinder the Board's ability to admit new applicants, to renew current licenses, and would affect registered geologists' ability to affix their stamp.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and the immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Failing to reauthorize the licensing fees would impair the Board's ability to keep licensing fees low, while remaining self-sufficient.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Sections 54-2813, 54-2814, 54-2815, and 54-2816, Idaho Code, as follows: application fee \$100; initial certificate \$20; annual renewal \$60; annual renewal fee for registrants seventy (70) years of age or older: one-half of the current renewal fee; and duplicate certificate fee: \$20.

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 rulemaking is not anticipated to have any fiscal impact on the state General Fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rob McQuade 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 within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2),

Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 24-0401-1900F

24.04.01 – RULES OF THE BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS

000. LEGAL AUTHORITY.

These rules are hereby prescribed and established pursuant to the authority vested in the Board of Registration For Professional Geologists by the provisions of Section 54-2808, Idaho Code. ()

001. TITLE AND SCOPE.

These rules are titled IDAPA 24.04.01, “Rules of the Board of Registration for Professional Geologists.” These rules establish procedures for the organization and operation of the Board. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

For the purposes of these rules, the following definitions apply: (3-26-08)

01. Geologist-in-Training. The interim designation given to any person who has met the academic requirements and successfully passed the fundamentals of geology portion of the professional examination but has not yet completed the requisite years of experience and passed the practices of geology examination. ()

02. Registrant. Any person currently registered as a professional geologist. ()

03. Responsible Position. A position wherein a person, having independent control, direction, or supervision of a geological project, investigates and interprets geologic features. (7-1-93)

04. Responsible Charge. Means the control and direction of geology work, requiring initiative, professional skill, independent judgment, and professional knowledge of the content of relevant documents during their preparation. ()

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Filing of Documents. All correspondence, including remittances and renewal fees, shall be directed to the office of the Board. (3-26-08)

02. Meetings. The Board shall meet at least once each year at the call of the chairman; the Board shall elect a chairman and vice-chairman at such annual meeting. In addition to an annual meeting, the chairman may call special meetings from time to time when, it is deemed necessary, or upon the written request of any three (3) members of the Board. ()

03. Officers. The vice-chairman shall, in the absence or incapacity of the chairman, exercise the duties and possess all the powers of the chairman. ()

04. Committees. The chairman may appoint committees as necessary, to perform special duties and shall present reports to the Board at the time specified or at the earliest regular or special meeting of the Board. ()

05. Certificates. Certificates of registration shall be issued to each Registrant on forms adopted by the Board. Certificates shall be displayed by Registrants in their place of business ()

06. Seals. The Board has adopted a seal for use by each Registrant. The seal may be a rubber stamp, crimp, or electronically generated image. Whenever the seal is applied, the Registrant’s signature and date shall also be included. If the signature is handwritten, it shall be adjacent to or across the seal. No further words or wording are required. A facsimile signature generated by any method will not be acceptable unless accompanied by a digital signature. (See “Appendix A” at end of this Chapter.) ()

a. The seal, signature, and date shall be placed on all final specifications, reports, information, and calculations, whenever presented. Any such document that is not final and does not contain a seal, signature, and date shall be clearly marked as “Preliminary,” “Draft,” “Not for Construction,” or with similar words to distinguish the document from a final document. ()

b. The seal, signature, and date shall be placed on all original documents. The application of the Registrant’s seal, signature, and date shall constitute certification that the work thereon was done by the Registrant or under the Registrant’s supervision. Each plan or drawing sheet shall be sealed and signed by the Registrant or Registrants responsible for each sheet. In the case of a business entity, each plan or drawing sheet shall be sealed and signed by the Registrant or Registrants involved. The supervising professional geologist shall sign and seal the title or first sheet. Copies of electronically produced documents, listed in Paragraph 100.06.b. of these rules, distributed for informational uses such as for bidding purposes or working copies, may be issued with the Registrant’s seal and a notice that the original document is on file with the Registrant’s signature and date. The words “Original Signed By:” and “Date Original Signed:” shall be placed adjacent to or across the seal on the electronic original. The storage location of the original document shall also be provided. Only the title page of reports, specifications, and like documents need bear the seal, signature, and date of the Registrant. ()

c. The seal and signature shall be used by the Registrant only when the work being stamped was under the Registrant’s responsible charge. Upon sealing, the Registrant takes full professional responsibility for that work. After-the-fact ratification by the sealing of documents relating to work that was not performed by the Registrant but by an unregistered subordinate or other unregistered individual and without thorough technical review throughout the project by the sealing Registrant is prohibited. (3-20-14)

d. In the event a Registrant in responsible charge of a project leaves employment, is transferred, is promoted, becomes incapacitated, dies, or is otherwise not available to seal, sign, and date final documents, the duty of responsible charge for the project shall be accomplished by successor Registrant by becoming familiar with and reviewing, in detail, and retaining the project documents to date. Subsequent work on the project must clearly and accurately reflect the successor Registrant’s responsible charge. The successor Registrant shall seal, sign, and date all work product in conformance with Section 54-2815, Idaho Code. (3-20-14)

07. Address Change. Each Applicant and Registrant shall notify the Board within sixty (60) days of any and all changes of address, giving both old and new address. (7-1-93)

101. -- 149. (RESERVED)

150. FEES.

The fees for registration under the Act shall be the following:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$100
Initial Certificate	\$20
Annual Renewal	\$60
Annual Renewal for Registrants Seventy (70) Years of Age or Older	One-half (1/2) of the current renewal fee
Reinstatement	Is as provided in Section 67-2614, Idaho Code
Duplicate Certificate	\$20
Examination	Set by ASBOG

()

151. -- 199. (RESERVED)

200. APPLICATION PROCEDURES.

01. Applications. Applications for registration shall be: (7-1-93)

a. On forms prescribed by the Board and accompanied by official transcripts, reference statements, and a signed code of ethics (See "Appendix B" at end of this Chapter); ()

b. Received by the Board, if for registration by examination, not less than ninety (90) days prior to the date of examination; (4-9-09)

c. Subscribed and certified to by the Applicant under penalty of perjury as provided for by state law; and (7-1-93)

d. Incomplete applications will not be accepted by the Board and will be returned to the Applicant with a statement of the reason for return. ()

02. Appeal. Upon notification by the Board that the Application has been denied or rejected, the Applicant, within thirty (30) days of receipt of such notice, may petition the Board for a hearing, under the provisions of Title 67, Chapter 52, Idaho Code. (3-26-08)

03. Dates. The date of application shall be the date it is delivered in person to the Board office or, if mailed, the date shown by post office cancellation mark. Qualifying education and experience of the Applicant, for examination and registration, shall be computed from the date of application as described above. (7-1-93)

04. References. Statements from personal references in Responsible Positions concerning the Applicant's technical ability and personal character, shall be received, as prescribed by the Act, prior to any action by the Board to approve an Application. Each statement must reflect in a positive way the technical and ethical merits of the Applicant. Applicants for the Fundamentals of Geology examination may fulfill this requirement with reference statements from geologists in Responsible Positions familiar with the ability and character of the Applicant as demonstrated in an academic setting. (3-26-08)

05. Lack of Activity. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. (3-25-16)

201. -- 299. (RESERVED)

300. EXAMINATIONS.

Except as otherwise provided in statute, every Applicant for registration as a professional geologist shall take and pass the complete professional examination for registration as a professional geologist. ()

01. Fundamentals of Geology. The written examination is the Fundamentals of Geology examination provided by ASBOG. To be eligible to take the Fundamentals of Geology examination, an Applicant must have completed thirty (30) semester units or equivalent quarter units in courses in geological science leading to a degree in the geological sciences of which at least twenty-four (24) units are in third or fourth year, and/or graduate courses. Applicants who can satisfy to the Board that they will have completed the required coursework and number of units and will be graduating at the end of the spring, summer or fall terms of any given year, may be eligible for examination immediately preceding the date of graduation. ()

02. Practice of Geology. The written examination is the Practice of Geology examination provided by ASBOG. To be eligible to take the Practice of Geology examination an Applicant must have satisfied the education requirements as set forth in Section 54-2812, Idaho Code. ()

03. Authorization. (7-1-93)

a. The Board shall notify each Applicant in writing of the acceptance or rejection of his Application and, if rejected, the reason for the rejection. (3-25-16)

b. Not less than ninety (90) days prior to the examination date, the Applicant shall give written notice to the Board of his intent to take the examination and shall submit all applicable testing fees in full. (3-25-16)

c. Not less than thirty (30) days prior to the examination date, the Board shall give written notice to each Applicant that has previously given written notice and has paid his examination fees, of the date, time, and location(s) of the examination. (3-25-16)

04. Reexamination. An Applicant failing their first examination may apply for reexamination without filing a new Application and shall be entitled to such reexamination on payment of the reexamination fee. Provided, however, that it shall be unlawful for an Applicant failing any examination to practice professional geology under the appropriate provisions of the Act. ()

05. Time and Place. The Board shall make all arrangements necessary to provide sufficient help to conduct examinations and to provide adequate facilities at such locations throughout the state as may be required to accommodate the number of Applicants to be examined upon the dates prescribed by ASBOG. ()

06. Scores. An Applicant for registration by examination must successfully pass both the Fundamentals of Geology examination and the Practice of Geology examination. (3-25-16)

a. Every Applicant receiving a scaled score of seventy (70) or more, as determined by ASBOG, on the Fundamentals of Geology examination shall be deemed to have passed the examination, is thereby eligible to receive certification as a Geologist-in-Training. ()

b. Every Applicant receiving a scaled score of seventy (70) or more, as determined by ASBOG, on the Practice of Geology examination shall be deemed to have passed such examination and will be registered as a professional geologist. ()

c. Every Applicant receiving a scaled score of less than seventy (70), as determined by ASBOG, on either the Fundamentals of Geology examination or the Practice of Geology examination, shall be deemed to have failed such examination. Every Applicant having failed shall have his Application denied without prejudice, but shall be allowed to retake the failed examination in accordance with Subsection 300.04 of these rules. (3-25-16)

07. Re-Score or Review of Examination. (3-25-16)

a. An Applicant who fails to obtain a passing grade in any portion of the written examination may request a rescore or review of his examination papers at such times, locations, and under such circumstances as may be designated by the Board, ASBOG, or both. (3-25-16)

b. When a review is requested and authorized, at the time of review, no one other than the examinee or his attorney and a representative of the Board shall have access to such examination papers. (3-25-16)

301. -- 399. (RESERVED)

400. GEOLOGIST IN TRAINING.

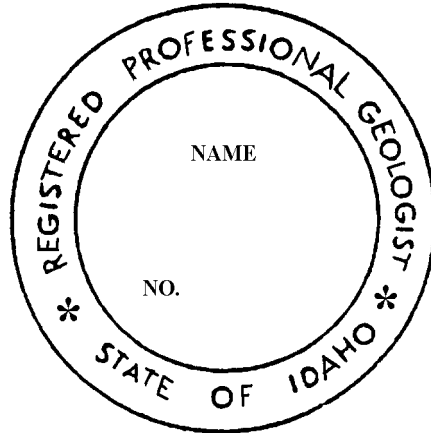
An Applicant who has passed the Fundamentals of Geology examination and satisfied the education requirements set forth in Subsection 300.01 of these rules, will receive a certificate of completion designating the Applicant as a Geologist-in-Training. ()

01. Supervised Practice. The possession of a Geologist-in-Training certificate by an Applicant does not entitle the Applicant to practice professional geology without supervision. ()

02. Limitation. Designation as a Geologist in Training is limited to a period not to exceed ten (10) years. If after ten (10) years the Geologist-in-Training has not met all requirements for registration as a professional geologist, the Geologist-in-Training certification is withdrawn and the Applicant must re-apply for registration. (3-25-16)

401. -- 999. (RESERVED)

APPENDIX A -- AS REFERENCED IN SECTION 24.04.01.100.06.b.



SEAL OF REGISTERED PROFESSIONAL GEOLOGIST

Diameter of Outer Ring: 1 1/2 Inches
Diameter of Inner Ring: 1 Inch

APPENDIX B -- AS REFERENCED IN SUBSECTION 24.04.01.200.01.a.

**STATE OF IDAHO
BOARD OF REGISTRATION
FOR PROFESSIONAL GEOLOGISTS
CODE OF ETHICS**

Geology is a profession, and the privilege of professional practice requires morality and responsibility, as well as professional knowledge, on the part of each practitioner. Each registered professional geologist shall be guided by the highest standards of business ethics, personal honor and professional conduct.

With regard for the geologic profession and recognizing in the Code of Ethics a set of dynamic principles to guide his services to his fellow men, and with full knowledge of the responsibility of geologists to safeguard health, safety, and public welfare, a registered geologist:

1. Brings credit, honor and dignity to the geologic profession in his dealings with clients, other geologists, and the public.
2. Acts for his clients as a faithful agent or trustee and accepts remuneration only in accordance with his stated charges for services rendered.
3. Exchanges non-confidential geologic information with other geologists, students, and the public; encourages the public understanding of geology, and ensures proper credit for geologic work.
4. Does not reveal nor seek the revelation of geologic work performed for a paying client.
5. Does not advertise or solicit geologic work assignments in a fraudulent, misleading or deceptive manner.

6. Promptly reports to the Board unethical conduct on the part of any geologist.
7. Undertakes professional service or renders expert opinion only when qualified in the specific technical areas involved.
8. Functions without prejudice with respect to gender, religion, national or ethnic origin, age, sexual preference, or physical or mental disability.

Acknowledged and subscribed to:

Signature of Applicant

Adopted by the Board September 11, 1971
Amended March 17, 2007.

Sign and return this form with your completed application forms.

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.07.01 – RULES OF THE IDAHO STATE BOARD OF LANDSCAPE ARCHITECTS

DOCKET NO. 24-0701-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-3003, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.07.01, rules of the Idaho State Board of Landscape Architects:

IDAPA 24.07.01

- 24.07.01, *Rules of the Idaho State Board of Landscape Architects*: all proposed rules except 201.02.a.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.07.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Idaho State Board of Landscape Architects was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.07.01, the Rules of the Idaho State Board of Landscape Architects. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant and unnecessary language, moves fees into an easier to read tabular format, and adds the phrase “not to exceed” before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4663 - 4666.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-3003, Idaho Code, as follows:

Application fee: not to exceed \$75;
Landscape architect-in-training application fee: not to exceed \$25;
Original license fee and annual license fee: not to exceed \$125.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-3003, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 24.07.01, rules of the Idaho State Board of Landscape Architects:

IDAPA 24

- 24.07.01, *Rules of the Idaho State Board of Landscape Architects—All rules except Sections 010, 100, and 600.*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules govern the qualifications to practice landscape architecture and ensure that an individual has demonstrated the knowledge, skills, and abilities to practice landscape architecture without endangering the health, safety or welfare of the public.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which

makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and the immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Absent the ability to impose the licensure fees outlined in this chapter, the Idaho State Board of Landscape Architects would not be able to remain self-sufficient, contrary to its statutory mandate.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-3003, Idaho Code, as follows: application fee: \$75; landscape architect-in-training application fee: \$25; and original license fee and annual license fee: \$125.

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 rulemaking is not anticipated to have any fiscal impact on the state General Fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rob McQuade 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 within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th of June, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 24-0701-1900F

24.07.01 – RULES OF THE IDAHO STATE BOARD OF LANDSCAPE ARCHITECTS

000. LEGAL AUTHORITY (RULE 0).

In accordance with Section 54-3003, Idaho Code, the Idaho State Board of Landscape Architects promulgates these rules which implement the provisions of Chapter 30, Title 54, Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).

These rules are titled IDAPA 24.07.01, “Rules of the Idaho State Board of Landscape Architects.” (11-25-94)

002. INCORPORATION BY REFERENCE (RULE 4).

The document titled the Council of Landscape Architectural Registration Boards (CLARB) Model Rules of Professional Conduct as amended February 2007, referenced in Subsection 425, is herein incorporated by reference. (3-26-08)

003. ADDRESS OF IDAHO BOARD OF LANDSCAPE ARCHITECTS (RULE 5).

The office of the Board of Landscape Architects is located within the Bureau of Occupational Licenses, 700 W. State Street, Boise, Idaho 83702. The Bureau is open between the hours of 8:00 a.m. and 5:00 p.m. each day except Saturdays, Sundays and holidays. The phone number of the Board is (208) 334-3233. The Board's fax number is (208) 334-3945. The Board's e-mail address is lar@ibol.idaho.gov. The Board's official website is <http://www.ibol.idaho.gov>. (3-29-10)

004. -- 100. (RESERVED)

101. APPROVED EDUCATION (RULE 101).

An approved college or school of landscape architecture shall have a landscape architecture program accredited by the Landscape Architectural Accreditation Board (LAAB), or shall substantially meet the accrediting standards of the LAAB as may be determined by the Board. (3-22-18)

102. PRACTICAL EXPERIENCE IN LIEU OF EDUCATION (RULE 102).

An applicant shall document at least eight (8) years of actual practical experience in landscape architecture in lieu of graduation from an approved college or school of landscape architecture. Such experience shall establish the applicant's education in those subjects and areas contained in the curriculum of an approved college or school of landscape architecture. No less than fifty percent (50%) of such practical experience shall be under the supervision of a licensed landscape architect. (3-20-04)

103. -- 199. (RESERVED)

200. APPLICATION (RULE 200).

Each applicant for licensure shall submit a complete application together with the required fees to the Board. An application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau. An application shall not be reviewed by the Board until all required information is furnished and the required fees paid. (3-20-04)

201. APPLICATION FORM (RULE 201).

01. Reference Requirements. Applicants are required to furnish the Board with four (4) references. Two (2) of the references must be from currently licensed Landscape Architects. The remaining two (2) may be licensed landscape architects, licensed engineers, licensed architects, or any combination thereof. All references must be from competent individuals who are well acquainted with the applicant's character and professional ability. (3-29-10)

02. Materials Submitted to Board. All required applications, statements, fees and other documentation must be submitted to the Board in care of the Bureau of Occupational Licenses, and shall include: (3-20-04)

- a. Documentation of being at least eighteen (18) years of age at the time of application; and (3-20-04)
- b. Either certification of graduation from an approved college or school of landscape architecture; or (3-20-04)
- c. Documentation of all actual landscape 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; and (3-20-14)

d. Proof of successful passage of an examination approved by the Board. (3-20-14)

03. Deadlines. To be considered by the Board, completed applications must be received by the Bureau prior to the next scheduled meeting of the Board. (3-20-14)

04. Inactive Applications. Applications on file with the Board where an applicant has failed to respond to a Board request or where the applications have lacked activity for twelve (12) consecutive months shall be deemed denied and shall be terminated upon thirty (30) days written notice unless good cause is established to the Board. (3-20-14)

202. -- 249. (RESERVED)

250. LANDSCAPE ARCHITECT-IN-TRAINING (RULE 250).

An individual may represent themselves as a landscape architect-in-training only under the following conditions: (3-20-04)

01. Qualifications. Any person who is at least eighteen (18) years of age and has graduated from an approved college or school of landscape architecture, or who documents at least eight (8) years of actual practical experience in landscape architecture approved by the Board. (3-20-04)

02. Supervision. Each landscape architect-in-training shall be employed by and work under the direct supervision of an Idaho licensed landscape architect. Any change in supervision shall require a new application and registration. (3-26-08)

03. Prohibitions. A landscape architect-in-training shall not sign or seal any plan, specification, or other document, and shall not engage in the practice of landscape architecture except under the direct supervision of an Idaho licensed landscape architect. (3-20-04)

04. Registration. Each landscape architect-in-training shall register with the Board on forms provided by the Bureau of Occupational Licenses that shall include the application fee and the names and addresses of their employer, and supervisor. (3-26-08)

05. Termination. A registration for a landscape architect-in-training shall not exceed a total of six (6) years. (3-26-08)

251. -- 299. (RESERVED)

300. EXAMINATIONS (RULE 300).

The examination prepared by the Council of Landscape Architectural Registration Boards is an approved examination. The Board may approve other examinations it deems appropriate. (3-20-14)

01. Minimum Passing Score. The minimum passing score for each section of the examination shall be the score as determined by the examination provider. (3-20-14)

02. Failing a Section of Exam. An applicant failing any section of the examination will be required to retake only that section failed. (7-1-93)

301. (RESERVED)

302. ENDORSEMENT (RULE 302).

The Board may approve the registration and licensure of an applicant who holds a current license in another state and who has successfully passed the Landscape Architect Registration Examination as required by Section 300 or holds a current Council of Landscape Architectural Registration Boards certificate. (3-20-04)

303. -- 399. (RESERVED)

400. FEES (RULE 400).

Fees are not refundable.

FEE	AMOUNT (Not to Exceed)
Application	\$75
Landscape Architect-in-training Application	\$25
Examination	As established by CLARB
Original License and Annual Renewal	\$125
Reinstatement	As provided in Section 67-2614, Idaho Code

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401. -- 424. (RESERVED)

425. RULES OF PROFESSIONAL RESPONSIBILITY (RULE 425).

01. Rules of Professional Responsibility. Pursuant to Section 004 of these rules, the CLARB model rules of professional conduct, as incorporated, are the Rules of Professional Responsibility for all Idaho licensed landscape architects. (3-29-10)

02. Violation of the Rules of Professional Responsibility. The Board will take action against a licensee under Section 54-3004(5), Idaho Code, who is found in violation of the Rules of Professional Responsibility. (3-20-04)

426. -- 449. (RESERVED)

450. DISCIPLINE (RULE 450).

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed landscape architect for each violation of Section 54-3004, Idaho Code. (3-18-99)

02. Costs and Fees. The Board may order a licensed landscape architect to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-3004, Idaho Code. (3-18-99)

451. -- 499. (RESERVED)

500. MEETINGS (RULE 500).

Board meetings will be held at least twice yearly and at such other times as the Board deems necessary. (3-20-14)

501. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.08.01 – RULES OF THE STATE BOARD OF MORTICIANS

DOCKET NO. 24-0801-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 54-1106 and 54-1107, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.08.01, rules of the State Board of Morticians:

IDAPA 24.08.01

- 24.08.01, *Rules of the State Board of Morticians*

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.08.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the State Board of Morticians was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.08.01, the Rules of the State Board of Morticians. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant and unnecessary language, moves fees into an easier to read tabular format, and adds the phrase “not to exceed” before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4669 - 4678.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Sections 54-1107 and 54-1115, Idaho Code as follows:

Funeral director original license and annual renewal fee: not to exceed \$85;
Funeral establishment original license and annual renewal fee: not to exceed \$125;
Crematory establishment original license and annual renewal fee: not to exceed \$200;
Mortician original license and annual renewal fee: not to exceed \$85;
Original, inactive license and annual renewal fee: not to exceed \$40;
Resident trainee original license and annual renewal: not to exceed \$50;
Application fee: not to exceed \$100;
Original certificate of authority and annual renewal fee: not to exceed \$50.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-1106 and 54-1107, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 24.08.01, rules of the State Board of Morticians:

IDAPA 24

- 24.08.01, *Rules of the State Board of Morticians* - All rules **except Sections 010 and 550**.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. The State Board of Morticians is charged with the duty to regulate, license, and supervise funeral homes, crematories, Morticians, and Funeral Directors in the State of Idaho. The Board's primary responsibility is to protect public health, safety, and welfare through licensure and enforcement of Idaho law. Failure

to renew these rules would harm public health and safety through eliminating requirements of licensees and licensed facilities to safely, compassionately, and ethically prepare and make final disposition of the deceased.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and the immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Absent the ability to impose the licensure fees outlined in this chapter, the Board of Morticians would not be able to remain self-sufficient, contrary to its statutory mandate.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Sections 54-1107 and 54-1115, Idaho Code as follows: funeral director original license and annual renewal fee: \$85; funeral establishment original license and annual renewal fee: \$125; crematory establishment original license and annual renewal fee: \$200; mortician original license and annual renewal fee: \$85; original, inactive license and annual renewal fee: \$40; resident trainee original license and annual renewal: \$50; application fee: \$100; and original certificate of authority and annual renewal fee: \$50.

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 rulemaking is not anticipated to have any fiscal impact on the state General Fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rob McQuade 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 within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 24-0801-1900F

24.08.01 – RULES OF THE STATE BOARD OF MORTICIANS

000. LEGAL AUTHORITY.

The following rules have been adopted by the Idaho State Board of Morticians and the Chief, Bureau of Occupational Licenses in accordance with the provisions of Section 54-1106 and 54-1107, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.

These rules are titled IDAPA 24.08.01, “Rules of the State Board of Morticians.” (7-1-93)

002. -- 099. (RESERVED)

100. MEETINGS (RULE 100).

The board shall hold meetings no less than annually at such times and places as determined by the board. The annual election of chairman will be held during the first meeting of each fiscal year. The chairman of the board shall preside at all meetings, appoint all committees, and perform all the functions incidental to the office of chairman. (4-11-06)

101. -- 149. (RESERVED)

150. TIME OF EXAMINATIONS (RULE 150).

Examinations will be held no less than semi-annually at such times or places as the Board may determine. (4-11-06)

151. -- 199. (RESERVED)

200. APPLICATION (RULE 200).

Application must be postmarked sixty (60) days prior to the date of examination. ()

01. Lack of Activity. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. (3-25-16)

201. -- 249. (RESERVED)

250. RESIDENT TRAINEE (RULE 250).

A Resident Trainee is a person who is licensed to train, under the direct and immediate supervision of a sponsoring mortician, to become a licensed mortician or funeral director. (4-7-11)

01. Training Requirements. (4-7-11)

a. Training requires the Resident Trainee’s diligent attention to the subject matter in the course of regular and full-time paid employment. Full-time employment 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 mortician is the practicing, resident mortician. (4-7-11)

i. At least three-fourths (3/4) of the Resident Trainee’s training must consist of the sponsoring 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. (4-7-11)

ii. For the balance of the required hours, the sponsoring mortician, or his licensed appointee, must be immediately available to consult with the Resident Trainee. (4-7-11)

b. All training must occur within Idaho. (4-7-11)

c. A Resident Trainee shall not sign a death certificate. (4-7-11)

02. Sponsoring Mortician. A sponsoring mortician must: (4-7-11)

a. Be an Idaho-licensed mortician who practices as a full-time resident mortician in Idaho. (4-7-11)

b. Not serve as the sponsoring mortician for more than two (2) “Resident Trainees at any given time.” (4-7-11)

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. (4-7-11)

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. (4-7-11)

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. (4-7-11)

03. Eligibility to Be Licensed. A person may not be licensed as a "Resident Trainee" if the person has practiced as a Resident Trainee or apprentice for a total cumulative period of more than three (3) years in Idaho, unless approved by the Board for good cause. For purposes of accounting for total cumulative training as a Resident Trainee, the sponsoring mortician must notify the Bureau at the beginning and termination of the training period. When a Resident Trainee completes training, the Resident Trainee must complete the remaining qualifications for licensure as a mortician or funeral director within the following three (3) years or show good reason for further delay. (3-29-17)

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: (4-7-11)

i. Be at least eighteen (18) years of age; (4-7-11)

ii. Be of good moral character; (4-7-11)

iii. 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; (4-7-11)

iv. 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. (4-7-11)

b. 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)

c. Resident Trainees pursuing a mortician license must complete 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. (4-7-11)

d. Resident Trainees pursuing a funeral director license must complete and co-sign, with the sponsoring mortician, quarterly and final reports documenting that the applicant has assisted in making at least twenty-five (25) funeral arrangements and in conducting at least twenty-five (25) funerals under supervision. (4-7-11)

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. 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. An applicant pursuing licensure as a mortician must document 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. (4-7-11)

b. An applicant pursuing licensure as a funeral director must document 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. (4-7-11)

301. -- 324. (RESERVED)

325. APPROVED EXAMINATION. Applicants for licensure shall successfully pass the examinations set forth below. (3-16-04)

01. Mortician Examination. The Mortician examination shall consist of: (3-16-04)

a. All sections of the International Conference of Funeral Service Examining Board's National Board Examination; and (3-16-04)

b. The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and (3-16-04)

c. The examination of the rules of the Department of Health and Welfare relating to infectious diseases and quarantine. (3-16-04)

02. Funeral Director. The funeral director examination shall consist of: (3-16-04)

a. The Arts section of the State Based Examination conducted by the International Conference of Funeral Service Examination Board; and (4-2-08)

b. The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and (3-16-04)

c. The examination of the rules of the Idaho Department of Health and Welfare relating to infectious diseases and quarantine. (3-16-04)

03. Grading. The required average grade to pass the examination is seventy-five percent (75%). Provided further, that where the applicant has a score of less than seventy percent (70%) in one (1) or more subjects, such applicant shall not be passed, notwithstanding that his average mark may be higher than seventy-five percent (75%), however, should the applicant apply for reexamination he may, by board approval, be required to retake only that portion of the examination which he failed in previous examination. (3-16-04)

326. -- 349. (RESERVED)

350. ENDORSEMENT.
Refer to Section 54-1109(3) and (4), Idaho Code. (3-16-04)

351. -- 379. (RESERVED)

380. INACTIVE LICENSE.

01. Request for Inactive License. Persons holding an unrestricted mortician or funeral director license in this state may apply for inactive status by making written application to the Board on a form prescribed by the Board and paying the established fee. (3-22-18)

02. Inactive License Status. (3-22-18)

a. Inactive license renewal notices and licenses will be marked "inactive". (3-22-18)

b. Inactive license holders may not practice in Idaho while on inactive status. (3-22-18)

c. If a licensee holds a certificate of authority and places their license on inactive status, their certificate of authority expires as of the date their license becomes inactive. (4-11-19)

d. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho. (3-22-18)

03. Return to Active License Status. An inactive license holder may convert from inactive to active license status by: (3-22-18)

a. Making written application to the Board on a form prescribed by the Board; (3-22-18)

b. Providing documentation to the Board showing successful completion within the previous twelve (12) months of the continuing education requirements for renewal of an active license; and (3-22-18)

c. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. (3-22-18)

d. An inactive licensee who held a certificate of authority at the time their license became inactive who returns to active license status pursuant to this rule may be reissued a certificate of authority by paying the renewal fee for the certificate of authority. (4-11-19)

381. -- 399. (RESERVED)

400. EXPIRATION OF LICENSE.

All licenses shall expire each year and will be cancelled if not renewed by payment of the required fee before the birthdate of the license holder. There will be no grace period. (3-16-04)

401. -- 409. (RESERVED)

410. CONTINUING EDUCATION.

In order to protect the public health and safety and promote the public welfare, the Board has adopted the following rules for continuing education. (3-29-10)

01. Continuing Education (CE) Requirement. Each Idaho licensed mortician and funeral director must successfully complete a minimum of eight (8) hours of continuing education annually for license renewal. (3-29-10)

a. Each licensee must certify on their renewal application form that compliance with the annual CE requirements has been met during the previous twelve (12) months. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. ()

b. A licensee is considered to have satisfied the CE requirements for the first renewal of the initial license. (3-29-10)

c. After July 1, 2011, and prior to reinstatement of a license lapsed, canceled, or otherwise non-renewed for less than five (5) years, the applicant must provide proof of attendance of eight (8) hours of continuing education for the previous twelve (12) months. A license that has lapsed, been canceled, or otherwise not renewed for more than five (5) years may be reinstated in accordance with Section 67-2614, Idaho Code. (3-29-10)

02. Credit. Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. One (1) hour of continuing education is equal to sixty (60) minutes. Courses taken by correspondence or by computer on-line may be approved for continuing education if the courses require an exam or other proof of successful completion. Only four (4) hours of the required continuing education may be from correspondence, computer on-line, or self-study in each renewal period. The remaining hours must be in an interactive setting that provides the opportunity for participants to communicate directly with the instructor. Each licensee must maintain proof of attendance or successful completion documentation of all continuing education courses for a period of three (3) years. (3-29-10)

a. A licensee may carryover a maximum of eight (8) hours of continuing education to meet the next year's continuing education requirement. Only four (4) hours may be carried over from correspondence, computer on-line, or self-study. (3-29-10)

03. Providers/Sponsors/Subjects of Continuing Education. The continuing education must be provided by a college or university, a national or state association, trade group, or other person or entity approved by the Board and must be germane to the license held. Continuing education may include, but shall not be limited to, the following subject areas: (3-29-10)

a. Public Health and Technical. This includes, but is not limited to, embalming, restorative art, after care, organ procurement, sanitation, and infection control. (3-29-10)

b. Business Management. This includes, but is not limited to, computer application, marketing, personnel management, accounting, or comparable subjects. (3-29-10)

c. Social Science. This includes, but is not limited to, communication skills (both written and oral), sociological factors, counseling, grief psychology, funeral customs, or comparable subjects. (3-29-10)

d. Legal, Ethical, Regulatory. This includes, but is not limited to, OSHA (Occupational Safety and Health Association), FTC (Federal Trade Commission), ethical issues, legal interpretations, or comparable subjects. (3-29-10)

04. Verification of Attendance. Each licensee must maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. (3-29-10)

05. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for a licensee who fails to certify compliance with CE requirements. A licensee who makes a false attestation regarding compliance with the CE requirements is subject to disciplinary action by the Board. (3-29-10)

06. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or other good cause. Each licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. Request for special exemption must be made prior to licensure renewal. (3-29-10)

411. -- 424. (RESERVED)

425. MAINTENANCE OF PRE-NEED TRUST ACCOUNT FEES. Maintenance of pre-need trust accounts fee. Pursuant to Section 54-1134 D, Idaho Code, a fee not to exceed ten percent (10%) of the annual earned interest income may be charged for maintenance of pre-need trust accounts. (4-11-06)

426. -- 449. (RESERVED)

450. FUNERAL ESTABLISHMENT AND CREMATORY ESTABLISHMENT. All applicants for establishment license shall submit a completed application on a form approved by the Board. All newly licensed establishments and all branch or satellite facilities must meet the same requirements for licensure. A walk-through inspection of the establishment must be arranged and completed within six (6) months of the Board's review of the application or the application will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. (3-25-16)

01. Contents of Application. Each applicant for a license to operate a funeral establishment or crematory establishment in Idaho shall document the following: (4-2-08)

- a.** Name and address of owner whether individual or entity; and (4-2-08)
- b.** Notarized signature of applicant or authorized agent; and (4-2-08)
- c.** Name and license number of responsible licensee; and (4-2-08)
- d.** Other such information as the board may require. (4-2-08)

02. Change in Ownership or Location. Any change in the ownership or location of a funeral establishment shall constitute a new funeral establishment for the purposes of licensure. (7-1-93)

03. Funeral Establishment. All funeral establishments shall be required to provide each of the following: (4-2-08)

- a.** An operating room and necessary equipment for embalming; (4-2-08)
- b.** A selection room for caskets and merchandise which may include video, catalogs, and electronic depiction of caskets and merchandise; (4-2-08)
- c.** A chapel where funeral or other religious ceremonies may be held; and (4-2-08)
- d.** A room for viewing and visitation. (4-2-08)

04. Funeral Firm. Every funeral firm in the state of Idaho and/or licensee thereof shall give or cause to

be given to the person or persons making funeral arrangements or arranging for the disposition of the dead human body at the time of said arrangements and prior to rendering that service or providing that merchandise, a written statement showing to the extent then known the following: (7-1-93)

- a. The price of the service that the person or persons have selected and what is included therein. (7-1-93)
- b. The prices of each of the supplementary items of service and/or merchandise requested. (7-1-93)
- c. The amount involved for each of the items for which the firm will advance monies as an accommodation for the family. (7-1-93)
- d. The method of payment. (7-1-93)
- e. If the quoted price includes a basic component of a funeral or a part thereof which is not desired, then a credit thereof should be granted. (7-1-93)

05. Crematory Establishment. All crematory establishments shall be required to provide each of the following: (4-2-08)

- a. Detailed information regarding each retort, specifically documenting that each retort and accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code or in the case of alkaline hydrolysis, a pressurized vessel heated to one hundred fifty degrees Celsius (150 °C) (three hundred two degrees Fahrenheit (302 °F)) for a minimum recommended period of thirty (30) minutes, thereby meeting or exceeding the United States Center for Disease Control (CDC) requirements for the complete destruction of human pathogens; and (3-20-14)
- b. One (1) set of blueprints for the proposed new construction or remodeling where the retort is to be located. The blueprints must be approved by the local building department as being in compliance with applicable building codes and ordinances. (4-2-08)

451. (RESERVED)

452. MINIMUM STANDARDS.

01. Reasonable Sanitation and Safety Required. In the interest of the protection of the public welfare, no license will be issued on an application to operate a funeral establishment or crematory unless it is apparent that the establishment or crematory can and will be operated in a reasonably sanitary and safe manner and that all pertinent federal, state, and local permits have been obtained when operating an alkaline hydrolysis retort. (3-20-14)

02. Reduction of Cremated Remains. No crematory will be licensed or operated unless it is capable of reducing human remains to cremains containing not more than five percent (5%) of the weight of the body immediately after death. (3-16-04)

03. Delay Before Cremation. No dead human body, regardless of cause of death, is to be cremated, nor is actual cremation of such a body to be commenced, unless the county coroner in the county in which the death occurred gives his written authorization to cremate the body. (3-16-04)

04. Embalming. If a dead human body is to be held longer than twenty-four (24) hours prior to burial, cremation, or other disposition, the body must be either embalmed or refrigerated at thirty-six degrees Fahrenheit (36F) or less until buried, cremated, or otherwise disposed of. (4-11-06)

05. Casket Not Necessary. It is not necessary for the body to be in a casket for cremation to take place. (3-16-04)

- a. This is not to be construed to mean that the crematory must cremate without a casket; and

(3-16-04)

b. It will not prevent the operators from developing their own internal requirements for aesthetic or sanitary reasons. (3-16-04)

453. RECEIPT FOR BODIES TO BE CREMATED.

The following must be performed by the operator of a crematory upon receipt of a human body for cremation: (3-16-04)

01. Provide a Receipt. A receipt must be delivered to the licensed mortician or funeral director, his agent, or another person who delivers such body to the crematory. (3-16-04)

02. Contents of Receipt. The receipt must show: (3-16-04)

a. The name of the decedent whose body was received; and (3-16-04)

b. The date on which that body was received; and (3-16-04)

c. The place where that body was received; and (3-16-04)

d. The name and address of the funeral establishment from whom that body was received; and (3-16-04)

e. The name and address of the person, or the names and addresses of the persons, if more than one (1), who actually delivers the body. (3-16-04)

454. RECORDS OF BODIES.

01. Content of Record. Each funeral establishment and crematory must maintain a record of each burial, cremation, or other disposition of human remains, disclosing: (4-11-06)

a. The name of the decedent; and (4-11-06)

b. The name and address of the person, or names and addresses of the persons if more than one (1), authorizing the burial, cremation, or other disposition of that body; and (4-11-06)

c. A statement as to whether or not the body was embalmed; and (3-16-04)

d. The date of the burial, cremation, or other disposition of that body; and (4-11-06)

e. The subsequent disposal of any cremated remains. (4-11-06)

455. RESPONSIBILITY, INSPECTION, AND CONFIDENTIALITY OF RECORDS.

01. Responsibility for Record. Records regarding the burial, cremation, and other disposition of human bodies must be made as soon as reasonably possible after the burial, cremation, or other disposition and must be dated and signed by the licensed mortician or funeral director who supervised or was otherwise directly responsible for the burial, cremation, or other disposition. (3-20-14)

02. Inspection of Records. Records regarding the receipt, burial, cremation, and other disposition of human bodies must be maintained at the funeral establishment and crematory and be open for inspection at any reasonable time by the Board or its designated representatives. (4-11-06)

03. Confidentiality of Records. Any disclosure of information obtained by the Board in connection with licensure activities and records of funerals or cremations must comply with Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (4-11-06)

456. -- 499. (RESERVED)

500. FEES.

FEE TYPE	AMOUNT (Not to Exceed)
Funeral Director	\$85
Funeral Establishment	\$125
Crematory Establishment	\$200
Mortician	\$85
Inactive License	\$40
Resident Trainee	\$50
Application Fee	\$100
Certificate of Authority	\$50

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501. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensee for each violation of Section 54-1116, Idaho Code. (3-20-14)

02. Costs and Fees. The Board may order a licensee to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee if found in violation of Section 54-1116, Idaho Code. (3-20-14)

502. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.18.01 – RULES OF THE REAL ESTATE APPRAISER BOARD

DOCKET NO. 24-1801-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-4106, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.18.01, rules of the Real Estate Appraiser Board:

IDAPA 24.18.01

- 24.18.01, *Rules of the Real Estate Appraiser Board*: all proposed rules except 100.01, 100.03, 200.05, 200.06, 225, 275.02.b.i., 275.02.b.ii., 275.02.b.iii., 275.02.b.iv., 275.02.b.v., 275.02.b.vi., 276.02.b.i., 276.02.b.ii., 276.02.b.iii., 276.02.b.iv., 276.02.b.v., 276.02.b.vi., 450.01, and 550.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.18.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Real Estate Appraiser Board was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.18.01, the Rules of the Real Estate Appraiser Board. On August 12, 2019, the Real Estate Appraiser Board held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. Changes made to the pending fee rule which differ from the proposed text were made to accomplish the Recommendations for Improvement, Modification, or Elimination of Requirements from the Licensing Freedom Act of 2017, Executive Order No. 2017-06; the directives set forth in the Licensing Freedom Act of 2019, Executive Order No. 2019-01; the directives set forth in the Red Tape Reduction Act, Executive Order No. 2019-02; and the Board's continued efforts to clarify and streamline its rules. This pending fee rule removes outdated language and processes, reorders certain sections to improve overall organization, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which will allow for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity. This pending fee rule clarifies the supervision requirements for an applicant's log book, through the specific requirements for the signature and license number of the supervising appraiser. Further, the pending fee rule clarifies the number of hours a registered trainee must obtain in Idaho within a minimum period of time, which will allow applicants flexibility while ensuring familiarity with Idaho markets. This pending fee rule also adds that the Board will only consider experience gained in jurisdictions with substantially equal requirements to those of Idaho, which will provide clarity to applicants, as well as ensure all applicants are held to the same standards.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4797 - 4810.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Sections 54-4113, 54-4124, and 54-4134, Idaho Code, as follows:

Application fee for license and registration: not to exceed \$200;
Original license fee: not to exceed \$100;
Original appraisal management company registration: not to exceed \$1,000;
License renewal fee: not to exceed \$275; appraisal management company registration renewal: not to exceed \$900;
Application for reciprocity: not to exceed \$200; Original license via reciprocity: not to exceed \$100;
Temporary permit: not to exceed \$75;
Trainee registration fee: not to exceed \$50;
Continuing education provider application fee: not to exceed \$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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at 208-334-3233.

DATED this October 16, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-4106, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 24.18.01, rules of the Real Estate Appraiser Board:

IDAPA 24.18

- 24.18.01, *Rules of the Real Estate Appraiser Board*
- All rules *except Subsections 010.03, 010.06, 010.07 and 401.06.*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules govern the initial and ongoing licensure requirements for real estate appraisers and appraisal management companies in Idaho. These rules are required under federal law in order for Idaho licensed appraisers to conduct appraisals for federally related transactions. Allowing these rules to expire would put Idaho out of compliance with the federal requirements, which would harm licensees and the public.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and the immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Absent the ability to impose the licensure fees outlined in this chapter, the Real Estate Appraiser Board would not be able to remain self-sufficient, contrary to its statutory mandate.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Sections 54-4113, 54-4124, and 54-4134, Idaho Code, as follows: application fee for license and registration: \$200; original license fee: \$100; original appraisal management company registration: \$1,000; license renewal fee: \$275; appraisal management company registration renewal: \$900; application for reciprocity: \$200; original license via reciprocity: \$100; temporary permit: \$75; trainee registration fee: \$50; and continuing education provider application fee: \$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: This rulemaking is not anticipated to have any fiscal impact on the state General Fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rob McQuade 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 within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 24-1801-1900F

24.18.01 – RULES OF THE REAL ESTATE APPRAISER BOARD

000. LEGAL AUTHORITY.

These rules are hereby prescribed and established pursuant to the authority vested in the Real Estate Appraiser Board by the provisions of Section 54-4106, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.

These rules are titled IDAPA 24.18.01, “Rules of the Real Estate Appraiser Board.” (7-1-97)

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The document titled “Uniform Standards of Professional Appraisal Practice (USPAP),” 2020-2021 Edition, excluding standards 7, 8, 9, and 10, published by the Appraisal Foundation and effective January 1, 2020, as referenced in Subsection 700, is herein incorporated by reference and is available for review at the Board’s office and may be purchased from the Appraisal Foundation, Distribution Center, P. O. Box 381, Annapolis Junction, MD 20701-0381. ()

005. -- 009. (RESERVED)

010. DEFINITIONS.

The definitions numbered one through fifteen (1-15), appearing at Section 54-4104, Idaho Code are incorporated herein by reference as if set forth in full. ()

01. Accredited. Accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education. (3-20-14)

02. Advisory Committee. A committee of state certified or licensed real estate appraisers appointed by the board to provide technical assistance relating to real estate appraisal standards and real estate appraiser experience, education and examination requirements that are appropriate for each classification of state certified or licensed real estate appraiser. (7-1-93)

03. Appraiser Qualifications Board. Appraiser Qualifications Board of the Appraisal Foundation establishes the qualifications criteria for licensing, certification and recertification of appraisers. (7-1-97)

04. Appraisal Standards Board. The Appraisal Standards Board of the Appraisal Foundation develops, publishes, interprets and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. (7-1-97)

05. Classroom Hour. Fifty (50) minutes out of each sixty (60) minute hour in a setting which may include a classroom, conference/seminar, on-line or a virtual classroom. (4-4-13)

06. Field Real Estate Appraisal Experience. Personal inspections of real property, assembly and analysis of relevant facts, and by the use of reason and the exercise of judgment, formation of objective opinions as to the market or other value of such properties or interests therein and preparation of written appraisal reports or other memoranda showing data, reasoning, and conclusion. Professional responsibility for the valuation function is essential. (4-6-05)

07. FIRREA. Title XI, Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended, was designed to ensure that more reliable appraisals are rendered in connection with federally related transactions. (3-20-14)

08. Real Estate. In addition to the previous definition in Section 54-4104(11), Idaho Code, will also mean an identified parcel or tract of land, including improvements, if any. (3-29-10)

09. Real Property. In addition to the previous definition in Section 54-4104(11), Idaho Code, will also mean one or more defined interests, benefits, or rights inherent in the ownership of real estate. (3-29-10)

10. Residential Unit. Real estate with a current highest and best use of a residential nature. A residential unit includes a kitchen and a bathroom. (3-29-10)

11. Uniform Standards of Professional Appraisal Practice or USPAP. Those uniform standards adopted by the Appraisal Foundation’s Appraisal Standards Board. These standards may be altered, amended, interpreted, supplemented, or repealed by the Appraisal Standards Board (ASB) from time to time. (3-13-02)

12. USPAP Course. For the purposes of licensure and license renewal, any reference to the approved USPAP course means the National USPAP Course provided by Appraisal Qualifications Board Certified USPAP Instructors and Educational Providers. (4-6-05)

13. Appraisal Management Company or AMC. Appraisal Management Company or AMC means a natural person or organization that meets the definition in Section 54-4122, Idaho Code, and is registered under the Idaho Appraisal Management Company Registration and Regulation Act. (3-24-17)

011. -- 099. (RESERVED)

100. ORGANIZATION AND MEETINGS.

01. Organization of Board. At the first meeting of each year, the Board shall organize and elect from its members a Chairman and Vice Chairman who shall assume the duties of their respective offices immediately upon such selection. (3-13-02)

02. Meetings. The Board meets at least four (4) times annually and at such other times as requested by the Board or its chairman. (7-1-93)

03. Quorum. A quorum is three (3) board members. A majority vote of the quorum present is considered the action of the Board as a whole. (4-11-06)

101. -- 149. (RESERVED)

150. FEES.

Fees are non-refundable and established in accordance with Sections 54-4113, 54-4124, and 54-4134, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Application	\$200	
License	\$100*	\$275*
AMC Registration	\$1,000**	\$900**
Reinstatement	As provided in Section 67-2614, Idaho Code	
Application for Reciprocity	\$200	
Original license via Reciprocity	\$100*	
Temporary Permit	\$75	
Trainee Registration	\$50	
Continuing Education Provider Application	\$100	
Examination and Reexamination	As charged by the provider	

()

01. Fees Followed by One Asterisk (*) Means. Proposed fees for these categories marked with an

asterisk (*) include forty dollars (\$40) to be submitted by the state to the federal government. Title XI, Section 1109 of the FIRREA as amended requires each state to submit a roster listing of state licensed appraisers to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council “no less than annually.” The state is also required to collect from such individuals who perform appraisals in federally related transactions an annual registry fee of “not more than eighty-five dollars (\$85),” such fees to be transmitted by the state to the federal government on an annual basis. This fee is subject to change by the Appraisal Subcommittee. (3-21-12)

02. Fees Followed by Two Asterisks ()** Means. The fees for the categories marked with two (2) asterisks (**) do not include additional fees assessed pursuant to Title XI, Section 1109 of the FIRREA, as amended, including, but not limited to, an AMC registry fee, such fees to be collected from AMCs by the state and transmitted to the federal government on an annual basis. (3-22-18)

151. -- 199. (RESERVED)

200. APPLICATION.

01. Appraiser License Application. Any person desiring to apply for licensure must submit a completed application with required supporting documents and appropriate fees to the Bureau at its official address. After the qualifications have been reviewed, verified and approved by the Board, the applicant will receive the pre-approved examination card and must submit the appropriate fees to the examining entity. (3-24-17)

02. Eligibility for Examination. The qualified applicant will be sent notification on how to register for the examination subsequent to the determination of eligibility based on documentation that the applicant has met the required education and experience requirements. (3-21-12)

03. Trainee Registration Application. Any person desiring registration as a trainee must submit a completed application with required supporting documents and appropriate fees to the Bureau at its official address. ()

04. AMC Registration Application. Any person or organization desiring registration as an AMC must submit a completed application with required supporting documents and appropriate fees to the Bureau at its official address. (3-24-17)

201. -- 249. (RESERVED)

250. REQUIREMENTS FOR LICENSURE.

All applicants for licensure in any real estate appraiser classification must comply with the following education, experience and examination requirements in addition to meeting those requirements set forth in Sections 275, 300, 350, and 400 below. (4-11-06)

01. Education. Classroom hours will be credited only for courses with content that follows the Required Core Curriculum as outlined by the Appraisal Qualification Board. (3-20-14)

a. Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours, and the individual successfully completes a closed-book examination pertinent to the educational offering. In addition, distance education courses intended for use as qualifying education must include a written, closed-book final examination - proctored by an official approved by the college or university or by the sponsoring organization. The term “written” as used herein refers to an exam that might be written on paper or administered electronically on a computer workstation or other device. Oral exams are not acceptable. The testing must be in compliance with the examination requirements of this section. (3-20-14)

b. Credit for the classroom hour requirement may be obtained from the following: (7-1-97)

i. Colleges or Universities. (7-1-97)

ii. Community or Junior Colleges. (7-1-97)

- iii. Courses approved by the Appraisal Qualifications Board. (4-2-08)
- iv. State or Federal Agencies or Commissions. (7-1-97)
- v. Other providers approved by the Board. (7-1-97)
- c.** Only those courses completed preceding the date of application will be accepted for meeting educational requirements. (3-18-99)
- d.** Course credits that are obtained from the course provider by challenge examination without attending the course will not be accepted. (4-11-06)
- e.** Credit toward education requirements may be obtained through completion of a degree in Real Estate from:
 - i. An accredited degree-granting college or university that has been approved by the Association to Advance Collegiate Schools of Business; or (3-20-14)
 - ii. A regional or national accreditation agency that is recognized by the U.S. Secretary of Education and whose curriculum has been reviewed and approved by the Appraiser Qualifications Board. (3-20-14)
- f.** Applicants with a college degree from a foreign country may have their education evaluated for equivalency by one (1) of the following: (3-20-14)
 - i. An accredited, degree-granting domestic college or university; (3-20-14)
 - ii. The American Association of Collegiate Registrars and Admissions Officers (AACRAO); (3-20-14)
 - iii. A foreign degree credential evaluation services company that is a member of the National Association of Credential Evaluation Services (NACES); or (3-20-14)
 - iv. A foreign degree credential evaluation service company that provides equivalency evaluation reports accepted by an accredited degree-granting domestic college or university or by a state licensing board that issues credentials in another discipline. (3-20-14)
- 02. Experience.** (7-1-97)
 - a.** The work product claimed for experience credit must be in conformity with USPAP. (3-21-12)
 - b.** All appraisal experience must be obtained as a registered trainee or as a licensed appraiser. At least five hundred (500) hours in no less than three (3) months must be obtained in Idaho pursuant to these rules. The Board will only consider experience from other jurisdictions with substantially equal requirements. ()
 - c.** Only experience gained during the five (5) years immediately preceding application will be considered for evaluation. (4-11-06)
 - d.** Acceptable non field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, ad valorem tax appraisal, condemnation appraisal, technical review appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, and feasibility analysis/study. (4-11-06)
 - e.** Each applicant applying for licensure must verify completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board. (4-11-06)
 - i. The Board requires submission of a log that details hours claimed for experience credit. The log must include the following: (3-29-10)

- (1) Type of property; (3-29-10)
 - (2) Address of the property; (3-29-10)
 - (3) Report date; (3-29-10)
 - (4) Description of work performed; (3-29-10)
 - (5) Number of work hours; (3-29-10)
 - (6) Complexity; (3-29-10)
 - (7) Approaches to value; (3-29-10)
 - (8) Appraised value; (3-29-10)
 - (9) Scope of supervising appraiser's review; and (3-29-10)
 - (10) Signature and license number of the supervising appraiser. ()
- ii. The Board reserves the right to contact an employer for confirmation of length and extent of experience claimed. This may require an employer to submit appraisal reports and/or an affidavit. (7-1-97)
- iii. The Board may request submission of written reports or file memoranda that substantiate an applicant's claim for experience credit. (4-11-06)
- f. Ad valorem tax appraisers must demonstrate the use of techniques to value properties similar to those used by appraisers and effectively use the process as defined in Subsection 010.06, Field Real Estate Appraisal Experience in order to receive experience credit. (3-20-14)
- 03. Examination.** Successful completion of an examination appropriate to the license classification being applied for and approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. (4-11-06)

251. -- 274. (RESERVED)

275. REGISTERED TRAINEE REAL ESTATE APPRAISER.

- 01. Qualification.** Each applicant for registration as an appraiser trainee must meet the following requirements: (4-11-06)
- a. Education. Within the five-year period preceding application, all applicants for registration as a trainee must document completion of at least seventy-five (75) classroom hours of courses in subjects related to real estate appraisal as follows: (3-20-14)
 - i. Basic Appraisal Principles - not less than thirty (30) hours specifically including Real Property Concepts and Characteristics, Legal Considerations, Influences on Real Estate Values, Types of Value, Economic Principles, Overview of Real Estate Markets and Analysis, and Ethics and How They Apply in Appraisal Theory and Practice; and (4-11-06)
 - ii. Basic Appraisal Procedures - not less than thirty (30) hours specifically including Overview of Approaches to Value, Valuation Procedures, Property Description, and Residential Applications; and (4-11-06)
 - iii. National USPAP Course - not less than fifteen (15) hours. (4-11-06)
 - b. Experience. All applicants for registration as a trainee must retain and identify at least one (1)

qualified supervisor as required by law and rule. ()

c. Examination. Each trainee applicant shall document successful passage of examinations in each of the prerequisite courses required for registration as a trainee. (4-11-06)

d. Prior to registration as an appraiser trainee, each trainee applicant must complete a trainee appraiser course that complies with the content requirements established by the Appraisal Qualifications Board. This course is in addition to the education requirements set forth in Section 275. (3-24-17)

02. Scope and Practice. An Appraiser Trainee shall not be involved in the appraisal of any property that exceeds the lawful scope of practice of the supervising appraiser. The appraiser trainee shall be subject to USPAP. (4-11-06)

a. Each appraiser trainee is permitted to have more than one (1) supervising appraiser provided a supervising appraiser is not registered to more than three (3) trainees at any one (1) time. (4-11-06)

b. An appraisal log shall be maintained for each supervising appraiser by the appraiser trainee and shall include no less than the requirements outlined in Subsection 250.02.e.i. for each appraisal. ()

c. An appraiser trainee shall be entitled to obtain copies of all appraisal reports prepared by the trainee. (4-11-06)

03. Continuing Education. Prior to the second renewal and for each continuing education cycle thereafter as provided in Section 275 of this rule, an appraiser trainee shall be required to obtain: (3-21-12)

a. The equivalent of thirty (30) classroom hours of instruction in approved courses or seminars during the twenty-four (24) month period preceding the renewal. Once every twenty-four (24) months, registered appraiser trainees will be required to attend an approved seven-hour USPAP update course or the equivalent. The course must cover the most recent USPAP edition. (3-21-12)

b. All continuing education shall be in compliance with Subsections 401.01 through 401.05. If the licensee completes two (2) or more courses having substantially the same content during any one (1) continuing education cycle, the licensee only will receive continuing education credit for one (1) of the courses. (3-20-14)

c. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities that are determined to be equivalent to obtaining continuing education. Credit for educational processes and programs continuing education shall not exceed one-half (1/2) of the total continuing education credits required for a renewal period. (3-20-14)

d. The purpose of continuing education is to ensure that the appraiser trainee participates in a program that maintains and increases skill, knowledge and competence in real estate appraising. (4-11-06)

04. Renewal and Reinstatement. An appraiser trainee shall renew their registration annually as set forth in Section 67-2614, Idaho Code, and may reinstate after expiration as provided in Section 67-2614, Idaho Code. Beginning July 1, 2017, an individual may only be registered as an appraiser trainee for a maximum period of five (5) years, unless approved by the Board for good cause. (3-24-17)

276. REGISTERED TRAINEE SUPERVISORS.

01. Registered Trainee Supervisor Requirements. (3-24-17)

a. A supervising appraiser shall: (3-24-17)

i. Hold a current Idaho license as a Certified Residential Appraiser or as a Certified General Appraiser when supervising a trainee registered in Idaho. (3-24-17)

- ii. Have held a current and unrestricted license as a Certified Residential Appraiser or a Certified General Appraiser for at least three (3) years prior to providing supervision; and (3-24-17)
 - iii. Submit evidence of completion of an approved four-hour (4) continuing education course regarding the role of a supervising appraiser. (3-24-17)
 - iv. Not have been disciplined by the Board or any other state or jurisdiction within the previous four (4) years; and (3-24-17)
 - v. Not supervise more than three (3) appraiser trainees at one time; and (3-24-17)
 - vi. Be responsible for the training and direct supervision of the appraiser trainee; and (3-24-17)
 - vii. Accept responsibility for all appraiser trainee appraisal reports by signing and certifying that the report is in compliance with USPAP; and (3-24-17)
 - viii. Review and sign all appraiser trainee appraisal report(s); and (3-24-17)
 - ix. Personally inspect each appraised property with the appraiser trainee until the supervising appraiser determines the appraiser trainee is competent in accordance with the Competency Provision of USPAP for the property type. (3-24-17)
- b.** An accurate, current and complete appraisal experience log shall be maintained jointly by the supervising appraiser and the appraiser trainee as outlined in Subsection 250.02.e.i. ()
- c.** A supervising appraiser may not continue to supervise if: (3-24-17)
- i. The appraiser ceases to meet supervisor requirements; or (3-24-17)
 - ii. The appraiser is disciplined, unless the board grants a waiver and a waiver may be subject to conditions set by the board. (3-24-17)

277. -- 299. (RESERVED)

300. LICENSED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA.

The state licensed residential real estate appraiser classification applies to the appraisal of residential real property consisting of one (1) to four (4) non-complex residential units having a transaction value less than one million dollars (\$1,000,000) and complex one (1) to four (4) residential units having a transaction value less than two hundred fifty thousand dollars (\$250,000). Applicants must meet the following education, experience and examination requirements in addition to complying with Section 250. Subsequent to being licensed, every licensee must annually meet the continuing education requirement. (4-11-06)

01. Education. As a prerequisite to taking the examination for licensure as an Idaho Licensed Residential Real Estate Appraiser, each applicant shall: (3-20-14)

- a.** Document registration as an Appraiser Trainee; and (4-11-19)
- b.** Document the successful completion of not less than seventy-five (75) classroom hours of courses in subjects related to real estate appraisal as follows: (3-24-17)
 - i. Residential Market Analysis and Highest and Best Use – not less than fifteen (15) hours; and (3-24-17)
 - ii. Residential Appraiser Site Valuation and Cost Approach – not less than fifteen (15) hours; and (3-24-17)

iii. Residential Sales Comparison and Income Approaches – not less than thirty (30) hours specifically including: Valuation Principles and Procedures – Sales Comparison Approach; Valuation Principles and Procedures – Income Approach; Finance and Cash Equivalency; Financial Calculator Introduction; Identification, Derivation and Measurement of Adjustments; Gross Rent Multipliers; Partial Interests; Reconciliation; and Case Studies; and (3-24-17)

iv. Residential Report Writing and Case Studies – not less than fifteen (15) hours specifically including: Writing and Reasoning Skills; Common Writing Problems; Form Reports; Report Options and USPAP Compliance; Case Studies. (3-24-17)

02. Experience. Prerequisite to sit for the examination: (7-1-97)

a. Document one thousand (1,000) hours of supervised appraisal experience as a registered Appraiser Trainee in no less than six (6) months. Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-19)

b. Of the required one thousand (1,000) hours, the applicant must accumulate a minimum of seven hundred-fifty (750) hours from field real estate appraisal experience. The balance of two hundred-fifty (250) hours may include non-field experience, refer to Subsection 250.02.d. (4-11-19)

03. Examination. Successful completion of the Licensed Residential Appraiser examination approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. (4-11-06)

301. -- 349. (RESERVED)

350. CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA.

The State Certified Residential Real Estate Appraiser classification applies to the appraisal of residential properties of four (4) or less units without regard to transaction value or complexity. Applicants must meet the following education, experience and examination requirements in addition to complying with Section 250. Subsequent to being certified every licensee must annually meet the continuing education requirement. (4-11-06)

01. Education. As a prerequisite to taking the examination for licensure as an Idaho Certified Residential Real Estate Appraiser, each applicant shall: (3-20-14)

a. Hold a Bachelor's degree in any field of study from an accredited degree-granting college or university, or meet one of the following options: (4-11-19)

i. Possession of an Associate's degree in a field of study related to business administration, accounting, finance, economics or real estate; or (4-11-19)

ii. Successful completion of thirty (30) semester hours of college-level courses that cover each of the following specific topic areas and hours: English composition (three (3) semester hours), microeconomics (three (3) semester hours), macroeconomics (three (3) semester hours), finance (three (3) semester hours), algebra, geometry or higher mathematics (three (3) semester hours), statistics (three (3) semester hours), computer science (three (3) semester hours), business or real estate law (three (3) semester hours), and two (2) elective courses in any of the topics listed above or in accounting, geography, agricultural economics, business management, or real estate (three (3) semester hours each); or (4-11-19)

iii. Successful completion of at least thirty (30) semester hours of College Level Examination Program® (CLEP®) examinations from each of the following subject matter areas: college algebra (three (3) semester hours), college composition (six (6) semester hours), college composition modular (three (3) semester hours), college mathematics (six (6) semester hours), principles of macroeconomics (three (3) semester hours), principles of microeconomics (three (3) semester hours), introductory business law (three (3) semester hours), and information systems (three (3) semester hours), or (4-11-19)

iv. Any combination of the above criteria (within Subsections 350.01.a.ii. and 350.01.a.iii. of these

rules) that ensures coverage of all topics and hours identified in Subsection 350.01.a.ii. (4-11-19)

b. As an alternative to the requirements in Subsection 350.01.a., above, individuals who have held a Licensed Residential credential for a minimum of five (5) years may qualify as meeting the requirements of Subsection 350.01.a., if it is established that there is no record of any adverse, final, and non-appealable disciplinary action affecting the Licensed Residential appraiser's legal eligibility to engage in appraisal practice within the five (5) years immediately preceding the date of application for a Certified Residential license. (4-11-19)

c. Document registration as an Appraiser Trainee and completion of the education required for licensure as a Licensed Residential Real Estate Appraiser, or hold a current license as a Licensed Residential Real Estate Appraiser; and (3-20-14)

d. Document the successful completion of not less than fifty (50) classroom hours of courses in subjects related to real estate appraisal as follows: (3-20-14)

i. Statistics, Modeling and Finance: not less than fifteen (15) hours, specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; and (3-20-14)

ii. Advanced Residential Applications and Case Studies: not less than fifteen (15) hours, specifically including Complex Property, Ownership and Market Conditions; Deriving and Supporting Adjustments; Residential Market Analysis; and Advanced Case Studies; and (3-20-14)

iii. Appraisal Subject Matter Electives: not less than twenty (20) hours, and may include hours over the minimum shown in Subsection 350.01.d. of these rules. (3-20-14)

02. Experience. Experience is a prerequisite to sit for the licensure examination: (4-11-06)

a. Document one thousand five hundred (1,500) hours of appraisal experience in no less than twelve (12) months (see Subsection 250.02). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-19)

b. One thousand two hundred (1,200) hours of the experience shall be from residential field appraisal experience. The balance of three hundred (300) hours may include non-field experience, refer to Subsection 250.02.d. (4-11-19)

c. Examination. Successful completion of the Certified Residential Appraiser examination approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. (3-21-12)

351. -- 399. (RESERVED)

400. CERTIFIED GENERAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA.

The State Certified General Real Estate Appraiser classification applies to the appraisal of all types of real property. Applicants must meet the following examination, education, and experience requirements in addition to complying with Section 250. Subsequent to being certified, an individual must meet the continuing education requirement. (4-2-08)

01. Education. As a prerequisite to taking the examination for licensure as an Idaho Certified General Real Estate Appraiser, each applicant shall: (3-20-14)

a. Hold a Bachelor's degree or higher from an accredited degree-granting college or university; and (3-24-17)

b. Document registration as an Appraiser Trainee and document the successful completion of not less than two hundred twenty-five (225) classroom hours of courses in subjects related to real estate appraisal as follows: (3-20-14)

- i. Statistics, Modeling and Finance: not less than fifteen (15) hours, specifically including Statistics; Valuation Models (AVM's and Mass Appraisal), and Real Estate Finance; (3-20-14)
 - ii. General Appraiser Market Analysis and Highest and Best Use: not less than thirty (30) hours; (3-20-14)
 - iii. General Appraiser Sales Comparison Approach: not less than thirty (30) hours, specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; (3-20-14)
 - iv. General Appraiser Site Valuation and Cost Approach: not less than thirty (30) hours; (3-20-14)
 - v. General Appraiser Income Approach: not less than sixty (60) hours, specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; (3-20-14)
 - vi. General Appraiser Report Writing and Case Studies: not less than thirty (30) hours, specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies; and (3-20-14)
 - vii. Appraisal Subject Matter Electives: not less than thirty (30) hours, and may include hours over the minimum shown in Subsection 400.01.b. of these rules; or (3-20-14)
- c.** Document licensure as a Licensed Residential Real Estate Appraiser and the successful completion of not less than one hundred fifty (150) classroom hours of courses in subjects related to real estate appraisal as follows: (3-20-14)
- i. Statistics, Modeling and Finance: not less than fifteen (15) hours, specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; and (3-20-14)
 - ii. General Appraiser Market Analysis and Highest and Best Use: not less than fifteen (15) hours; and (3-20-14)
 - iii. General Appraiser Sales Comparison Approach: not less than fifteen (15) hours, specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; and (3-20-14)
 - iv. General Appraiser Site Valuation and Cost Approach: not less than fifteen (15) hours; and (3-20-14)
 - v. General Appraiser Income Approach: not less than forty-five (45) hours, specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; and (3-20-14)
 - vi. General Appraiser Report Writing and Case Studies: not less than fifteen (15) hours, specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies; and (3-20-14)
 - vii. Appraisal Subject Matter Electives: not less than thirty (30) hours. and may include hours over the minimum shown in Subsection 400.01.c.; or (3-20-14)
- d.** Document licensure as a Certified Residential Real Estate Appraiser and the successful completion of not less than one hundred five (105) classroom hours of courses in subjects related to real estate appraisal as follows: (3-20-14)

- i. General Appraiser Market Analysis and Highest and Best Use: not less than fifteen (15) hours; and (3-20-14)
- ii. General Appraiser Sales Comparison Approach: not less than fifteen (15) hours, specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; and (3-20-14)
- iii. General Appraiser Site Valuation and Cost Approach: not less than fifteen (15) hours; and (3-20-14)
- iv. General Appraiser Income Approach: not less than forty-five (45) hours, specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; and (3-20-14)
- v. General Appraiser Report Writing and Case Studies: not less than fifteen (15) hours, specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies. (3-20-14)

02. Experience. Experience is a prerequisite to sit for the licensure examination: (4-11-06)

a. Document three thousand (3,000) hours of appraisal experience in no less than eighteen (18) months (See Subsection 250.02). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-19)

b. One thousand five hundred (1,500) hours of the experience must be non-residential appraisal experience. The balance of one thousand five hundred (1,500) hours may be solely residential experience or can include up to five hundred (500) hours of non-field experience as outlined in Subsection 250.02.d. (4-11-06)

c. Examination. Successful completion of the Certified General Appraiser examination approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. (3-21-12)

401. CONTINUING EDUCATION.

All certified/licensed appraisers must comply with the following continuing education requirements: (7-1-97)

01. Purpose of Continuing Education. The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his skill, knowledge and competency in real estate appraising. (7-1-97)

02. Hours Required. The equivalent of thirty (30) classroom hours of instruction in courses or seminars during the twenty-four (24) months prior to renewal is required. If the licensee completes two (2) or more courses having substantially the same content during any one (1) continuing education cycle, the licensee only will receive continuing education credit for one (1) of the courses. (3-21-12)

a. If the educational offering is taken on-line or in a virtual classroom, the course must include successful completion of prescribed course mechanisms required to demonstrate knowledge of the subject matter. (3-20-14)

b. Credit toward the classroom hour requirement may be granted only where the length of the educational offering is at least two (2) hours. (7-1-97)

c. Credit for the classroom hour requirement may be obtained by accredited courses which have been approved by the Appraisal Qualifications Board and by courses approved by Real Estate Appraiser Boards of states with reciprocity with Idaho. All other courses must have approval of the Board, which shall require the continuing education provider to submit the educational course approval application and application fee as set forth in these rules along with the documentation including the instructors and their qualifications, course content, length of course, and its location. Courses shall be approved for a period of four (4) years. (4-4-13)

d. Once every twenty-four (24) months, Idaho State Certified/Licensed Real Estate Appraisers and registered trainees will be required to attend an approved seven (7) hour USPAP update course or the equivalent. The course must cover the most recent USPAP edition. (3-21-12)

03. Credit for Appraisal Educational Processes and Programs. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. Credit for educational processes and programs continuing education shall not exceed one-half (1/2) of the total continuing education credits required for a renewal period. (4-2-08)

04. Credit for Attending the Licensure Board Meetings. Continuing education credit may be granted for a maximum of two (2) hours each continuing education cycle for time spent attending one (1) Board meeting. Members of the board shall not be entitled to continuing education credit for board service. (3-21-12)

05. Requirement When a Certificate/License Is Canceled. For each year (less than five (5)) in which a license is lapsed, canceled, or otherwise non-renewed, fifteen (15) hours of continuing education must be documented, including a seven (7) hour USPAP update course, prior to reinstatement. The course must cover the most recent USPAP edition. (3-21-12)

402. -- 449. (RESERVED)

450. RECIPROCITY.
Applicant must comply with Section 54-4115, Idaho Code. (7-1-93)

01. Submit Statement Verifying Certification/Licensure. Submit current notarized statement verifying certification/licensure in good standing in another state. (7-1-93)

451. -- 499. (RESERVED)

500. TEMPORARY PRACTICE.

01. Requirements for Issuance. A permit to temporarily practice may be issued to individuals coming to Idaho who are certified/licensed in another state and are either transferring to Idaho or have a temporary assignment in Idaho. (7-1-93)

02. Proof of Current Certification or Licensure. The applicant must be listed on the National Registry, maintained by the Appraisal Subcommittee, as current and in good standing and comply with Section 54-4115(3), Idaho Code, regarding irrevocable consent. (3-21-12)

03. Assignments and Length of Time Permit Will Be Issued. Permit to temporarily practice will be issued on a per appraisal assignment basis for a period not to exceed six (6) months. A temporary permit may be extended one (1) time only. (3-18-99)

501. -- 524. (RESERVED)

525. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed or certified real estate appraiser for each violation of Section 54-4107(1), Idaho Code. (3-18-99)

02. Costs and Fees. The Board may order a licensed or certified real estate appraiser to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-4107(1), Idaho Code. (3-18-99)

526. -- 539. (RESERVED)

540. APPRAISALS IN LITIGATION.

Licensed or certified appraisers providing opinions of value in litigation shall comply with USPAP Standard 1 including maintaining a work file in support of the opinion of value in litigation. (3-20-14)

541. -- 699. (RESERVED)

700. UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE/CODE OF ETHICS.

The Uniform Standards of Professional Practice, excluding standards 7, 8, 9, and 10, as published by the Appraisal Foundation and referenced in Section 004, are hereby adopted as the rules of conduct and code of ethics for all Real Estate Appraisers licensed under Title 54, Chapter 41, Idaho Code, and these rules. (3-25-16)

701. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.21.01 – RULES OF THE IDAHO STATE CONTRACTORS BOARD

DOCKET NO. 24-2101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-5206, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.21.01, rules of the Idaho State Contractors Board:

IDAPA 24.21.01

- IDAPA 24.21.01, *Rules of the Idaho State Contractors Board*: all proposed rules except 100.01.a., and 100.02.b.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.21.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Idaho State Contractors Board was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.21.01, the Rules of the Idaho State Contractors Board. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant language, moves fees into an easier to read tabular format, and adds the phrase “not to exceed” before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4824 - 4826.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules, except that it changes the fee structure to set a cap. The fee caps are above the current fee level for applications by \$15; for reciprocal registration by \$15; and registration renewal by \$15. Fees are established in accordance with Section 54-5207, Idaho Code, as follows:

Application fee: not to exceed \$50;
Reciprocal fee: not to exceed \$50;
Annual registration renewal fee: not to exceed \$50;
Reinstatement fee: not to exceed \$35.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking. Additionally, the Board is not a general fund agency, and these rule changes have no fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at 208-334-3233.

DATED this October 16, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-5206, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 24.21.01, rules of the Idaho State Contractors Board:

IDAPA 24.21

- 24.21.01, *Rules of the Idaho State Contractors Board* - All rules **except Sections 010 and 200**.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules govern the process for registering as a contractor in Idaho. Allowing these rules to expire would harm the public safety and welfare because the Board would not have a framework to analyze applicants with felony convictions.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and the immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Absent the ability to impose the registration fees outlined in this chapter, the Idaho State Contractors Board would not be able to remain self-sufficient, contrary to its statutory mandate.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-5207, Idaho Code, as follows: application fee: \$35; reciprocal fee: \$35; annual registration renewal fee: \$35; and reinstatement fee: \$35.

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 rulemaking is not anticipated to have any fiscal impact on the state General Fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rob McQuade 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 within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 24-2101-1900F

24.21.01 – RULES OF THE IDAHO STATE CONTRACTORS BOARD

000. LEGAL AUTHORITY.

These rules are hereby prescribed and established pursuant to the authority vested in the Idaho State Contractors Board by the provisions of Section 54-5206, Idaho Code. (3-30-06)

001. TITLE AND SCOPE.

These rules are title IDAPA 24.21.01, “Rules of the Idaho State Contractors Board.” (3-30-06)

002. -- 099. (RESERVED)

100. ORGANIZATION.

01. Meetings. The Board meets not less than once during each calendar quarter and at such times and places as designated by the Board or the Chairman of the Board. Special meetings may be held at the call of the Chairman, and all members will be notified in writing. (3-30-06)

a. A minimum of three (3) Board members constitutes a quorum and is required for the transaction of business. A majority vote of the Board members present at a meeting is considered the action of the Board as a whole. (3-30-06)

02. Organization of the Board. At the first meeting of each fiscal year, the Board elects from its members a Chairman, who assumes the duty of the office immediately upon such selection. (3-30-06)

a. The Chairman, when present, presides at all meetings, appoints with the consent of the Board, all committees, and otherwise performs all duties pertaining to the office of Chairman. The Chairman will be an ex-officio member of all committees. (3-30-06)

101. -- 149. (RESERVED)

150. APPLICATION.

Each applicant for registration must submit a complete application on applications forms approved by the board together with the required fee(s). The applicant must provide or facilitate the provision of any supplemental third party documents that may be required. Applications on file with the Board where an applicant has failed to respond to a Board request or where the applications have lacked activity for twelve (12) consecutive months are deemed denied and will be terminated upon thirty (30) days written notice unless good cause is established to the Board. (5-8-09)

151. -- 164. (RESERVED)

165. ADDITIONAL QUALIFICATIONS FOR REGISTRATION.

Applicants for a registration must meet the following qualifications in addition to those set forth in Section 54-5210, Idaho Code and these rules. (4-2-08)

01. Felony Conviction. Not have been convicted of any felony in a state or federal court; provided the applicant may make written request to the board for an exemption review to determine the applicant's suitability for registration, which the board determines in accordance with the following: (4-2-08)

02. Exemption Review. The exemption review consists of a review of any documents relating to the felony and any supplemental information provided by the applicant bearing upon his suitability for registration. The board may, at its discretion, grant an interview of the applicant. (4-2-08)

a. During the review, the board considers the following factors or evidence: (4-2-08)

i. The severity or nature of the felony; (4-2-08)

ii. The period of time that has passed since the felony under review; (4-2-08)

iii. The number or pattern of felonies or other similar incidents; (4-2-08)

iv. The circumstances surrounding the crime that would help determine the risk of repetition; (4-2-08)

- v. The relationship of the crime to the registered practice of construction; and (4-2-08)
 - vi. The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation. (4-2-08)
 - b. The applicant bears the burden of establishing his current suitability for registration. (4-2-08)
- 03. Fraud in Application Process.** The registration application and supporting documents are free from any fraud or material misrepresentations. (4-2-08)

166. -- 174. (RESERVED)

175. FEES.
Fees are non-refundable:

FEE TYPE	AMOUNT (Not to Exceed)
Application (includes original registration)	\$50.00
Reciprocal	\$50.00
Renewal	\$50.00
Reinstatement	\$35.00

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176. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.22.01 – RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD

DOCKET NO. 24-2201-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-5310, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.22.01, rules of the Idaho State Liquefied Petroleum Gas Safety Board:

IDAPA 24.22.01

- 24.22.01, *Rules of the Idaho State Liquefied Petroleum Gas Safety Board*: all proposed rules except 010, 100.01.a., 100.01.b., 150, 300, and 355.03.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.22.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Idaho State Liquefied Petroleum Gas Safety Board was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.22.01, the Rules of the Idaho State Liquefied Petroleum Gas Safety Board. On July 17, 2019, the Idaho State Liquefied Petroleum Gas Safety Board held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02; and the continued efforts to clarify and streamline its rules. This pending fee rule reorganizes and combines sections for clarity, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase “not to exceed” before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity. Additionally, this pending rule adds a new fee for re-inspection of liquefied petroleum facilities, to cover the cost generated as a result of a failed initial inspection. The Board felt the facility requiring the reinspection should bear the added cost, rather than all licensees.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 4829 - 4832](#).

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. The Board operates on dedicated funds and is proposing to add a facility reinspection fee in an amount not to exceed \$125. The remaining previously approved fees are as follows:

Application fee: not to exceed \$30;
Original individual license and annual renewal fee: not to exceed \$75;
Dealer-in-training license fee: not to exceed \$50;
Original facility license fee and annual renewal fee: not to exceed \$100;
Original bulk storage facility fee and annual renewal fee: not to exceed \$400;
Endorsement fee: not to exceed \$75.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at 208-334-3233.

DATED this October 16, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
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Phone: (208) 334-3233
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**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-5310, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 24.22.01, rules of the Idaho State Liquefied Petroleum Gas Safety Board:

IDAPA 24.22

- 24.22.01, *Rules of the Idaho State Liquefied Petroleum Gas Safety Board* - All rules *except Subsections/Sections 010.01, 010.02, 100.01, 200, 225.02, and 300.02.*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and

processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules govern the qualifications for facilities and individuals who engage in the selling, filling, refilling, transporting, delivering, or commercial handling of liquefied petroleum gas (LPG), or engage in the installation or maintenance of systems, equipment, pipes or containers for the use or storage of LPG. Allowing these rules and the standards set forth within them to expire would endanger public health, safety, and welfare.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and the immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Absent the ability to impose the licensure fees outlined in this chapter, the Idaho State Liquefied Petroleum Gas Safety Board would not be able to remain self-sufficient, contrary to its statutory mandate.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-5313, as follows: application fee: \$30; original individual license and annual renewal fee: \$75; dealer-in-training license fee: \$50; original facility license fee and annual renewal fee: \$400; original bulk storage facility fee and annual renewal fee: \$400; and endorsement fee: \$75.

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 rulemaking is not anticipated to have any fiscal impact on the state General Fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rob McQuade 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 within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this June 19, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 24-2201-1900F

24.22.01 – RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD

000. LEGAL AUTHORITY.

In accordance with Section 54-5310, Idaho Code, the Idaho State Liquefied Petroleum Gas Safety Board has promulgated rules that implement the provisions of Chapter 53, Title 54, Idaho Code. (3-30-06)

001. TITLE AND SCOPE.

These rules are titled IDAPA 24.22.01, “Rules of the Idaho State Liquefied Petroleum Gas Safety Board.” (3-30-06)

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The document titled Liquefied Petroleum Gas Code, 2017 Edition, commonly known as NFPA 58, published by National Fire Protection Association (NFPA), is herein incorporated by reference and is available for public inspection at the Board’s office. Copies of the 2017 Liquefied Petroleum Gas Code are available for purchase from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322. (3-29-17)

005. -- 099. (RESERVED)

100. ORGANIZATION.

At the first meeting of each fiscal year, the Board elects from its members a Chairman, who assumes the duty of the office immediately upon such selection. ()

101. -- 174. (RESERVED)

175. FEES.

All fees are non-refundable:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Application	\$30	
Individual License	\$75	\$75
Endorsement	\$75	
Dealer-in-training	\$50	
Facility License	\$100	\$100
Bulk Storage Facility	\$400	\$400
Facility Reinspection	\$125	

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176. – 224. (RESERVED)

225. APPROVED EDUCATION AND EXAMINATIONS.

Each applicant must provide certified proof that they have successfully completed the following: (3-30-06)

01. Basic Education. The Basic Certified Employee Training Program (CETP) provided by the National Propane Gas Association or the equivalent as determined by the Board within the thirty-six (36) months immediately preceding application. (3-30-06)

02. Licensure Examination. Receipt of a passing grade on the Basic Certified Employee Training Program (CETP) examination provided by the National Propane Gas Association or the equivalent as determined by the Board within the thirty-six (36) months immediately preceding application. ()

226. -- 249. (RESERVED)

250. PRACTICAL EXPERIENCE.

01. Supervised Practical Experience. Each applicant must provide certified proof that the applicant has successfully obtained at least one (1) year of practical experience in a Liquefied Petroleum Gas (LPG) facility while the applicant was under supervision of a licensed dealer. A person in the process of meeting the practical experience requirement must complete the education and examination requirements and apply for a dealer license within eighteen (18) months of beginning to obtain supervised experience. ()

02. Dealer-in-Training License. An individual may not begin obtaining supervised practical experience until the individual has applied for and obtained a dealer-in-training license from the board. Such license is issued on a non-renewable basis and is for the purpose of enabling the individual to gain the supervised practical experience that the person must obtain to become an LPG dealer. The dealer-in-training license is valid for eighteen (18) months from the date of issue. ()

251. -- 349. (RESERVED)

350. FACILITY LICENSURE.

01. Facility Licensure and Operation Requirements. (3-30-06)

a. Application for a facility license must include a certificate of general liability insurance set forth in these rules and plans and specifications complying with local ordinances and zoning requirements. All applications must be submitted to the Board for approval and a license must be issued before a new facility may open for business; ()

b. Each facility application must clearly identify and designate a location adequate to allow the facilities safe operation and the selling, filling, refilling, or commercial handling or commercial storage of liquefied petroleum gas; (3-30-06)

c. Each facility must meet all requirements of NFPA 58. (3-30-06)

02. Facility Changes in Ownership or Location. (3-30-06)

a. Whenever a change of ownership or location of a facility occurs, an original application must be submitted, the fee must be paid and compliance with all rules concerning a new facility documented, before a new license will be issued. FACILITY LICENSES ARE NOT TRANSFERABLE. (3-30-06)

b. Deletion of an owner from multiple ownership does not constitute a change in ownership. (3-30-06)

c. Addition of an owner to multiple ownership does constitute a change in ownership. (3-30-06)

d. Whenever any facility ceases operation at the licensed location, the owner(s) must notify the Board in writing that the facility is out of business and the facility license must be submitted to the Bureau. A new facility license will not be issued for any location that is currently licensed as a facility at the time of application. (3-30-06)

351. -- 354. (RESERVED)

355. GENERAL LIABILITY INSURANCE REQUIREMENT.

No facility license will be issued without a certificate showing proof of a current general liability insurance policy in the sum of not less than one million dollars (\$1,000,000) for an occurrence. The Board may conduct random audits of facility licenses and request documentation of a current general liability insurance policy. ()

01. Original Facility License Application. An application for facility license will not be considered complete without a certificate of general liability insurance showing a current policy. The policy must be kept in full force and effect. (4-2-08)

02. Renewal of Facility License. All licenses being renewed must certify that the facility holds a

current general liability insurance policy.

(4-2-08)

356. -- 374. (RESERVED)

375. INSPECTION RULES.

All facilities are subject to inspection by the Board or its agents at any time without notice to insure the safe operation of each facility and to insure continued compliance with the requirements of NFPA 58 and the Idaho laws and rules. The Board may adopt a form which establishes for the facility those material rules of NFPA 58 which will be inspected, and a level of compliance necessary for issuance or retention of a license or disciplinary action. The Board may further determine the time frame a facility may be granted in order to comply with NFPA 58, but still continue to operate, or pursue disciplinary action for a failure to comply. In the event of non-compliance necessitating re-inspection, the Board may assess a re-inspection fee. ()

376. -- 399. (RESERVED)

400. ENDORSEMENT.

Any person who holds a current, unsuspended, unrevoked or otherwise nonsanctioned license in another state or country that has licensing requirements substantially equivalent to or higher than those in Idaho may, submit the required application, supporting documentation, and required fee, for Board consideration. Those applicants who received their professional education or experience outside of the United States must provide such additional information concerning their professional education or experience as the Board may request. The Board may, in its discretion, require successful completion of additional course work or examination for any applicant under this provision. (3-30-06)

401. -- 449. (RESERVED)

450. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed LPG dealer or a licensed LPG facility for each violation of Section 54-5315, Idaho Code. (3-30-06)

02. Costs and Fees. The Board may order a licensed LPG dealer or a licensed LPG facility to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-5315, Idaho Code. (3-30-06)

451. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.25.01 – RULES OF THE IDAHO DRIVING BUSINESSES LICENSURE BOARD

DOCKET NO. 24-2501-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-5403, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.25.01, rules of the Rules of the Idaho Driving Businesses Licensure Board:

IDAPA 24.25.01

- 24.25.01, *Rules of the Idaho Driving Businesses Licensure Board*: all proposed rules except 100.02.a. and 100.02.b.

The text of the pending fee 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 June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, 4,865-4,876. The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.25.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Idaho Driving Businesses Licensure Board was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.25.01, the Rules of the Idaho Driving Business Licensure Board. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant language, moves fees into an easier to read tabular format, and adds the phrase “not to exceed” before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4865 - 4876.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-5404, Idaho Code, as follows:

Application fee: not to exceed \$25;
Original instructor license fee and renewal fee: not to exceed \$25;
Instructor apprentice permit fee: not to exceed \$25;
Original business license fee and renewal fee: not to exceed \$125.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
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**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-5403, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 24.25.01, rules of the Idaho Driving Businesses Licensure Board:

IDAPA 24.25

- 24.25.01, *Rules of the Idaho Driving Businesses Licensure Board* - All rules **except Sections/Subsections 010 and 200.01**.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules govern the credentials required to instruct Idaho's student drivers and protect the public sharing the roadways with student drivers. Allowing these rules to expire would mean the

dissolution of the curriculum standards for students in private driving schools, suspension of the standards driving instructors and driving businesses are required to maintain, and removal of an alternative form of driver's education for Idaho students and their families.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and the immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Absent the ability to impose licensure fees outlined in this chapter, the Driving Businesses Licensure Board would not be able to remain self-sufficient, in contradiction to its statutory mandate.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-5404, Idaho Code, as follows: application fee: \$25; original instructor license fee and renewal fee: \$25; instructor apprentice permit fee: \$25; and original business license fee and renewal fee: \$125.

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 rulemaking is not anticipated to have any fiscal impact on the state General Fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rob McQuade 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 within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 24-2501-1900F

24.25.01 – RULES OF THE IDAHO DRIVING BUSINESSES LICENSURE BOARD

000. LEGAL AUTHORITY.

In accordance with Section 54-5403, Idaho Code, the Idaho Driving Businesses Licensure Board hereby promulgates rules that implement the provisions of Chapter 54, Title 54, Idaho Code. (4-7-11)

001. TITLE AND SCOPE.

These rules are cited as IDAPA 24.25.01, “Rules of the Idaho Driving Businesses Licensure Board.” (4-7-11)

002. CHANGES IN LICENSEE INFORMATION (RULE 7).

01. Information Update. Each licensee must keep the Bureau current on the information that the licensee has placed on record with the Bureau. If a change occurs to the information that a licensee provided to the Bureau under Rules 150, 225, or 250, the licensee must notify the Bureau in writing of the change within twenty (20) calendar days after the change occurs. The licensee must provide the Bureau, upon request, with appropriate documentation reflecting the change. (4-7-11)

02. Address for Notification Purposes. The most recent mailing address on file with the Bureau will be used for purposes of all written communication with a licensee including, but not limited to, notification of renewal and notices related to disciplinary actions. Each licensee must keep the Bureau informed of the licensee’s current mailing address. (4-7-11)

003. -- 099. (RESERVED)

100. ORGANIZATION.

01. Meetings. The Board meets at least annually at such times and places as designated by the Chairman, or upon the written request of two (2) members of the Board. (4-7-11)

a. All meetings are held in accordance with the Idaho Open Meeting Law, Chapter 23, Title 67, Idaho Code. (4-7-11)

b. A minimum of three (3) Board members constitutes a quorum and may exercise all powers and authority conferred on the Board in order to hold a meeting of the Board. A majority vote of the Board members present at a meeting is considered the action of the Board as a whole. (4-7-11)

02. Organization of the Board. At the first meeting of each fiscal year, the Board elects from its members a Chairman, who assumes the duty of the office immediately upon such selection. (4-7-11)

101. -- 149. (RESERVED)

150. APPLICATION.

Each applicant for a license, permit, or other authority from the Board must submit a complete application on Board-approved application forms. The application must be accompanied by required fee(s). Applications received less than seven (7) days prior to a Board meeting may be held over to the next meeting. The Board also will not review incomplete applications, including applications submitted without the required fee(s). Further, an applicant must provide, or facilitate the provision of, any supplemental information or documents requested by the Board. Any application on file with the Board where an applicant has failed to respond to a Board request or where the application has lacked activity for twelve (12) consecutive months will be deemed denied and will be terminated upon thirty (30) days written notice to the applicant unless good cause is established to the Board. (4-11-19)

151. -- 174. (RESERVED)

175. FEES.

All fees are non-refundable.

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$25
Original Instructor License and Annual Renewal	\$25

FEE TYPE	AMOUNT (Not to Exceed)
Instructor Apprentice Permit	\$25
Original Business License and Annual Renewal	\$125
Reinstatement	As provided in Section 67-2614, Idaho Code

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176. -- 199. (RESERVED)

200. RENEWAL OF LICENSE.

01. Application for Renewal. In order to renew a license, a licensee must annually submit a timely, completed, Board-approved renewal application form and pay the required renewal fees. All renewals are subject to audit. When applying for renewal, the licensee must meet the following requirements: (4-7-11)

a. The licensee must certify that the licensee continues to satisfy all requirements for the licensee’s type of licensure, as set forth in Rules 225 and 250, and that the licensee is, and has been, in full compliance with Rule 007. The licensee must further certify that the licensee is in compliance with the Board’s continuing education requirements. (4-7-11)

b. An instructor licensee also must certify that the licensee does not suffer from any physical or mental condition or disease that would impair the licensee’s ability to safely instruct drivers. (4-7-11)

c. Every two (2) years, a driving instructor licensee must obtain a new medical certificate of the kind described in Subsection 250.05. The instructor licensee must annually certify that the licensee is in compliance with the requirements. (4-7-11)

d. A business licensee that offers a Board-approved instructor apprentice training program must certify that the licensee’s program has maintained compliance with the Board’s program approval criteria as specified in Rule 275. (4-7-11)

02. Reinstatement. Any license cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code, and subject to Subsection 201.01.c., below. (4-7-11)

201. CONTINUING EDUCATION.

In order to protect the public health and safety and promote the public welfare, the Board has adopted the following rules for continuing education. (4-7-11)

01. Continuing Education (CE) Requirement. Each Idaho licensed driving instructor must annually complete a minimum of eight (8) hours of continuing education. (4-11-19)

a. The licensee must certify on the licensee’s renewal application that the licensee has complied with the annual CE requirements for the preceding twelve (12) months. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. (4-7-11)

b. A licensee is considered to have satisfied the CE requirements for the first renewal of the initial license. (4-7-11)

c. Prior to reinstatement of a license lapsed, canceled, or otherwise non-renewed for less than five (5) years, the applicant must provide proof of attendance of eight (8) hours of continuing education for the previous twelve (12) months. A license that has lapsed, been canceled, or otherwise not renewed for more than five (5) years may be reinstated in accordance with Section 67-2614, Idaho Code. (4-11-19)

02. Hours. Credit for continuing education hours will only be given for actual time in attendance or for the time spent participating in the educational activity. One (1) hour of continuing education is equal to sixty (60) minutes. Courses taken by correspondence or on-line may be approved for continuing education if the courses require an exam or other proof of successful completion. Only four (4) hours of the required continuing education may be from correspondence, on-line, or self-study in each renewal period. The remaining hours must be in an interactive setting that allows participants to communicate directly with the instructor. Each licensee must maintain proof of attendance or successful completion documentation of all continuing education courses for a period of three (3) years. (4-7-11)

03. Providers/Sponsors/Subjects of Continuing Education. The continuing education must be provided by a nationally or regionally accredited college or university, a national or state driver education and traffic safety association such as the Idaho Association of Professional Driving Businesses, Driving School Association of the Americas, the American Driver Traffic Safety Education Association, and the American Automobile Association, transportation and law enforcement agencies, or other person or entity approved by the Board and must be germane to driver education. (4-7-11)

04. Verification of Attendance. Each licensee must maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. (4-7-11)

05. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for a licensee who fails to certify compliance with CE requirements. A licensee who makes a false attestation regarding compliance with the CE requirements is subject to disciplinary action by the Board. (4-7-11)

06. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or other good cause. Each licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. (4-7-11)

07. Carryover of Continuing Education Hours. Continuing education hours not claimed in the current renewal year may be claimed in the next renewal year. A maximum of eight (8) hours may be carried forward from the immediately preceding year, and may not be carried forward more than one (1) renewal year. (4-11-19)

202 -- 224. (RESERVED)

225. DRIVING BUSINESS LICENSE.

A driving business license enables a licensee to operate a driver education business at one (1), principal classroom location as designated in the application. The licensee may also utilize secondary locations for classroom instruction, so long as the business does not conduct driver education at any given secondary location for more than sixty (60) days in a one-year period. A driving business license is not transferable. The business licensee must conspicuously display the license at the business's principal classroom location. Each applicant must apply as required by Rule 150. (4-7-11)

01. Applicant Identity. The applicant must provide such identifying information as may be requested by the Board including, without limitation, the following: (4-7-11)

a. The applicant's legal name (i.e., the name of the natural person or business entity to be issued the license) and assumed business name(s), if any. (4-7-11)

b. The applicant's social security number, if the applicant has no employees and is a natural person (including a sole proprietor acting under an assumed business name). If the applicant has employees or is not a natural person (e.g., is a general or limited partnership, corporation, limited liability partnership, or limited liability company), then the applicant must provide its employer identification number. (4-7-11)

c. The names and addresses of the applicant's officers and shareholders having a twenty-five percent (25%) or greater ownership interest (if a corporation), members and managers (if a limited liability company), and

partners (if a partnership). (4-7-11)

d. The applicant's contact information, including its mailing address, physical address, and telephone number. (4-7-11)

02. Criminal History Background Check. The applicant, if a natural person, and all persons listed under Paragraph 225.01.c. and Subsection 225.05 of these rules, must submit to a current, fingerprint-based criminal history check conducted by an organization approved by the Board. Each applicant must ensure that such persons submit a full set of their fingerprints, and any relevant fees, to the Bureau which will forward the fingerprints and fees to the organization that conducts the fingerprint based criminal history background check. The application will not be processed until the Bureau has received the completed fingerprint-based criminal history background checks.

(3-20-14)

03. Classroom Locations and Certificates of Occupancy. Each applicant must list all principal and secondary classroom locations to be utilized by the business. The applicant must provide a certificate of occupancy issued to the building/room by the local fire marshal or the fire marshal's designated agent, for each classroom location other than a location in a public or private school building, government building, church, or synagogue.

(4-7-11)

04. Certificate of Vehicle Insurance. The certificate of vehicle insurance for each vehicle utilized by the driving business for driver education must accompany the application. The minimum coverage will include:

(4-7-11)

a. Medical Payment for each person - five thousand dollars (\$5,000); and either (4-7-11)

b. Limit of liability (Combined single limit) - five hundred thousand (\$500,000) to apply to bodily injury and/or property damage; or (4-7-11)

c. Limit of liability (Split limit). Bodily injury - two hundred-fifty thousand (\$250,000) per person/ five hundred thousand (\$500,000) each accident; Property damage - two hundred-fifty thousand (\$250,000) each accident. (4-7-11)

05. Licensed Instructors. Before beginning to offer driver education, and at all times while offering driver education, a driving business must employ or have contracted with one (1) or more licensed driving instructors to teach the classroom instruction phase and behind-the-wheel training phase of the driver education to be provided by the business. A driving business must submit to the Bureau a current list of such licensed instructors with applications for original licensure and reinstatement. A driving business must keep such list current and available for inspection upon request by the board or its authorized agent. The list must be kept at its primary place of business and retained for five (5) years. (3-29-17)

06. Vehicles. An applicant for a driving business license must submit to the Bureau a list of the vehicles that the business will utilize when offering driver education. A business licensee may not utilize vehicles that do not appear on the list. Each vehicle must have dual control brake pedals, safety restraints for all passengers, a side view mirror on each side of the vehicle, and an additional rear view mirror or compatible viewing device for the exclusive use of the instructor. A driving business must ensure that students are not allowed in a listed vehicle unless the vehicle is in a safe and proper operating condition. (4-7-11)

a. Initial Inspection. An applicant may not include a vehicle on a business's vehicle list unless the vehicle has passed a vehicle inspection performed by an ASE mechanic or vehicle technician within the two (2) month period preceding the application. The inspection must be documented on the Board-approved inspection form included at Appendix A to these rules, or on such other similar forms as may be approved by the Board. The person who inspected the vehicle must sign the form, certifying that the vehicle generally is in a safe and proper operating condition, and that each inspected item passed inspection or, if found to be in need of repair, was repaired on a given date. The application must be accompanied by a separate, signed form for each listed vehicle. (4-7-11)

b. Annual Inspection. A business licensee must ensure that each vehicle passes an inspection every twelve (12) months, and that the inspection is performed by an ASE mechanic or vehicle technician documented on

the Board-approved form referenced in Paragraph 225.06.a. of these rules. If a vehicle fails an annual inspection, the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes a subsequent inspection and the business licensee has submitted to the Bureau the inspection form evidencing that the vehicle has passed. (4-7-11)

c. Incident Inspection. If a vehicle incident occurs that requires an investigation and report by law enforcement, or in which the damage exceeds one thousand five hundred dollars (\$1,500), the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes inspection by an ASE mechanic or vehicle technician and the business licensee has submitted to the Bureau the inspection form evidencing that the vehicle has passed. (4-7-11)

d. Signage. The business licensee must ensure that the outside of each vehicle is equipped with safely secured signs. Signs must include “Student Driver,” “Driver Education,” “Driver Training,” “Driving School,” or similar language that clearly designates the vehicle as a driver training vehicle. (4-7-11)

07. Course of Instruction. Each applicant, for an original business license, must provide with its application the course of instruction the applicant will use when instructing students. The applicant must demonstrate, to the Board’s satisfaction, that the course of instruction is designed to produce safe and effective drivers and is educationally sound. The course of instruction must be based on the minimum curriculum components outlined in Rule 226, and consists of: (4-7-11)

a. Not less than thirty (30) hours of classroom instruction; and (4-7-11)

b. Not less than six (6) hours of behind-the-wheel practice driving; and (4-7-11)

c. Not less than six (6) hours of student, in-vehicle observation of other persons (e.g., parents, other student drivers, etc.) driving the vehicle. (4-7-11)

08. On-line Instruction. In addition to, or in lieu of offering classroom instruction at a physical classroom location, a business licensee may offer classroom instruction to students via the internet. While a business licensee may utilize a third party to offer on-line classroom instruction, the business licensee is responsible for ensuring that the instruction content meets the requirements of these rules and is approved by the Board. (3-29-17)

09. Instructor Apprenticeship Training Program. A driving business may offer a Board-approved instructor apprenticeship training program under the conditions specified in Rule 275. (4-7-11)

226. DRIVING BUSINESS – MINIMUM CURRICULUM COMPONENTS.

In order to assure consistency among driving businesses, it is necessary that every business licensee ensure that its driver education curriculum include the following minimum curriculum components: (4-7-11)

01. Component One for Classroom. (4-7-11)

a. Conducting a parent/student orientation and course overview. (4-7-11)

02. Component Two for Classroom. (4-7-11)

a. Identifying vehicle gauges, alert, and warning symbols. (4-7-11)

b. Preparing to drive. (4-7-11)

c. Protecting occupants. (4-7-11)

03. Component Three for Classroom. (4-7-11)

a. Identifying road signs and signals. (4-7-11)

b. Identifying lane markings. (4-7-11)

- 04. Component Four for Classroom.** (4-7-11)
 - a. Understanding basic traffic laws, including right-of-way rules. (4-7-11)
- 05. Component Five for Classroom.** (4-7-11)
 - a. Using good habits for reduced risk driving. (4-7-11)
 - b. Using time and space management systems and strategies. (4-7-11)
- 06. Component Six for Classroom.** (4-7-11)
 - a. Explaining the effect of gravity and energy of motion on a vehicle. (4-7-11)
 - b. Understanding procedures to maintain vehicle balance and traction. (4-7-11)
 - c. Identify strategies to negotiate hills and curves. (4-7-11)
- 07. Component Seven for Classroom.** (4-7-11)
 - a. Identifying strategies to use when driving in rural and urban environments. (4-7-11)
 - b. Identifying strategies to use when driving on freeways. (4-7-11)
- 08. Component Eight for Classroom.** (4-7-11)
 - a. Identifying strategies to use when driving in bad weather. (4-7-11)
 - b. Identifying strategies to use when encountering roadside emergencies. (4-7-11)
- 09. Component Nine for Classroom.** (4-7-11)
 - a. Understanding ways to cooperate with other roadway users, including bicyclists. (4-7-11)
 - b. Identifying responsibilities after a collision. (4-7-11)
 - c. Identifying the procedure for obtaining a driver's license. (4-7-11)
 - d. Identifying and avoiding common driver distractions. (4-7-11)
 - e. Identifying ways to prevent drowsiness while driving. (4-7-11)
 - f. Resisting aggressive driving behaviors. (4-7-11)
- 10. Component Ten for Classroom.** (4-7-11)
 - a. Explaining the effects of alcohol on the body. (4-7-11)
 - b. Explaining the effects of alcohol on the driving task. (4-7-11)
 - c. Correlating drinking and driving with vehicle crashes. (4-7-11)
 - d. Identifying Idaho laws related to drinking and driving. (4-7-11)
 - e. Explaining the dangers of alcohol and other drug use. (4-7-11)

- 11. Component Eleven for In-Car.** (4-7-11)
 - a. Performing pre-drive procedure. (4-7-11)
 - b. Identifying vehicle controls. (4-7-11)
 - c. Starting the vehicle. (4-7-11)
 - d. Backing the vehicle. (4-7-11)
 - e. Demonstrating approved steering technique. (4-7-11)
 - f. Smoothly stopping the vehicle. (4-7-11)
 - g. Demonstrating proper signaling and turning technique. (4-7-11)
 - h. Recognizing relevant signs and markings. (4-7-11)
 - i. Distinguishing between four-way and two-way stops. (4-7-11)
 - 12. Component Twelve for In-Car.** (4-7-11)
 - a. Negotiating controlled and uncontrolled intersections. (4-7-11)
 - b. Negotiating hills and curves. (4-7-11)
 - c. Angle parking in a parking lot. (4-7-11)
 - d. Driving in rural environment. (4-7-11)
 - e. Making lane changes. (4-7-11)
 - 13. Component Thirteen for In-Car.** (4-7-11)
 - a. Driving in an urban environment (with one-way and two-way streets, if available). (4-7-11)
 - b. Dealing with signal lights, pedestrians, and city traffic. (4-7-11)
 - c. Performing a perpendicular park. (4-7-11)
 - d. Merging onto the freeway. (4-7-11)
 - e. Driving on the freeway. (4-7-11)
 - f. Exiting the freeway and merging with traffic on surface streets. (4-7-11)
 - 14. Component Fourteen for In-Car.** (4-7-11)
 - a. Performing a parallel park/street park. (4-7-11)
 - b. Performing turnabouts. (4-7-11)
 - c. Passing another vehicle. (4-7-11)
 - d. Driving independently with the instructor. (4-7-11)
- 227. DRIVING BUSINESS - COURSE OF INSTRUCTION.**

01. Student Permit Required. No enrollee of any class D driver's training course will be allowed to attend classes or participate in driving instruction unless he has obtained a class D driver's training instruction permit, or a class D instruction permit, as provided in Section 49-307(4), Idaho Code. (4-7-11)

02. In-Car Documentation. A business licensee must ensure that each listed vehicle contains documentation that identifies each student and the student's permit number. Permits will be given to the students following the completion of the course and used during the required graduate licensing process. (4-7-11)

03. Maximum Daily Driving and Observation Time. Neither a business licensee nor an instructor licensee may permit an enrolled student to receive more than two (2) hours of behind-the-wheel driving time per day. Maximum observation time is two (2) hours per student, per day, and may be completed with a parent or legal guardian. (4-7-11)

04. Maximum Number of Students In Vehicle. Neither a business licensee nor an instructor licensee may permit more than three (3) students in a vehicle at one (1) time. (4-7-11)

05. Grading Criteria. A business licensee may not permit a student to graduate from the business's driver education program unless the student has achieved an eighty percent (80%) or higher in each of the three (3) course areas described in Subsection 225.07. The business licensee must utilize written grading criteria for each of the minimum components in Rule 226. Criteria may include student attitude and such other criteria as the driving business may deem appropriate. The business licensee must maintain records of the student's grades. (4-7-11)

06. Driving Log. Each driving instructor must complete a log for each student's behind-the-wheel driving and each driving business licensee must ensure that its driving instructors complete the log. The log must include, for each student, at least the student's name, birthdate, phone number, driving permit number, class date, instructor's name, lesson objective, total instruction time, total observation time, final grade, and date the student passed. (4-7-11)

07. Reporting. A business licensee will send student performance information as prescribed by the Idaho Division of Motor Vehicles (DMV) to the DMV no later than five (5) p.m. on the third business day following completion of the course. (3-29-17)

08. Parental Involvement. Each business licensee should encourage parental involvement in the education of the student. (4-7-11)

09. Record Retention. The business licensee must maintain all logs and other records required under Rule 227 for at least three (3) years from date on which the student completes, or is no longer enrolled in, the business's driver education course. The business licensee may not release these records without written consent from the student and the student's parent or legal guardian. The Board and its agents, however, may inspect these records at any time. (4-7-11)

228. DRIVING BUSINESS - INITIAL AUDIT.

After July 1, 2009, all new driving business licensees issued licenses will automatically be audited for compliance with the Board's laws and rules following their first renewal. (4-7-11)

229. -- 249. (RESERVED)

250. DRIVING INSTRUCTOR LICENSE.

01. Application. Each applicant for a driving instructor license must apply as required by Rule 150. Each applicant is required to provide his name, date of birth, and contact information, including mailing address and telephone number, on the Board-approved application form. (4-7-11)

02. Age. An applicant for a driving instructor license must be at least twenty-one (21) years old. (4-7-11)

03. Driving Record and Drivers License. Each applicant must submit a copy of a valid driver's

license in good standing and a copy of a satisfactory driving record. An unsatisfactory record includes, but is not limited to, two (2) moving violations in the past twelve (12) months, or suspension or revocation of a driver's license in the last thirty-six (36) months, or a conviction involving alcohol or controlled substances within the last thirty-six (36) months. (4-7-11)

04. Criminal History Background Check. Each applicant must submit to a current, fingerprint-based criminal history check conducted by an organization approved by the Board. Each applicant must submit a full set of the applicant's fingerprints, and any relevant fees, to the Bureau which will forward the fingerprints and fees to the organization that conducts the fingerprint based criminal history background check. The application will not be processed until the completed fingerprint-based criminal history background check has been received. (3-20-14)

05. Medical Certificate. A driving instructor licensee may not provide in-vehicle instruction to students if the instructor suffers from a medical condition that may impair the instructor's ability to safely instruct student drivers. Accordingly, each applicant for an instructor's license must obtain a medical examination performed by a licensed medical professional. The examination must be completed within two (2) years preceding the application. The applicant must submit a medical examiner's certificate, issued and signed by a licensed, qualified medical professional documenting that the examination occurred and that the applicant does not suffer from any physical or mental condition or disease that would impair the applicant's ability to safely instruct student drivers. If a medical condition exists, the applicant must re-certify as the medical professional requires and submit that information to the Board. (3-29-17)

06. Education. Each applicant must submit written evidence, satisfactory to the Board, of having graduated from a high school or a regionally or nationally accredited college or university, or of having obtained a GED. (4-7-11)

07. Instructor Apprenticeship Training Program. Applicants for licensure must demonstrate to the Board's satisfaction that they have successfully completed all required classroom instruction and behind-the-wheel training hours from a Board-approved instructor apprenticeship training program or have met the requirements for a waiver of the apprenticeship training program as set forth in these rules. The applicant must have undertaken and completed the apprenticeship training program within the five (5) year period immediately preceding the application. (4-11-15)

a. Proof of successful completion must include written certificate from a Board-approved apprenticeship training program certifying that the applicant has satisfactorily completed the program. An applicant need not have completed all required classroom instruction and behind-the-wheel training hours through a single program so long as the last program attended by the applicant ensures itself, and its business licensee certifies to the Board that the applicant has satisfactorily completed all required hours through Board-approved apprenticeship training programs. (4-7-11)

b. A person may not enroll in an apprenticeship training program unless the person has applied for, paid for, and obtained an apprenticeship permit from the Board. The applicant must apply on Board-approved forms, which must identify the applicant and the business licensee in whose approved apprenticeship training program the applicant will be enrolled. The individual applicant must establish that they are at least twenty-one (21) years old, hold a valid driver's license and a satisfactory driver license record, have passed a fingerprint based criminal history background check, and have obtained a medical certificate consistent with the requirements of Subsections 250.02 through 250.05. An apprenticeship permit automatically expires one (1) year after issuance. The Board also may suspend or revoke an apprenticeship permit, and refuse to issue another permit, if the permittee engages in any act or omission that would subject the permittee to discipline if the permittee had an instructor's license. No one may be a permittee for more than three (3) years. (3-20-14)

08. Waiver of Instructor Apprenticeship Training Program. An applicant is entitled to a waiver of the apprenticeship training program if they possess the requisite training and experience as set forth below. (4-11-15)

a. An applicant who holds a current active unrestricted equivalent driving instructor license from another state qualifies for a waiver of the apprenticeship training program requirement. The applicant is responsible to provide proof to the Board that they hold a current unrestricted driving instructor license from another state, and that said license is equivalent to an Idaho driver instructor license in its qualifications and scope of practice; or

(4-11-15)

b. An applicant who has held within the past five (5) years an active and unrestricted public driver education instructor license issued by the Idaho State Department of Education and has completed eight (8) hours of continuing education within the prior year or an individual who has completed the Idaho State Department of Education driving instructor program within the past five (5) years and has completed eight (8) hours of continuing education within the prior year qualifies for a waiver of the apprenticeship training program requirement. The applicant is responsible to provide proof to the Board that they meet the requirements herein. (4-11-19)

251. -- 274. (RESERVED)

275. INSTRUCTOR APPRENTICESHIP TRAINING PROGRAM.

01. Application for Approval. A business licensee may operate a Board-approved instructor apprenticeship training program. The business licensee must apply for program approval on forms provided by the Board, and submit with the application such documentation as the Board may require to enable the Board to assess whether the proposed program meets the Board's approval criteria, as specified in Subsections 275.03 through 275.08 of these rules. (4-7-11)

02. Suspension or Revocation of Approval and Discipline. If an approved program fails to consistently adhere to the approval criteria in Subsections 275.03 through 275.08 of these rules, the Board may suspend or revoke the approval. Further, if a business licensee that operates an approved program fails to cooperate with the Board in any inspection or audit of the program, the licensee may be disciplined. (4-7-11)

03. Apprentices. The business licensee must ensure that all persons who enroll in the licensee's program possess a valid instructor apprenticeship training permit from the Board. (3-20-14)

04. Instruction and Training Hours. The Board must be satisfied that the program has designed its proposed instruction and training to produce safe and effective driving instructors. The business licensee must ensure that the program includes at least the following instruction and training components: (4-7-11)

a. Each apprentice must receive at least sixty (60) hours of classroom instruction covering the curriculum components for student classroom instruction specified in Subsections 226.01 through 226.10 of these rules. These hours may also be completed through on-line or internet based instruction. (4-11-19)

b. Each apprentice must receive at least one hundred eight (108) hours of behind-the-wheel-training covering the curriculum components for student in-car instruction specified in Subsections 226.11 through 226.14 of these rules. When an apprentice begins to provide behind-the-wheel driving instruction to students, a program instructor must supervise the apprentice by riding in the vehicle with the apprentice and students for the first six (6) hours. A program instructor also must ride in the vehicle with the apprentice and students to evaluate the apprentice during the final two (2) hours of the apprentice's behind-the-wheel training. (4-7-11)

05. Instructors. The business licensee must ensure that only licensed driving instructors are allowed to teach in the program. A list of the instructors must accompany the application for approval. (4-11-19)

06. Recordkeeping. The business licensee must ensure that the program maintains progress records for each apprentice. A program instructor and the apprentice must sign and date the records each month, and copies of the records must be provided to the apprentice. The records must, at a minimum, identify each lesson completed, the number of hours of instruction involved in the lesson, the date the apprentice completed the lesson, the instructor who taught the lesson, and whether the apprentice passed. When an apprentice's course of instruction has been completed or terminated, the program business licensee must maintain the records of the apprentice's progress, and the total hours recorded and maintained by the program for a period of five (5) years from completion or termination date. These records are subject to inspection by the Board at any time. (4-7-11)

07. Certificate of Proficiency. The program must provide each apprentice with a certificate of proficiency evidencing all hours satisfactorily completed by the apprentice while in the program, and that the apprentice is proficient in all areas covered by the certificate. (4-7-11)

08. Discontinuance of Program. If the business licensee ceases to operate the program, the business licensee must provide the program’s current and prior apprentices with any progress or other records that the program is required to maintain under this Section. (4-7-11)

276. -- 449. (RESERVED)

450. DISCIPLINE.

01. Grounds for Discipline. In addition to the grounds for discipline listed in Section 54-5408, Idaho Code, grounds for discipline also include: (4-7-11)

a. Failure to cooperate with an inspection or audit conducted by the Board or its agents including, without limitation, any continuing education audit, as specified in Section 54-5403(6), Idaho Code. Failure to cooperate includes, without limitation, failure to provide documentation requested by the Board or its agents during an inspection or audit of the licensee’s compliance with Board laws or rules. (4-7-11)

b. Violating any of the following standards of conduct that have been adopted by the Board: (4-7-11)

i. A licensee must not use fraud or deception in procuring or renewing, or in attempting to procure or renew, a license, permit, or other authorization issued by the Board. (4-7-11)

ii. A licensee must not aid, abet, or assist any person or entity in conduct for which a license or permit is required under Idaho Driving Businesses Act, unless the person or entity has the required license or permit. (4-7-11)

iii. A licensee must comply with final orders of the Board issued in contested cases to which the licensee is a party. (4-7-11)

02. Disciplinary Sanctions. If the Board determines that grounds for discipline exist, it may impose disciplinary sanctions against the licensee including, without limitation, any or all of the following: (4-7-11)

a. Revoke or suspend the licensee’s license(s); (4-7-11)

b. Restrict or limit the licensee’s practice; (4-7-11)

c. Require the licensee to pay an administrative fine not to exceed one thousand dollars (\$1000) for each violation identified in the Board’s order. (4-7-11)

d. Require the licensee to pay all or part of the costs and fees incurred by the Board in the investigation and prosecution of the licensee, including without limitation, all costs and fees incurred by the Board in proceedings upon which the order was entered. (4-7-11)

451. -- 999. (RESERVED)

APPENDIX “A”

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.28.01 – RULES OF THE BARBER AND COSMETOLOGY SERVICES LICENSING BOARD

DOCKET NO. 24-2801-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 54-5807 and 54-5822, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.28.01, rules of the Rules of the Barber and Cosmetology Services Licensing Board:

IDAPA 24.28.01

- 24.28.01, *Rules of the Barber and Cosmetology Services Licensing Board*

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.28.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Barber and Cosmetology Services Licensing Board was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.28.01, the Rules of the Barber and Cosmetology Services Licensing Board. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant language, moves fees into an easier to read tabular format, and adds the phrase “not to exceed” before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4911 - 4936.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The following fees are established in accordance with Section 54-5822, Idaho Code, as follows:

Original license fee for individual licenses: not to exceed \$25;
Original license fee for instructors: not to exceed \$30;
Original license fee for establishments: not to exceed \$20;
Original license fee for schools: not to exceed \$300;
Original license or registration fee for facilities: not to exceed \$20;
Renewal fee for individual licenses: not to exceed \$25;
Renewal fee for instructors: not to exceed \$30;
Renewal fee for establishments: not to exceed \$20;
Renewal fee for schools: not to exceed \$85;
Renewal fee for facilities: not to exceed \$20;
Registration fee for apprentice: not to exceed \$25;
Certificate for makeup artist: not to exceed \$25;
License by endorsement fee: not to exceed \$35.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-5807 and 54-5822, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 24.28.01, rules of the Barber and Cosmetology Services Licensing Board:

IDAPA 24.28

- 24.28.01, *Rules of the Barber and Cosmetology Services Licensing Board*—All rules *except Subsections 010.01 and 010.02*.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the

benefit intended by these rules. These rules govern the qualifications and standards for licensees in the barber and cosmetology services industry, as well as the hygiene and sanitation standards of establishments which offer those services. Failing to reauthorize these rules would deprive the Board of the ability to protect the public health, safety, and welfare of the citizens of Idaho.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and the immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Without the ability to impose the licensure fees outlined in this chapter, the Barber and Cosmetology Services Board would not be able to remain self-sufficient, contrary to its statutory requirement.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The following fees are established in accordance with Section 54-5822, Idaho Code, as follows: original license fee for individual licenses: \$25; original license fee for instructors: \$30; original license fee for establishments: \$20; original license fee for schools: \$300; original license or registration fee for facilities: \$20; renewal fee for individual licenses: \$25; renewal fee for instructors: \$30; renewal fee for establishments: \$20; renewal fee for schools: \$85; renewal fee for facilities: \$20; registration fee for apprentice: \$25; certificate for makeup artist: \$25; and license by endorsement fee: \$35.

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 rulemaking is not anticipated to have any fiscal impact on the state General Fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rob McQuade 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 within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 24-2801-1900F

24.28.01 – RULES OF THE BARBER AND COSMETOLOGY SERVICES LICENSING BOARD

000. LEGAL AUTHORITY.

These rules are hereby prescribed and established pursuant to the authority vested in the Barber and Cosmetology Services Licensing Board by the provisions of Section 54-5807, Idaho Code. (4-1-19)

001. TITLE AND SCOPE.

01. Title. The rules are titled IDAPA 24.28.01, “Rules of the Barber and Cosmetology Services Licensing Board.” (4-1-19)

02. Scope. These rules implement the purposes and intent of Chapter 58, Title 54, Idaho Code, to regulate the professions of barbering and cosmetology in the interest of the public health, safety, and welfare. (4-1-19)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Clean. Removal of visible or surface debris, washing with soap and water, detergent or chemical “cleaner.” Cleaning reduces the number and slows the growth of pathogens on both porous and non-porous surfaces. Cleaning prepares non-porous items for disinfection, but cleaning does not make multi-use items safe for use. (4-1-19)

02. Clinical Services or Clinical Work. Performing hands-on acts or techniques within the scope of practice of a profession regulated by the Board. (4-1-19)

03. Disinfect. The process of making a non-porous item safe for use. Disinfecting requires the use of a chemical intended to kill or denature a bacteria, virus or fungus. Items to be disinfected must be cleaned prior to disinfection. Ultraviolet (UV) light is not acceptable for disinfection. (4-1-19)

04. Disinfectant. Disinfectant registered by the United States Environmental Protection Agency (EPA) and is bactericidal, virucidal and fungicidal with effectiveness against staphylococcus aureus (including methicillin-resistant staphylococcus aureus (MRSA)), human immunodeficiency virus (HIV) and hepatitis B (HEPB). This includes EPA registered Sodium Hypochlorite 5.25% or higher (household bleach) with instructions for disinfection, diluted as instructed on the label and observing the five (5) minute contact time listed on the manufacturer’s label. Bleach must be active (not expired) with a manufacture date of less than six (6) months prior to use. (4-1-19)

05. Establishment. Establishment means a place licensed under Chapter 58, Title 54, Idaho Code, other than a licensed school or licensed facility, where barber-styling, cosmetology, or electrology is practiced. (4-1-19)

06. Facility. A retail cosmetics dealer, a retail thermal styling equipment dealer, or a makeover or glamour photography business. (4-1-19)

07. First-Aid Kit. First-aid kit means a packaged and identifiable assortment of medical supplies, including adhesive bandages, skin antiseptic, disposable gloves, and gauze. (4-1-19)

08. Makeup. Makeup means makeup, cosmetics, or any pigment product that is used to cover, camouflage, or decorate the skin. (4-1-19)

09. Patron. Patron means any person who receives the services of anyone licensed, certificated or otherwise regulated by the provisions of Chapter 58, Title 54, Idaho Code. (4-1-19)

10. Record of Instruction. The final documentation of total hours and operations completed by a student that is maintained by a school or, in the case of an apprentice, by the instructor. (4-1-19)

11. Single-Use. Any non-electrical item that cannot be properly cleaned and disinfected is considered single-use. This includes, but is not limited to, pumice stones, buffing blocks, wooden cuticle pushers, cotton balls, pads or swabs, toe separators and flip flops, and all nail files or emery boards that are not made entirely of metal, glass, or crystal. (4-1-19)

12. Sterilize. The eradication of all microbial life through the use of heat, steam or chemical sterilants.

Items to be sterilized must be cleaned prior to sterilization. (4-1-19)

13. Sterilant. Autoclaves or dry heat sterilizers approved by the United States Food and Drug Administration and spore tested through an independent lab at least once every thirty (30) days. Sterilants must be used only as instructed by the manufacturer. Spore testing results and maintenance records for the most recent twelve (12) months must be kept onsite at the establishment. (4-1-19)

011. UPDATE OF RECORDS.

Applicants, licensees, registrants, and certificants are responsible for keeping their records updated with the Bureau. All changes including name changes and change of address must be submitted in writing to the Bureau within thirty (30) days. The most recent mailing address on file with the Bureau will be used for purposes of all written communication with a licensee, registrant, or certificant including notification of renewal and notices related to disciplinary actions. (4-1-19)

012. -- 099. (RESERVED)

100. ORGANIZATION AND OPERATIONS OF THE BOARD.

01. Meetings. The Board shall meet at least annually and at other such times and places as designated by the Chairman, upon the request of the governor, or upon the written request of a majority of the members of the Board. (4-1-19)

a. A minimum of four (4) Board members shall constitute a quorum and shall be required for the transaction of business, provided at least one (1) board member of the relevant profession is present when any board action is taken that affects the profession, its licensees, or its applicants. A majority vote of the quorum present at a meeting shall be considered the action of the Board as a whole. (4-1-19)

b. The Chairman shall be a voting member. (4-1-19)

02. Organization. At the first meeting of each fiscal year, the Board shall elect from its members a Chairman, who shall assume the duty of the office immediately upon such selection. (4-1-19)

a. The Chairman shall preside at all meetings when present, appoint all committees with the consent of the Board, and otherwise perform all duties pertaining to the office of Chairman. (4-1-19)

b. The Bureau shall act as an agent of the Board and shall be the official keeper of all records of the Board. The Bureau shall provide such services as may be authorized by Chapter 26, Title 67, Idaho Code, and as defined under contract between the Bureau and the Board. (4-1-19)

101. -- 199. (RESERVED)

200. APPLICATION.

01. Filing an Application. Applicants for licensure, certification, or registration shall submit a complete application, verified under oath, to the Board at its official address. The application shall be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation. (4-1-19)

02. Supporting Documents. The applicant must provide or facilitate the provision of any supporting third party documents that may be required under the qualifications for the license, certificate, or registration being sought. (4-1-19)

03. Applications Must Be Complete. Applications shall not be considered complete until all required information, documents, and fees are received by the Board. (4-1-19)

04. Application Deadline Date. Applications received less than seven (7) days prior to a Board meeting may be held over to the next meeting. (4-1-19)

05. Lack of Activity. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. (4-1-19)

201. -- 249. (RESERVED)

250. FEES.

All fees are non-refundable. ()

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Original License for Individual Licenses	\$25	\$25
Instructor License	\$30	\$30
Original License for Establishments	\$20	\$20
Original License for Schools	\$300	\$85
Original License or Registration for Facilities	\$20	\$20
Registration for Apprentice	\$25	
Certificate for Makeup Artist	\$25	
License by Endorsement	\$35	
Reinstatement	\$35	
Examination	As set by the Administrator	

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251. -- 299. (RESERVED)

300. QUALIFICATIONS FOR ALL LICENSES OR CERTIFICATES FOR INDIVIDUALS.

In addition to other qualifications set forth in these rules, each applicant for licensure or certification must meet the following general qualifications: (4-1-19)

- 01. Age.** Be at least sixteen and one-half (16 ½) years of age. (4-1-19)
- 02. Education.** Successful completion of at least two (2) years of high school or have attained an equivalent education as determined by the Board as evidenced by: (4-1-19)
 - a.** High school transcripts, a copy of a high school diploma, or a letter written on high school stationery, signed by an officer of the high school, indicating that the applicant has satisfactorily completed the tenth grade and is eligible to commence the eleventh grade; or (4-1-19)
 - b.** Documents establishing admission to or graduation from an associates, bachelors, or graduate degree program from an accredited college or university; or (4-1-19)
 - c.** Successful passage of the General Educational Development (G.E.D.) Test; or (4-1-19)
 - d.** Any test approved by the Department of Education to establish education equivalency shall be approved by the Board when an applicant receives a score approved by the Department of Education as meeting the equivalency requirement; or (4-1-19)
 - e.** Other proof of satisfactory completion of the tenth grade with eligibility to commence the eleventh grade. (4-1-19)

03. Good Moral Character. (4-1-19)

a. An applicant must certify that he/she has not been found guilty, been convicted, or received a withheld judgment or suspended sentence for a felony or a crime involving moral turpitude. If the applicant has been found guilty, been convicted, or received a withheld judgment or suspended sentence for such a crime, the applicant must submit a written statement of suitability for licensure or certification as set forth in Section 312 of these rules.

(4-1-19)

b. An applicant must certify that he/she or his/her license has not been subject to any disciplinary action by a regulatory entity in another state, territory, or country including, but not limited to, having an application for licensure denied. If the applicant or his/her license has been subject to discipline, the applicant must submit a written statement of suitability for licensure or certification as set forth in Section 312 of these rules.

(4-1-19)

301. QUALIFICATIONS FOR ORIGINAL BARBER LICENSE.

The Board may grant a license to an applicant for licensure as a barber who completes an application as set forth in Section 200 of these rules, pays the required fee, and who meets the following general, education, experience, and examination qualifications:

(4-1-19)

01. General. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. Education. Successful completion and graduation from a program of barbering consisting of not less than nine hundred (900) hours of instruction in a licensed barber school, or the following equivalent instruction:

(4-1-19)

a. For a currently licensed cosmetologist, a licensed barber school must credit eight hundred (800) hours toward the required nine hundred (900) hours for a barber course. The school must submit for the Board's approval a written explanation of how the credited hours and the remaining hours of instruction will be allotted among the subjects in the barber course curriculum, provided that the remaining hours of instruction must at a minimum include the following:

(4-1-19)

i. Barber theory, including male haircuts; and (4-1-19)

ii. Shaving. (4-1-19)

b. For a currently licensed barber in another state, territory, possession or country, and who does not meet the qualifications for licensure by endorsement, fifty (50) hours of instruction may be credited for each three (3) months of practical experience in barbering.

(4-1-19)

03. Examination. Successful passage of a barber examination approved by the Board. (4-1-19)

302. QUALIFICATIONS FOR ORIGINAL BARBER-STYLIST LICENSE.

The Board may grant a license to an applicant for licensure as a barber-stylist who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications:

(4-1-19)

01. General. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. Education. Successful completion and graduation from a program of barber-styling consisting of not less than one thousand five hundred (1,500) hours of instruction in a licensed barber school, or the following equivalent instruction:

(4-1-19)

a. For a currently licensed cosmetologist, a licensed barber school must credit of one thousand four hundred (1,400) hours toward the required one thousand five hundred (1,500) hours for a barber-stylist course. The school must submit for the Board's approval a written explanation of how the credited hours and the remaining hours of instruction will be allotted among the subjects in the barber-stylist course curriculum, provided that the remaining hours of instruction must at a minimum include the following:

(4-1-19)

- i. Barber theory, including male haircuts; and (4-1-19)
- ii. Shaving. (4-1-19)
- b. For a currently licensed barber-stylist in another state, territory, possession or country, fifty (50) hours of instruction may be credited for each three (3) months of practical experience in barber-styling. (4-1-19)

03. Examination. Successful passage of a barber-stylist examination approved by the Board. (4-1-19)

303. QUALIFICATIONS FOR ORIGINAL COSMETOLOGIST LICENSE.

The Board may grant a license to an applicant for licensure as a cosmetologist who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (4-1-19)

01. General. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. Education. Successful completion and graduation from a program of cosmetology consisting of not less than one thousand six hundred (1,600) hours of instruction in a licensed cosmetology school or completed at least three thousand two hundred (3,200) hours in an apprenticeship that meets the requirements of Section 550 of these rules, or the following equivalent instruction: (4-1-19)

a. For a currently licensed barber-stylist, a licensed cosmetology school must credit one thousand three hundred (1,300) hours toward the required one thousand six hundred (1,600) hours for a cosmetology course. The school must submit for the Board's approval a written explanation of how the credited hours and the remaining hours of instruction will be allotted among the subjects in the cosmetology course curriculum, provided that the remaining hours of instruction must at a minimum include the following: (4-1-19)

- i. Nail technology; (4-1-19)
- ii. Esthetics; and (4-1-19)
- iii. Cosmetology theory, including female hairstyling. (4-1-19)

b. For a currently licensed barber, a licensed cosmetology school must credit nine hundred (900) hours toward the required one thousand six hundred (1,600) hours for a cosmetology course. The school must submit for the Board's approval a written explanation of how the credited hours and the remaining hours of instruction will be allotted among the subjects in the cosmetology course curriculum, provided that the remaining hours of instruction must at a minimum include the following: (4-1-19)

- i. Working on the hair with chemicals; (4-1-19)
- ii. Nail technology; (4-1-19)
- iii. Esthetics; and (4-1-19)
- iv. Cosmetology theory, including female hairstyling. (4-1-19)

c. A currently licensed esthetician, haircutter, or nail technician must be given credit of two hundred (200) hours toward the required one thousand six hundred (1,600) hours for a cosmetology course or four hundred (400) hours toward the required three thousand two hundred (3,200) hours as a cosmetology apprentice. (4-1-19)

d. For a currently certificated makeup artist in this state, a licensed cosmetology school may credit up to fifty (50) hours toward the required instructional hours for a cosmetology course, or a licensed instructor may credit up to one hundred (100) hours toward the required apprenticeship hours. (4-1-19)

e. For an esthetician, haircutter, or nail technician student, a licensed cosmetology school may credit eighty percent (80%) of accumulated hours, but no more than two hundred (200) hours, toward the required

instructional hours for a cosmetology course. (4-1-19)

f. For a currently licensed cosmetologist in another state, territory, possession or country, one hundred (100) hours of instruction or two hundred (200) hours as an apprentice may be credited for each six-month period of practical experience in cosmetology. (4-1-19)

03. Examination. Successful passage of the cosmetology examination approved by the Board. (4-1-19)

304. QUALIFICATIONS FOR ORIGINAL ELECTROLOGIST LICENSE.

The Board may grant a license to an applicant for licensure as an electrologist who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (4-1-19)

01. General. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. Education. Successful completion and graduation from a program of electrology consisting of not less than six hundred (600) hours of instruction in a licensed cosmetology school approved to teach electrology or successful completion of at least one thousand two hundred (1,200) hours in an apprenticeship that meets the requirements of Section 550 of these rules. For a currently licensed electrologist in another state, territory, possession or country, forty (40) hours of instruction or eighty (80) hours as an apprentice may be credited for each six-month period of practical experience in electrology. (4-1-19)

03. Examination. Successful passage of the electrologist examination conducted or approved by the Board. (4-1-19)

305. QUALIFICATIONS FOR ORIGINAL ESTHETICIAN LICENSE.

The Board may grant a license to an applicant for licensure as an esthetician who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (4-1-19)

01. General. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. Education. Successful completion and graduation from a program of esthetics consisting of not less than six hundred (600) hours of instruction in a licensed cosmetology school or successful completion of at least one thousand two hundred (1,200) hours in an apprenticeship that meets the requirements of Section 550 of these rules, or the following equivalent instruction: (4-1-19)

a. For a currently certificated makeup artist in this state, a licensed cosmetology school may credit up to fifty (50) hours toward the required instructional hours for an esthetics course or, a licensed instructor may credit up to one hundred (100) hours toward the required apprenticeship hours. (4-1-19)

b. A licensed cosmetology school may credit one-seventh (1/7) of accumulated hours toward the required instructional hours for an esthetics course for a cosmetology student. (4-1-19)

c. For a currently licensed esthetician in another state, territory, possession or country, sixty (60) hours of instruction or one hundred twenty (120) hours as an apprentice may be given for each six-month period of practical experience in esthetics. (4-1-19)

03. Examination. Successful passage of the esthetician examination approved by the Board. (4-1-19)

306. QUALIFICATIONS FOR ORIGINAL HAIRCUTTER LICENSE.

The Board may grant a license to an applicant for licensure as a haircutter who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (4-1-19)

01. General. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. Education. Successful completion of and graduation from a program of haircutting consisting of not less than nine hundred (900) hours of instruction in a licensed cosmetology school or the following equivalent instruction: (4-1-19)

a. A licensed cosmetology school may credit one-seventh (1/7) of accumulated hours toward the required instructional hours for a haircutter course for a cosmetology student. (4-1-19)

b. For a currently licensed haircutter in another state, territory, possession or country, ninety (90) hours of instruction or one hundred twenty (120) hours as an apprentice may be credited for each six-month period of practical experience in haircutting, hair design, or cosmetology. (4-1-19)

307. QUALIFICATIONS FOR ORIGINAL NAIL TECHNICIAN LICENSE.

The Board may grant a license to an applicant for licensure as a nail technician who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (4-1-19)

01. General. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. Education. Successful completion and graduation from a program of nail technology consisting of not less than four hundred (400) hours of instruction in a cosmetology school approved by the Board or completed at least eight hundred (800) hours in an apprenticeship that meets the requirements of Section 550 of these rules, or the following equivalent instruction: (4-1-19)

a. A licensed cosmetology school may credit one-seventh (1/7) of accumulated hours toward the required instructional hours for a nail technology course for a cosmetology student. (4-1-19)

b. For a currently licensed nail technician in another state, territory, possession or country, forty (40) hours of instruction or eighty (80) hours as an apprentice may be credited for each six-month period of practical experience in nail technology. (4-1-19)

03. Examination. Successful passage of the nail technician examination approved by the Board. (4-1-19)

308. QUALIFICATIONS FOR MAKEUP ARTIST CERTIFICATE.

The Board may grant a certificate to an applicant for certification as a makeup artist who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general and education/training requirements: (4-1-19)

01. General. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. Education/Training. Successful completion of instruction of not less than one hundred (100) hours in makeup artistry, which must include instruction and practical experience in safety and infection control. Hours may be classroom instruction, training, practical experience, or a combination. Instruction may be received from one or more of the following sources: (4-1-19)

a. A cosmetology school licensed in this state or another state, territory, possession, or country; (4-1-19)

b. A cosmetology or esthetics instructor licensed in this state or another state, territory or possession; (4-1-19)

c. A retail cosmetics dealer licensed in this state or another state, territory or possession; or (4-1-19)

d. Other source of instruction that includes: (4-1-19)

i. Knowledgeable and experienced instructor with a record of safe practices; (4-1-19)

- ii. Instruction in client safety and safe product selection; and (4-1-19)
- iii. Hands-on practice and training in infection control. (4-1-19)
- e. Any combination of the sources listed in Subsections 308.02.a. through d. of these rules. (4-1-19)

03. Documentation of Education/Training. An applicant may present proof of education/training in makeup artistry in the following ways: (4-1-19)

- a. A current cosmetology or esthetician license from another state, territory, possession or country. (4-1-19)
- b. Transcripts or records of instruction. (4-1-19)
- c. Documentation of work history and training as an employee for a retail cosmetics dealer licensed in this state or another state, territory or possession of the United States. (4-1-19)
- d. Membership in the International Alliance of Theatrical Stage Employees Make-Up Artists and Hair Stylists Guild or other similar organization whose membership requirements meet or exceed the requirements of these rules. (4-1-19)
- e. Documentation of other training/experience must include: (4-1-19)
 - i. Identity and qualifications of the person delivering the instruction/training; (4-1-19)
 - ii. Method of instruction/training and amount of hands-on training provided; and (4-1-19)
 - iii. Subject matters covered, particularly pertaining to topics listed in Subsection 308.02.d. of these rules. (4-1-19)

04. Additional Education/Training. The Board may require an applicant who does not have a documented record of sufficient training in safety and infection control to obtain additional training or other demonstration of competency in that area. (4-1-19)

309. QUALIFICATIONS FOR ORIGINAL BARBER OR BARBER-STYLIST INSTRUCTOR LICENSE.

The Board may grant a license to an applicant for licensure as a barber instructor or barber-stylist instructor who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following licensure, education, experience, and examination qualifications: (4-1-19)

01. Licensure. Hold a current barber license for a barber instructor applicant or hold a current barber-stylist or cosmetologist license for a barber-stylist instructor applicant. (4-1-19)

02. Education and Experience. At least five (5) years of experience as a licensed barber for a barber instructor applicant or as a licensed barber-stylist for a barber-stylist instructor applicant or have satisfactorily completed: (4-1-19)

a. A minimum six (6) month course of barber instructing for a barber instructor applicant or barber-stylist instructing for a barber-stylist instructor applicant as a student in a licensed barber school, provided that the course consist of no less than nine hundred (900) hours; or (4-1-19)

b. A minimum three (3) month course of barber instructing for a barber instructor applicant or barber-stylist instructing for a barber-stylist instructor applicant as a student in a licensed barber school, if the applicant has at least two (2) years of experience as a licensed barber for a barber instructor applicant or as a barber-stylist for a barber-stylist instructor applicant, provided that the course consist of no less than five hundred (500) hours; or (4-1-19)

c. Hold a cosmetology instructor license in this state. (4-1-19)

03. Examination. Successful passage of the instructor examination approved by the Board. (4-1-19)

04. Single License Required to Practice and Instruct. The holder of a license issued by the board who is subsequently issued an instructor license is permitted to maintain a single license to practice. An instructor license issued by the board permits the holder to both practice and instruct only within the scope of the license(s) held under Subsection 01 of this rule. The holder of a cosmetologist license who is subsequently issued a barber-stylist instructor license may not practice or instruct elements of barbering or barber-styling that are outside the definition of cosmetology unless the licensee also has been issued a license as a barber or barber-stylist by the board. (4-1-19)

310. QUALIFICATIONS FOR ORIGINAL COSMETOLOGY INSTRUCTOR LICENSE.

The Board may grant a license to an applicant for licensure as an instructor of cosmetology, electrology, esthetics, or nail technology who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following licensure, education, experience, and examination qualifications: (4-1-19)

01. General. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. Licensure. Hold a current license as a cosmetologist, electrologist, esthetician, or nail technician. (4-1-19)

03. Education or Equivalent. Earned twelve (12) college credit hours or the equivalent. Credit hours must be obtained from the Education Department, Speech Communications Department or from the Psychology/Sociology Department and other credit at the discretion of the Board. Equivalency is determined as: (4-1-19)

a. Completion of teaching seminars focusing on cosmetology, nail technology, esthetics, or electrology approved by the Board. Fourteen (14) clock hours is equivalent to one (1) semester college credit hour in an approved seminar. Verification of satisfactory completion must be submitted to the Board for its approval; or (4-1-19)

b. Verified satisfactory teaching as a qualified instructor from another state for one (1) of the previous three (3) years immediately prior to application; or (4-1-19)

c. Successful passage of the instructor examination approved by the Board. (4-1-19)

04. Experience. At least five (5) years of experience as a licensed cosmetologist, electrologist, esthetician, or nail technician, which must be immediately preceding the application, or have satisfactorily completed: (4-1-19)

a. A minimum six (6) month course of cosmetology instructing as a student in a licensed cosmetology school, provided that the course consist of no less than nine hundred (900) hours; or (4-1-19)

b. A minimum three (3) month course of cosmetology instructing as a student in a licensed cosmetology school, if the applicant has at least two (2) years of experience as a licensed cosmetologist, electrologist, esthetician, or nail technician, provided that the course consist of no less than five hundred (500) hours; or (4-1-19)

c. Hold a barber or barber-stylist instructor license in this state. (4-1-19)

05. Single License Required to Practice and Instruct. The holder of a license issued by the Board who is subsequently issued an instructor license is permitted to maintain a single license to practice. An instructor license issued by the Board permits the holder to both practice and instruct only within the scope of the license(s) held under Subsection 310.02 of this rule. (4-1-19)

311. APPROVED EXAMINATION.

Approved examinations shall be the written and practical examination provided by the National Interstate Council of State Boards of Cosmetology (NIC) for the discipline for which licensure is sought. A passing score must be obtained

on both the written and practical examination. A passing score will be determined by NIC. (4-1-19)

312. WRITTEN STATEMENT OF SUITABILITY FOR LICENSURE OR CERTIFICATION.

An applicant who or whose license has a conviction, finding of guilt, withheld judgment, or suspended sentence for a felony or crime involving moral turpitude, or has been subject to discipline in another state, territory or country must submit with his/her application a written statement and any supplemental information establishing his/her current suitability for licensure or certification. (4-1-19)

01. Consideration of Factors and Evidence. The Board shall consider the following factors or evidence: (4-1-19)

- a.** The severity or nature of the crime or discipline; (4-1-19)
- b.** The period of time that has passed since the crime or discipline under review; (4-1-19)
- c.** The number or pattern of crimes or discipline or other similar incidents; (4-1-19)
- d.** The circumstances surrounding the crime or discipline that would help determine the risk of repetition; (4-1-19)
- e.** The relationship of the crime or discipline to the practice of barbering or cosmetology; (4-1-19)
- f.** The applicant's activities since the crime or discipline under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation; and (4-1-19)
- g.** Any other information regarding rehabilitation or mitigating circumstances. (4-1-19)

02. Interview. The board may, at its discretion, grant an interview of the applicant. (4-1-19)

03. Applicant Bears the Burden. The applicant shall bear the burden of establishing his/her current suitability for licensure or certification. (4-1-19)

313. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT.

The Board may grant a license to an applicant for licensure by endorsement who completes an application as set forth in Section 200 of these rules and meets the following requirements: (4-1-19)

01. General Requirements. The applicant must: (4-1-19)

- a.** Be at least eighteen (18) years of age; (4-1-19)
- b.** Meet the education requirements set forth in Subsection 300.02 of these rules; and (4-1-19)
- c.** Meet the good moral character requirements set forth in Subsection 300.03 of these rules. (4-1-19)

02. Hold a Current License and Have Experience. The applicant must be the holder of a current active license or certificate of qualification in the profession and at the level for which a license is being sought, issued by the authorized regulatory entity in another state, territory, possession, or foreign country. The certification of licensure must be received by the Board from the issuing agency; and (4-1-19)

a. Must show that the state, territory, possession, or foreign country has licensing requirements substantially equivalent to or higher than those required for new applicants in Idaho; or (4-1-19)

b. Document at least one (1) year of actual practice under certification or licensure in the three (3) years immediately prior to application in the profession for which a license is being sought. (4-1-19)

314. -- 324. (RESERVED)

325. LICENSURE AND OPERATION OF PRIMARY AND CONTIGUOUS ESTABLISHMENTS.

Except as otherwise provided in statute and these rules, a licensed individual must practice within a licensed establishment. An establishment may be licensed as a primary establishment or a contiguous establishment that operates within a primary establishment. (4-1-19)

01. Primary Establishment License. A primary establishment license may be issued and annually renewed only under the following conditions: (4-1-19)

a. Application for establishment license shall be made on forms furnished by the Board and shall include plans and specifications complying with the Board's safety and disinfection requirements. The fully completed application form, with the required fees, must be submitted to the Board and a license issued prior to the opening or operation of any barber or cosmetology primary establishment; and (4-1-19)

b. There is a clearly defined and designated working floor space of adequate dimension to allow the safe and sanitary practice of any one (1) or combination of defined practices of cosmetology or barber-styling for all individual stations that may be in operation in addition to any restroom and access areas; and (4-1-19)

c. There is an approved hot and cold running water source and drainage system that is available to any contiguous establishment or other establishment or facility that may exist; and must be within the perimeters of the licensed establishment and separate from the toilet facilities; and (4-1-19)

d. There are restroom facilities conveniently located and accessible from within the building in which the primary establishment is located and which shall be accessible from the primary area and to all areas designated for the operation of contiguous establishments. Restroom facilities shall contain an approved hot and cold running water source and approved drainage system. The water source shall be in addition to the work area facilities; and (4-1-19)

e. Any areas designated by the primary establishment for the operation of contiguous establishments shall be clearly defined and fixed, and shall provide adequate dimension to allow the safe and sanitary practice of any one or a combination of the defined practices of cosmetology or barber-styling for all stations that may be operated in that area. (4-1-19)

f. The holder of the primary establishment license is responsible for complying with the safety and disinfection requirements and all other applicable statutes and rules for the designated licensed area of the primary establishment, including areas that are cooperatively or jointly used as "common areas" such as shampoo bowls, restrooms, entrance or reception areas. (4-1-19)

02. Contiguous Establishment License. A contiguous establishment license may be issued and annually renewed only under the following conditions: (4-1-19)

a. Application for establishment license shall be made on forms furnished by the Board. The fully completed application form, with the required fees, must be submitted to the Board and a license issued prior to the opening or operation of any barber or cosmetology contiguous establishment; and (4-1-19)

b. The contiguous establishment is associated with a currently licensed primary establishment and a holder of the primary establishment license provides proof that the primary shop is equipped to meet the safety and disinfection requirements and rules of the Board; and (4-1-19)

c. The contiguous establishment shall only operate in the contiguous establishment designated areas within the associated primary establishment. (4-1-19)

d. The holder of the contiguous establishment license will be responsible for complying with the safety and disinfection requirements and all other applicable statutes and rules for the contiguous designated area where it operates. (4-1-19)

03. Businesses Other Than a Licensed Establishment or Facility. Businesses other than one

licensed under Chapter 58, Title 54, Idaho Code, and living quarters shall be separate and apart. Home establishments must provide a separate outside entrance directly into the establishment and substantial partitions or walls shall extend from the floor to not less than seven (7) feet high, separating the establishment from adjoining rooms used for business or domestic purposes. All doors to an establishment from adjacent rooms shall be closed. (4-1-19)

04. Conditions for Issuance. No primary establishment license may be issued which includes or overlaps all or any portion of an existing establishment license. (4-1-19)

326. ESTABLISHMENT CHANGES IN OWNERSHIP OR LOCATION.

Whenever a change of ownership or fixed location of an establishment occurs, an original license fee must be paid and compliance with all rules concerning a new establishment must be met before a new license will be issued. Establishment licenses are not transferable. (4-1-19)

01. Board Must Be Informed of All Changes. The Board must be informed in writing of any and all changes of ownership and location of establishments. (4-1-19)

02. Deletion of an Owner. Deletion of an owner in a multiple ownership may be effected by filing a written statement with the Board signed by the person withdrawing and the remaining owner(s). (4-1-19)

03. Transfer of Ownership. If the transfer involves change of corporate structure or deleting one (1) or more owners, a written notarized statement signed by all former owners as registered with the Board shall be accepted. (4-1-19)

04. Addition of an Owner. Addition of an owner to a multiple ownership constitutes a change in ownership and the requirements for a new establishment apply. (4-1-19)

05. Out of Business. Whenever any establishment ceases operation at the licensed location, the owner(s) or authorized agent of the establishment shall notify the Board by submitting: (4-1-19)

a. A signed letter by the owner(s) or authorized agent advising that the establishment is out of business; or (4-1-19)

b. The establishment license bearing the signature of the owner(s) or authorized agent and marked out-of-business; or (4-1-19)

c. For a contiguous establishment license, a signed statement by the associated primary establishment advising that the contiguous establishment is out of business. (4-1-19)

d. In the event that the Board has not been notified about the cessation of operations pursuant to this rule and documentation or evidence has been obtained that an establishment has ceased operation at the licensed location, the Board may cancel the establishment license upon a thirty (30) day written notice to the owner(s) or authorized agent of the establishment. (4-1-19)

06. License Status. A new primary establishment license will not be issued for any location that is currently licensed as a primary establishment at the time of application. (4-1-19)

327. RETAIL COSMETICS DEALER LICENSE.

The Board may grant a retail cosmetic dealer license to allow the application of cosmetic products to customers' faces in connection with the sale of the products. An applicant for a retail cosmetic dealer license must complete an application as set forth in Section 200 of these rules, pay the required fee, and meet the following requirements: (4-1-19)

01. Requirements. All retail cosmetic dealers shall provide an area within the business premises for disinfection and storage of equipment and supplies necessary to perform any cosmetic application services provided. The business premises must have: (4-1-19)

a. Access to hot and cold running water; (4-1-19)

- b. Access to restroom facilities; (4-1-19)
- c. Disinfectants, as defined in these rules; (4-1-19)
- d. Single-use samples, wipes, spatulas or other dispensing techniques designed to prevent contamination of the cosmetic product; and (4-1-19)
- e. First-aid kit. (4-1-19)

02. Change in Ownership or Location. Licenses are not transferable. Whenever a change of ownership or location of a facility occurs, a new application for a facility license must be submitted together with the required fee to the Board, and all the facility requirements must be met. (4-1-19)

03. Cessation of Operation. Whenever any facility ceases operation at the licensed location, the owner(s) shall notify the Board in writing that the facility is out of business and the facility license shall be submitted to the Bureau. In the event that the Board has not been notified about the cessation of operations pursuant to this rule and documentation or evidence has been obtained that the facility has ceased operation at the licensed location, the Board may cancel the facility license upon a thirty (30) day written notice to the owner(s) or authorized agent of the facility. (4-1-19)

328. RETAIL THERMAL STYLING EQUIPMENT DEALER REGISTRATION.

The Board may grant a registration as a retail thermal styling equipment dealer to an applicant who completes an application as set forth in Section 200 of these rules, pay the required fee, and meet the following requirements: (4-1-19)

01. Training. The dealer is responsible to train all employees on the proper and safe use of the thermal styling equipment and all disinfection related to the demonstration of the equipment prior to permitting an employee's use of the equipment on customers. (4-1-19)

02. Requirements. All retail thermal styling equipment dealers shall provide the equipment and supplies necessary to perform any demonstration of the thermal styling equipment. The area where the demonstration is being performed must have: (4-1-19)

- a. Disinfectants, as defined in these rules; and (4-1-19)
- b. First-aid kit. (4-1-19)

03. Change in Ownership or Location. Registrations are not transferable. Whenever a change of ownership or location of a facility occurs, a new application for a registration must be submitted together with the required fee to the Board, and all the facility requirements must be met. (4-1-19)

04. Cessation of Operation. Whenever any facility ceases operation at the licensed location, the owner(s) shall notify the Board in writing that the facility is out of business and the registration shall be submitted to the Bureau. In the event that the Board has not been notified about the cessation of operations pursuant to this rule and documentation or evidence has been obtained that the facility has ceased operation at the registered location, the Board may cancel the facility registration upon a thirty (30) day written notice to the owner(s) or authorized agent of the facility. (4-1-19)

329. -- 399. (RESERVED)

400. RENEWAL OR EXPIRATION OF LICENSE.

A licensee must renew his/her/its license annually as set forth in Section 67-2614, Idaho Code, and may reinstate his/her/its license within five (5) years after expiration as provided in Section 67-2614, Idaho Code. (4-1-19)

401. -- 499. (RESERVED)

500. BARBER AND COSMETOLOGY SCHOOL REQUIREMENTS.

The Board may grant a license to an applicant for licensure to operate a barber or cosmetology school who completes an application as set forth in Section 200 of these rules, pays the required fee, and who meets the following requirements: (4-1-19)

- 01. Premises.** The premises of a barber or cosmetology school must: (4-1-19)
 - a.** Possess sufficient apparatus and equipment for the proper and full teaching of all subjects or its curriculum. Each barber school must have at least one (1) barber chair that shall be of such construction that it may be readily cleaned and it shall be mechanically workable and in good working order. Space between barber chairs and the workstand or wall shall be adequate so that no student will be hampered in the performance of his/her work. (4-1-19)
 - b.** Provide adequate space, ventilation, lighting, and facilities to safely accommodate all students, instructors, and customers. (4-1-19)
 - c.** Have classroom and training areas equipped with sufficient seating capacity and work stations for all enrolled students. (4-1-19)
 - d.** Provide a restroom with a sink with hot and cold running water and approved drainage system. (4-1-19)
- 02. Faculty or Instructors.** A school must be under the direct, personal supervision at all times of a licensed cosmetology instructor if a cosmetology school or a licensed barber or barber-stylist instructor if a barber school and must employ and maintain a licensed instructor for every twenty (20) students or fraction thereof, with an instructor trainee counting as an instructor for the purposes of the student-instructor ratio. (4-1-19)
 - a.** An instructor shall teach only those subject areas for which the instructor has been issued a license by the Board to practice. (4-1-19)
 - b.** Instructors must devote their time during school or class hours to instructing students rather than engaging in occupational practice. (4-1-19)
- 03. Operations.** A barber or cosmetology school must: (4-1-19)
 - a.** Maintain regular class and instruction hours, establish grades and hold monthly examinations. This information will be transferred to the record of instruction; (4-1-19)
 - b.** Prescribe a school term for training in all aspects of the practice being taught; and (4-1-19)
 - c.** Offer school hours for the purpose of instruction on at least five (5) days per week. (4-1-19)
- 04. Curriculum.** A school must submit a curriculum and course catalog that covers the subjects, as set forth in Section 54-5815(1)(g), Idaho Code, relating to the profession for which the school is seeking approval to teach. Any proposed changes to a curriculum or catalog must be approved by the Board. The submission must identify what specific changes are being made to the curriculum. (4-1-19)
- 05. Clinical Work.** Each school shall advertise to the public that it is a school and that all work is done by students. The clinic area shall not have connecting entrances to establishments or businesses other than barber or cosmetology schools. (4-1-19)
 - a.** Students shall not be permitted to render any clinical service to patrons until students have completed at least five percent (5%) of the required hours of instruction. (4-1-19)
 - b.** All clinical work shall be performed under the supervision of a licensed instructor. (4-1-19)
 - c.** Clinical work shall be recorded on the record of instruction for each month. (4-1-19)

06. Outside School Activities. Schools may credit a student with a maximum of thirty (30) hours toward the required hours of instruction for a course of instruction for activities that take place outside the school. These hours must be approved by the instructor. (4-1-19)

07. Student Records To be Maintained by the School. A school must maintain the following records for each enrolled student: (4-1-19)

- a.** Proof of age showing student is no less than sixteen and one-half (16 ½) years of age; (4-1-19)
- b.** Proof of showing student has satisfactorily completed two (2) years of high school (tenth grade) or having equivalent education as evidenced in a manner identified in Subsection 300.02 of these rules; (4-1-19)
- c.** Daily attendance record for each student; (4-1-19)
- d.** Record of instruction for each student showing the classroom hours, the clinical hours, and operations done for each month in which the student is enrolled; and (4-1-19)
- e.** When a student's course of instruction has been completed or terminated, the completed operations, and number of hours of instruction are to be recorded by the school on the record of instruction form. This form is to be provided to the student and maintained by the school for five (5) years from completion or termination. (4-1-19)

08. Change in Ownership or Location. (4-1-19)

- a.** Licenses are not transferable. (4-1-19)
- b.** A new application must be submitted to the Board and a license issued for a new or additional location or a change of ownership of an existing school. (4-1-19)

09. Cessation of School. When a school ceases to operate as a school, the school must provide each enrolled student his/her records of instruction at or before the cessation of operations. (4-1-19)

501. RULES FOR COSMETOLOGY SCHOOLS APPROVED TO TEACH ELECTROLOGY.

The Board may grant a license to an applicant to operate an electrology school to an applicant who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following requirements: (4-1-19)

01. Premises. Schools provide a minimum of three hundred (300) square feet of designated floor space per six (6) students. (4-1-19)

02. Required Equipment. Each school shall have the following equipment, which is considered the minimum equipment necessary for the proper instruction of students. This amount of equipment is based on six (6) students. (4-1-19)

- a.** Work stations equal to seventy-five percent (75%) of total enrollment; (4-1-19)
- b.** Two (2) brands of machines, one (1) of which has three (3) method capability: Galvanic, Thermolysis, and Blend; (4-1-19)
- c.** Two (2) treatment tables and adjustable technician chairs; (4-1-19)
- d.** Two (2) swing arm lamps with magnifying lens; (4-1-19)
- e.** Two (2) magnifying glasses; (4-1-19)
- f.** Tweezers; (4-1-19)

- g.** One (1) basin with approved water source; (4-1-19)
- h.** Necessary sanitation equipment for implements; and (4-1-19)
- i.** Closed storage cabinet. (4-1-19)
- 03. Student Supplies.** Each student is to be issued a basic kit containing two (2) tweezers, disposable probes, eye shields, disposable gloves, before treatment solution, after treatment lotion, hair pins or clips, and one (1) sharps container. (4-1-19)
- 04. Faculty or Instructors.** A school must be under the direct, personal supervision at all times of one (1) licensed electrologist instructor for every six (6) students or portion thereof being trained therein. (4-1-19)
- 05. Curriculum.** A school must submit a curriculum and course catalog that covers the subjects relating to electrology as set forth in Section 54-5815(1)(g)(iv), Idaho Code. Any changes to a curriculum or catalog must be approved by the Board prior to implementing the proposed changes. The submission must identify what specific changes are being made to the curriculum. (4-1-19)
- 06. Clinical Work.** A cosmetology school approved to teach electrology must meet the same requirements regarding clinical work as a school of cosmetology as set forth in Subsection 500.05 of these rules. (4-1-19)
- 07. Student Records To be Maintained by the School.** Records required of cosmetology schools approved to teach electrology shall be maintained in accordance with the records required for schools of cosmetology as set forth in Subsection 500.06 of these rules. (4-1-19)
- 08. Change in Ownership or Location.** (4-1-19)

 - a.** Licenses are not transferable. (4-1-19)
 - b.** A new application must be submitted to the Board and a license issued for a new or additional location or a change of ownership of an existing school. (4-1-19)
- 09. Cessation of School.** When a school ceases to operate as a school, the school must provide each enrolled student his/her records of instruction at or before the cessation of operations. (4-1-19)
- 502. EDUCATIONAL PROGRAM STANDARDS FOR COURSES OF INSTRUCTION.**
A licensed school must maintain the following educational program standards for each course of instruction for which it is approved to teach. (4-1-19)

 - 01. Barber.** Coursework must include courses in the following content areas: (4-1-19)

 - a.** Haircut; (4-1-19)
 - b.** Blow dry (does not include haircut); (4-1-19)
 - c.** Shampoo; (4-1-19)
 - d.** Shave and Beard Trim; (4-1-19)
 - e.** Facial; (4-1-19)
 - f.** Hair and Scalp Treatment; (4-1-19)
 - g.** Curling Iron; and (4-1-19)
 - h.** Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of

- instruction. (4-1-19)
- 02. Barber-Stylist.** Coursework must include courses in the following content areas: (4-1-19)
- a. Haircut; (4-1-19)
 - b. Style/blow dry (does not include haircut); (4-1-19)
 - c. Shampoo; (4-1-19)
 - d. Permanent Wave; (4-1-19)
 - e. Shave and Beard Trim; (4-1-19)
 - f. Facial; (4-1-19)
 - g. Color/Bleach/Rinse; (4-1-19)
 - h. Hair and Scalp Treatment; (4-1-19)
 - i. Curling Iron; and (4-1-19)
 - j. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (4-1-19)
- 03. Cosmetology.** A record of the operations completed by each student shall be maintained and include the following: (4-1-19)
- a. Creative hair styling which shall include hair styles, wet sets/styling, thermal styles, fingerwaving, braiding/free styling; (4-1-19)
 - b. Scalp Treatments; (4-1-19)
 - c. Permanent Waves (All Methods); (4-1-19)
 - d. Haircutting/shaping which shall include scissor and razor/clipper; (4-1-19)
 - e. Bleaching; (4-1-19)
 - f. Tinting; (4-1-19)
 - g. Semi Permanent/Temporary Color; (4-1-19)
 - h. Frosting/Highlights; (4-1-19)
 - i. Facials; (4-1-19)
 - j. Makeup Application; (4-1-19)
 - k. Waxing; (4-1-19)
 - l. Manicures which shall include plain and oil; (4-1-19)
 - m. Pedicures (4-1-19)
 - n. Artificial Nails; and (4-1-19)

- o.** Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (4-1-19)
- 04. Esthetics.** The recorded operations completed by each student shall be maintained and include the following: (4-1-19)
- a.** Massage and manipulation application of lotions, creams, tonics, solutions, skin care masks, and similar cosmetic preparations and their effects on the skin and body; (4-1-19)
 - b.** Cleansing, steaming, exfoliation, and extraction procedures; (4-1-19)
 - c.** Cosmetics and makeup application; (4-1-19)
 - d.** Machine Application: use of mechanical or electrical equipment; (4-1-19)
 - e.** Bacteriology, disinfection and sterilization, and safety precautions; (4-1-19)
 - f.** Human anatomy, physiology and histology of skin care; (4-1-19)
 - g.** Follicle growth cycle and hair removal procedures; (4-1-19)
 - h.** Skin analysis, conditions, disorders, and diseases; and (4-1-19)
 - i.** Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (4-1-19)
- 05. Nail Technology.** The recorded operations completed by each student shall be maintained and include the following: (4-1-19)
- a.** Form nails; (4-1-19)
 - b.** Finished tips; (4-1-19)
 - c.** Wraps and mends; (4-1-19)
 - d.** Basic manicures and pedicures; and (4-1-19)
 - e.** Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (4-1-19)
- 06. Haircutter.** The recorded operations completed by each student shall be maintained and include the following: (4-1-19)
- a.** Haircutting and Hair shaping; (4-1-19)
 - b.** Creative hair styling which shall include hair styles, wet sets/styling, thermal styles, fingerwaving, braiding/free styling; (4-1-19)
 - c.** Use of cutting implements; (4-1-19)
 - d.** Basic shampooing and conditioning; and (4-1-19)
 - e.** Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (4-1-19)
- 07. Electrology.** The recorded operations completed by each student shall be maintained and include the following: (4-1-19)

- a. Bacteriology, disinfection and sterilization, safety precautions, anatomy, and physiology; (4-1-19)
 - b. Electricity which shall include the nature of electrical current, principles of operating electrical devices and the various safety precautions used when operating electrical equipment; (4-1-19)
 - c. Electrolysis which shall include the use and study of galvanic current; (4-1-19)
 - d. Thermolysis, including the use and study of high frequency current, automatic and manual; (4-1-19)
 - e. A combination of high frequency and galvanic currents; (4-1-19)
 - f. The study and cause of hypertrichosis; and (4-1-19)
 - g. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (4-1-19)
- 08. Instructor.** The recorded operations completed by each student shall be maintained and include the following: (4-1-19)
- a. Lesson planning; (4-1-19)
 - b. Audio-Visual aid preparation; (4-1-19)
 - c. Theory class; (4-1-19)
 - d. Practical demonstrations; (4-1-19)
 - e. Testing and evaluation theory; (4-1-19)
 - f. Testing and evaluation; and (4-1-19)
 - g. Clinic floor supervision. (4-1-19)

503. -- 549. (RESERVED)

550. APPRENTICE REGISTRATION AND APPRENTICESHIPS.

The Board may issue a registration as an apprentice to allow a person to engage in the practice of cosmetology, nail technology, esthetics, electrology, or makeup artistry while completing the required instructional hours for a license or certificate. An apprentice may only practice under direct supervision as provided below. (4-1-19)

- 01. Application and Qualifications.** An applicant must submit a completed application on a form approved by the Board, pay the required fee, and meet the following qualifications: (4-1-19)
- a. Be at least sixteen and one-half (16 ½) years of age; (4-1-19)
 - b. Have successfully completed at least two (2) years of high school or have attained an equivalent education as determined by the board as evidenced in a manner identified in Subsection 300.02 of these rules; (4-1-19)
 - c. Have certification from the establishment that the applicant is enrolled as an apprentice in the establishment; (4-1-19)
 - d. Identify the names and license numbers of the licensed cosmetologists, electrologists, estheticians, and nail technicians employed in the establishment in which the applicant will serve as an apprentice; and (4-1-19)
 - e. Identify the name(s) and license number(s) of the licensed cosmetology, electrology, esthetics, or

nail technology instructor who will instruct the applicant during the apprenticeship. (4-1-19)

02. Instruction. The instructor for any apprenticeship must submit to the Board a curriculum for the entire course of apprenticeship instruction. The Board must approve the curriculum prior to the beginning of instruction. The curriculum must cover the subjects relating to the profession for which the apprentice is pursuing licensure as set forth in Section 54-5815(1)(g), Idaho Code. (4-1-19)

03. Supervision. There must be at least one (1) licensed instructor and one (1) separate supervising licensee for each apprentice in the establishment at all times when an apprentice is being trained, except that an electrology apprentice may be supervised solely by the electrology instructor. (4-1-19)

a. The instructor must be licensed to teach the profession for which the registrant is pursuing licensure and the supervising licensee must be licensed to practice the profession for which the apprentice is pursuing licensure. (4-1-19)

b. An instructor may not train more than three (3) currently registered apprentices, except that an electrology instructor may not train more than one (1) currently registered electrology apprentice. (4-1-19)

c. An establishment may not have more than six (6) currently registered apprentices, unless otherwise approved by the Board. (4-1-19)

d. An establishment or an instructor under current discipline may not supervise an apprentice. (4-1-19)

e. An apprentice shall not be permitted to render any clinical service to patrons until the apprentice has completed at least five percent (5%) of the required hours of instruction. (4-1-19)

04. Recordkeeping. Establishments employing an apprentice shall keep a daily work record of the attendance of the apprentice and a record of the types of instruction given and the work performed by the apprentice as set forth below. (4-1-19)

a. An apprentice must be given monthly progress records, and the monthly record shall be signed and dated by the apprentice and the instructor. The establishment shall maintain the records for a period of five (5) years following completion or termination of the apprentice instruction. (4-1-19)

b. When an apprentice's course of instruction has been completed or terminated, the completed operations and number of hours of instruction are to be recorded by the establishment on the Record of Instruction Form. The instructor must submit the Record of Instruction to the Board within fourteen (14) days of the completion of the apprenticeship. The establishment must maintain a copy of the Record of Instruction for a period of five (5) years from completion or termination date. (4-1-19)

c. Attendance, instruction, and work records must be kept in the establishment in which the apprentice is employed. (4-1-19)

d. Apprenticeship records are subject to inspection by the Board at any time. (4-1-19)

05. Termination of Registration. A registration as an apprentice is valid from the date of issuance until the apprentice is no longer enrolled as an apprentice in the establishment identified on the apprentice's application. (4-1-19)

a. When an apprentice discontinues a course of study, the establishment must complete a Record of Instruction Form with the total number of hours worked and the types of instruction given to the apprentice. The Record of Instruction Form must be submitted to the Board within thirty (30) days of the discontinuance of the apprenticeship. If an apprentice discontinues a course of instruction and does not transfer to another salon within sixty (60) days, the apprentice registration is automatically canceled and is to be submitted to the Board along with the Record of Instruction. (4-1-19)

b. When an establishment where apprentices are being trained ceases operation as an establishment, the establishment must submit the records of instruction for each apprentice to the Board within thirty (30) days. (4-1-19)

c. An apprentice who has discontinued a course of study must apply for and be granted a new registration under Subsection 550.01 of these rules, prior to resuming instruction. (4-1-19)

06. Out of State Apprenticeship. An applicant who has received instruction as an apprentice in another state must file with the Board a copy of the record of instruction from the out of state apprenticeship. For purposes of this section, the record of instruction will be a statement which gives detailed information regarding operations and hours of instruction, and which is to be verified by the licensing agency or instructor(s) in the state in which the instruction was obtained. (4-1-19)

551. -- 699. (RESERVED)

700. SCOPE OF PRACTICE.

All licensees shall practice in a competent manner consistent with their level of education, training, and experience. (4-1-19)

701. -- 709. (RESERVED)

710. PRACTICE OUTSIDE OF A LICENSED ESTABLISHMENT.

All licensees and certificants must practice in a place or establishment that is licensed for such practice, except as provided for in Section 54-5804, Idaho Code, or when the services provided by the licensee or certificant are limited to the following: (4-1-19)

01. Hair Styling. Arranging, styling, dressing of the hair. Trimming of the hair may be performed when it is incidental to the arranging, styling, or dressing of the hair, including facial hair such as beards, mustaches, and eyebrows. (4-1-19)

02. Coloring. Wash out topical color, tinted powder, spray or chalk to temporarily camouflage the hair.

03. Extensions. Application of extensions with non-permanent adhesive or thread, such as clip in hair, halos, wig and toupees. (4-1-19)

04. Temporary Hair Removal. Tweezing of hairs on the face and neck. (4-1-19)

05. Cleansing. Cleansing of the face for the limited purpose of removing makeup and debris and cosmetic preparations for the application of makeup. (4-1-19)

06. Nail Services. Application of nail polish by painting without the use of a lamp or light, removal of polish that is incidental to the painting of the nail, and shaping of the nail with a single-use emery board. (4-1-19)

07. Makeup Application. Application of makeup. (4-1-19)

08. Safety and Disinfection. All licensees and certificants must comply with the safety and disinfection rules applicable to the services being performed, regardless of the location where the services are performed. (4-1-19)

711. -- 799. (RESERVED)

800. UNPROFESSIONAL CONDUCT.

A licensee shall not engage in unprofessional conduct in the course of his/her practice. Unprofessional conduct is conduct which has endangered or is likely to endanger the health, welfare, or safety of the public and includes, but is not limited to, the following: (4-1-19)

01. Use of MMA. Use of Methyl Methacrylate acid (MMA); (4-1-19)

- 02. Use of Skin Cutting Instruments.** Use of skin cutting instruments, including razor-type callus shavers, credo blades, microplane, or other rasps or graters designed to remove corns or calluses by cutting below the skin surface. The presence of such instruments creates a presumption of the instrument's use; (4-1-19)
- 03. Use of UV Sterilizers.** Use of ultraviolet (UV) sterilizers for disinfection. This does not prohibit the use of ultraviolet dryers or lamps used to dry or cure nail products; (4-1-19)
- 04. Use of Roll-on Wax.** Use of roll-on wax, except that single-use roll-on wax cartridges are acceptable when they are disposed of immediately after use; (4-1-19)
- 05. Double-Dipping.** Placing an item or instrument that has been used on a person into a wax pot or other container that holds wax, a compound, solution, or other cosmetic preparation that will be used for more than one (1) than patron. This prohibited practice is commonly referred to as double-dipping; (4-1-19)
- 06. Reuse of Single-Use or Porous Items.** Use of single-use or porous items on more than one (1) patron. The presence of used single-use or porous items, which have not been disposed of, creates a presumption of the item's use or intended use on more than one patron. (4-1-19)
- 07. Apprentices.** Failure to adequately supervise, instruct, or train an apprentice; (4-1-19)
- 08. Inspections and Investigations.** Interference with an inspection or investigation conducted by or on behalf of the Board; (4-1-19)
- 09. Disease Transmission Prevention.** Performing a service on a patron who has an open sore or a known contagious disease of a nature that may be transmitted by performing the procedure, unless the licensee takes medically-approved measures to prevent transmission of the disease; or (4-1-19)
- 10. Practice Outside Scope of Training.** Performing services or using machines or devices outside the licensee's area of training, expertise, competence, or scope of practice for the license held. (4-1-19)

801. -- 849. (RESERVED)

850. INSPECTION OF ESTABLISHMENTS, SCHOOLS AND FACILITIES.

All establishments, schools, and facilities shall be subject to inspection by the Board or its agents during business hours without notice to ensure the safe operation of each establishment, school, or facility and to ensure continued compliance with Chapter 58, Title 54, Idaho Code, and these rules. (4-1-19)

01. Form. The Board may adopt a form which identifies those general items that will be inspected and a level of compliance necessary for issuance or renewal of a license and for which a failure to meet that level is grounds for discipline. Violations of the Chapter 58, Title 54, Idaho Code, or these rules that are not listed on the form but that are found during inspection are also grounds for discipline. (4-1-19)

02. Classification Card. Following an inspection, each establishment, school, and facility, except for retail thermal styling equipment dealers, will receive classification as follows: 100%–90% = "A"; 89%–80% = "B"; 79% and below = "C." The "C" classification denotes an unacceptable level of compliance and a reinspection is required. (4-1-19)

03. Reinspection. A facility, school, or establishment not found to be at an acceptable level of compliance must make improvements within thirty (30) days. The Board may allow an establishment, school, or facility to continue to operate during that period. The Board may take action prior to any reinspection when the circumstances represent an immediate danger to the public health, safety, or welfare. (4-1-19)

851. SAFETY AND DISINFECTION FOR ESTABLISHMENTS AND SCHOOLS.

All establishments and schools must take every precaution to prevent the transfer of disease-causing pathogens between people and comply with Chapter 58, Title 54, Idaho Code. At a minimum the establishment or school must meet the following requirements: (4-1-19)

01. Premises. Establishments and schools must be separated from living areas by substantial walls and/or closable doors. All establishments and schools must be maintained in an orderly manner and shall be heated, lighted, and ventilated so as to be safe and comfortable to the operators and patrons. Floors, walls, ceilings, furniture, and all other fixtures shall be kept clean and in good repair at all times. (4-1-19)

02. Instrument Cleaning. All instruments and items used by operators shall be thoroughly cleaned after each use and prior to disinfection. (4-1-19)

03. Instrument Disinfection or Sterilization. All instruments and items used by operators shall be disinfected or sterilized after cleaning and prior to use on each patron, with a disinfectant or sterilant as defined in these rules. All disinfectant must be mixed and changed according to the manufacturers' instructions. Disinfection methods such as immersion, sprays, and wipes may be used. Contact time listed on the disinfectant's label must be adhered to in all circumstances. Items or surfaces must remain completely immersed in disinfectant, or visibly wet if using sprays or wipes, for the full amount of contact time. (4-1-19)

04. Single-Use and Porous Instruments. Instruments and items that are intended for single use or that are porous shall be immediately disposed of in a waste container after each use on a patron or given to the patron to take home for personal use, provided that the instruments may not be brought back to the establishment for future use. (4-1-19)

05. Waxes and Waxing Services. Paraffins, waxes and all other solutions or compounds shall be covered and maintained free of any foreign contaminants. Only disinfected or unused, single-use items may be placed into a container that holds wax or paraffins. Waxes and paraffins must be dispensed for use on a patron in the following manner: (4-1-19)

a. Wax may be removed from a multi-use wax pot for use on a patron by one of the following methods: (4-1-19)

i. Single-use spatula disposed of after a single dip/application; (4-1-19)

ii. Disinfected plastic spatulas with one disinfected spatula used for each dip into the wax pot; or (4-1-19)

iii. Placement of all wax needed for entire service in a single-use, disposable cup or a container that can be properly cleaned and disinfected, such as a stainless steel bowl. The cup, any remaining wax, and all single-use applicators must be immediately disposed of at the conclusion of the service. This is the only instance in which a single applicator may be used for an entire service. (4-1-19)

b. Paraffin wax must be portioned out for each patron in a bag or other container, or dispensed in a manner that prevents contamination of the unused supply. All portions used on a patron must be disposed of immediately following use. (4-1-19)

06. Makeup Services. All makeup and makeup services must follow the requirements in Section 852 of these rules. (4-1-19)

07. Nail Services. A licensee must comply with the following disinfection procedures between every patron: (4-1-19)

a. All pedicure bowls, basins or tubs must be cleaned and disinfected prior to each use as follows: (4-1-19)

i. Empty pedicure bowl. (4-1-19)

ii. Remove all removable parts, including screens, foot plates, impellers and fans. (4-1-19)

iii. Clean removable parts with soap or detergent and water, rinse, and immerse parts in disinfectant

following manufacturer's directions for proper contact time. (4-1-19)

- iv. Scrub bowl with soap or detergent and rinse with clean water. (4-1-19)
 - v. Replace removable cleaned and disinfected parts. (4-1-19)
 - vi. Fill bowl and add disinfectant to achieve proper concentration. (4-1-19)
 - vii. Allow disinfectant solution to sit, or run through system for bowls with circulating water for the manufacturer's recommended contact time. (4-1-19)
 - viii. Drain the tub, rinse and air dry or wipe dry with clean paper towel. (4-1-19)
- b.** Metal drill bits may be soaked in acetone to remove nail product. When removed from the acetone, they must be cleaned using soap, water, and a brush, and then rinsed prior to immersion in disinfectant. Drill bits must remain in disinfectant for the full contact time. (4-1-19)

08. Water Supply and Hand Washing. Water supplies shall be from an approved source. Sufficient basins with hot and cold running water, approved drainage systems, soap and single-use towels shall be conveniently located within the work area. Operators and students shall wash their hands with running water and soap prior to providing service to any patron. When hand washing is not practicable, hand sanitizer of at least seventy percent (70%) alcohol may be used. (4-1-19)

09. Restroom Facilities. Clean, adequate and convenient restroom facilities, located and accessible from within the building where the shop or school is located, shall be available for use by operators and patrons. A basin with hot and cold running water, approved drainage systems, soap and single-use towels shall be provided within said facilities. All operators and students must wash their hands with running water and soap and then dry their hands with a single-use towel after using the restroom. (4-1-19)

10. Safety. Clearly identifiable first-aid kit must be readily accessible on the premises. No animals are allowed in shops or schools except service dogs trained to do work or perform tasks for persons with disabilities. The definition of service animals and disabilities shall be as set forth in U.S. Department of Justice Regulations at 28 C.F.R. Section 36.104 effective August 11, 2016. (4-1-19)

11. Licenses and Classification Cards. All establishments and schools must be licensed prior to their operation and must be under the direct supervision of a licensed operator. A current establishment and/or school license, valid operator license(s), a copy of these safety and disinfection rules, and a valid classification card shall be conspicuously displayed in the work area of each establishment or school for the information of operators, Board agents, and the public. (4-1-19)

852. SAFETY AND DISINFECTION FOR RETAIL COSMETICS DEALER FACILITIES AND MAKEOVER OR GLAMOUR PHOTOGRAPHY BUSINESSES.

All retail cosmetic dealers and makeover or glamour photography businesses must take every precaution to prevent the transfer of disease-causing pathogens between people and must comply with Chapter 58, Title 54, Idaho Code. At a minimum the dealer or business must meet the following requirements: (4-1-19)

01. Cake, Loose, or Liquid Makeup. All makeup that comes in a cake, loose, or liquid form, must be transferred to a palette with a disinfected or single-use spatula for use with a single customer and in a manner to prevent any contamination. Any excess make-up must be disposed of immediately following use on or by a customer. (4-1-19)

02. Makeup Pencils. Make-up pencils that require a sharpener must be sharpened prior to each use. Sharpeners must be cleaned and disinfected in accordance with Subsections 851.02 and 851.03 of these rules. Eyeliner that does not require a sharpener must have a portion transferred to a palette with a disinfected or single-use spatula for use on a single customer. (4-1-19)

03. Mascara. Single-use applicators must be used in the application of mascara. (4-1-19)

04. Brushes and Implements. All implements and applicators, including brushes, that are used on customers or made available to be used by customers must be stored, cleaned, and disinfected or disposed of in accordance with Section 851 of these rules. (4-1-19)

05. Displays. All make-up should be covered when not in use. When make-up displays are accessible to the public, single-use applicators for all make-up must be readily available. (4-1-19)

06. Water Supply and Restroom Facilities. The facility or business must meet the requirements in Subsection 851.11 of these rules. (4-1-19)

07. First-aid Kit. The facility or business must have a clearly identifiable first-aid kit readily accessible on the premises. (4-1-19)

08. Licenses and Classification Card. All retail cosmetics dealers and glamour or makeover photography businesses must be licensed prior to their operation. A current license, a copy of these safety and disinfection rules, and a valid classification card shall be conspicuously displayed in the work area of each facility for the information of employees, Board agents, and the public. (4-1-19)

853. SAFETY AND DISINFECTION FOR RETAIL THERMAL STYLING DEALER FACILITIES.
All retail thermal styling equipment dealers must take every precaution to prevent the transfer of disease-causing pathogens between people and must comply with Chapter 58, Title 54, Idaho Code. At a minimum the dealer must meet the following requirements: (4-1-19)

01. Cleaning, Disinfection, and Storage. All implements and electrical equipment used on a customer must be cleaned, disinfected, and stored in accordance with Subsections 851.02, 851.03, 851.04, and 851.06 of these rules. (4-1-19)

02. First-aid Kit. The facility or business must have a clearly identifiable first-aid kit readily accessible on the premises. (4-1-19)

03. Registration and Classification Card. All retail thermal styling equipment dealers must be registered prior to their operation. A current registration, a copy of these safety and disinfection rules, and a valid classification card shall be conspicuously displayed in the work area of each facility for the information of employees, Board agents, and the public. (4-1-19)

854. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.29.01 – RULES OF PROCEDURE OF THE IDAHO CERTIFIED SHORTHAND REPORTERS BOARD

DOCKET NO. 24-2901-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-3107, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.29.01, rules of the Certified Shorthand Reporters Board:

IDAPA 24.29.01

- 24.29.01, *Rules of the Certified Shorthand Reporters Board*: all proposed rules except 007, 100, 101.01, 200, 400.01.b.i., and 400.01.b.ii.

The Idaho Administrative Code expired on June 30, 2019, including then IDAPA 49.01.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of Procedure of the Idaho Certified Shorthand Reporters Board was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.29.01, the Rules of Procedure of the Idaho Certified Shorthand Reporters Board. On July 2, 2019, the Idaho Certified Shorthand Reporters Board held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. Changes made to the pending fee rule which differ from the proposed text were made to accomplish the Recommendations for Improvement, Modification, or Elimination of Requirements from the Licensing Freedom Act of 2017, Executive Order No. 2017-06; the directives set forth in the Licensing Freedom Act of 2019, Executive Order No. 2019-01; the directives set forth in the Red Tape Reduction Act, Executive Order No. 2019-02; and the Board's continued efforts to clarify and streamline its rules. This pending fee rule removes outdated language and processes, reorders certain sections to improve overall organization, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which will allow for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity. Further, the pending fee rule replaces the moral turpitude and good moral character requirements regarding criminal history with the request for disclosure of any crime other than a minor traffic offense. This change will provide clarity to applicants and other potential licensees.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 4939 - 4943](#).

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-3110, Idaho Code, as follows:

Application fee: not to exceed \$50;
Examination fee: not to exceed \$50;
Annual renewal fee: not to exceed \$75;
Examination preparation materials: not to exceed \$20.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-3107, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 49.01.01, which are re-designated as IDAPA 24.29.01, Rules of Procedure of the Idaho Certified Shorthand Reporters Board:

IDAPA 24.29

- 24.29.01, *Rules of Procedure of the Idaho Certified Shorthand Reporters Board*—all rules *except Sections 008, 010, 101, and 150.*

This chapter was formerly designated as *IDAPA 49.01.01*. It has been moved under the administration of the Bureau of Occupational Licenses and is hereby re-designated *IDAPA 24.29.01*.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules govern the qualifications and criteria for shorthand reporters in Idaho. Allowing these rules to expire would harm recent efforts made to reduce barriers to entry into the profession and would adversely effect the Board's ability to admit new licensees, harming the welfare of prospective licensees and the industries the Board serves.

The fee or charge imposed by the rule is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and the immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Absent the ability to impose the licensure fees outlined in this chapter, the Certified Shorthand Reporters Board would not be able to remain self-sufficient, contrary to its statutory mandate.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-3110, Idaho Code, as follows: application fee: \$50; examination fee: \$50; annual renewal fee: \$75; and examination preparation materials: \$20.

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 rulemaking is not anticipated to have any fiscal impact on the state General Fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rob McQuade 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 within twenty-one (21) days after publication of this Notice in the

Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 24-2901-1900F

**24.29.01 – RULES OF PROCEDURE OF THE IDAHO CERTIFIED
SHORTHAND REPORTERS BOARD**

000. LEGAL AUTHORITY.

These rules are adopted under the authority of Section 54-3107, Idaho Code. (5-8-09)

001. TITLE AND SCOPE.

These rules are titled IDAPA 24.29.01, "Rules of Procedure of the Idaho Certified Shorthand Reporters Board." These rules establish procedures for the organization and operation of the Board. (1-1-97)

002. -- 100. (RESERVED)

101. COMMITTEES.

01. Appointment. Regular or special committees may be appointed by the chairman and present reports to the Board at the time specified or at the earliest regular or special meeting of the Board. A special voluntary committee from the public, which may include members of the Board, may be formed to render special services during examinations or as the Board may assign to them. (4-9-09)

02. Certificates. Certificates of registration shall be issued to each certified shorthand reporter, as prescribed by the Title 54, Chapter 31, on forms adopted by the Board. Certificates shall be displayed by certified shorthand reporters in their place of business. Each certificate shall bear an individual number as assigned to that particular Certified Shorthand Reporter by the Board. ()

102. -- 124. (RESERVED)

125. FEES.

All fees are non-refundable. ()

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$50
Examination	\$50
Renewal	\$75
Examination preparation materials	\$20

()

126. -- 200. (RESERVED)

201. WRITTEN STATEMENT OF SUITABILITY FOR LICENSURE OR PERMIT.

An applicant or licensee who has a conviction, finding of guilt, withheld judgment, or suspended sentence for any crime other than a minor traffic offense must submit with their application a written statement and any supplemental information establishing their current suitability for licensure. ()

01. Consideration of Factors and Evidence. The Board shall consider the following factors or evidence: (4-11-19)

- a.** The severity or nature of the crime; (4-11-19)
- b.** The period of time that has passed since the crime under review; (4-11-19)
- c.** The number or pattern of crimes; (4-11-19)
- d.** The circumstances surrounding the crime that would help determine the risk of repetition; (4-11-19)
- e.** The relationship of the crime or discipline to the practice of shorthand reporting; (4-11-19)

f. The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current

rehabilitation; and (4-11-19)

g. Any other information regarding rehabilitation or mitigating circumstances. (4-11-19)

02. Interview. The Board may, at its discretion, grant an interview of the applicant. (4-11-19)

03. Applicant Bears the Burden. The applicant shall bear the burden of establishing his current suitability for licensure. (4-11-19)

202. -- 299. (RESERVED)

300. EXAMINATIONS.

01. Examination Process. (4-6-05)

a. Late applicants shall not be admitted to the examination room. (1-1-97)

b. Picture identification shall be shown by all applicants before taking an examination. (4-6-05)

c. Examinees are forbidden to receive any unauthorized assistance during the examination. Communication between examinees or possession of unauthorized material or devices during the examination is strictly prohibited. (1-1-97)

d. Only scheduled examinees, Board members, and authorized personnel shall be admitted to the examination room. (4-9-09)

02. Scope of Examination. (7-1-93)

a. The complete examining procedure for certification as a certified shorthand reporter consists of two (2) sections. The first section is the written examination covering subjects as are ordinarily given in a school of court reporting and which are common to all fields of practice. The second section is the skills portion which shall consist of the following segments and speeds. (4-11-15)

i. Question and Answer -- Five (5) minutes at two hundred twenty-five (225) words per minute. (4-11-15)

ii. Jury Charge -- Five (5) minutes at two hundred (200) words per minute. (4-11-15)

iii. Literary -- Five (5) minutes at one hundred eighty (180) words per minute. (4-11-15)

iv. Density of Exam -- The syllabic content of the dictated exam shall be one point four (1.4). (7-1-93)

b. The examination is the same for all applicants. (7-1-93)

c. The examining committee, which shall consist of three Board members, shall inform applicants of the approximate time allowed for typing the skills portion of the examination. ()

d. The written examination and the three (3) skills segments can be passed individually for the Idaho examination. (4-11-15)

03. Grading. (7-1-93)

a. Each applicant must attain a grade of seventy-five percent (75%) or above to pass the written examination and ninety-five percent (95%) or above in each segment to pass the skills portion. (4-11-15)

b. Every applicant receiving a grade of less than seventy-five percent (75%) in the written examination shall be deemed to have failed such examination and shall have the application denied without prejudice. (1-1-97)

c. Every applicant receiving a grade of less than ninety-five percent (95%) in each of the skills segments of the examination shall be deemed to have failed such examination and shall have the application denied without prejudice. (4-11-15)

d. An applicant failing either the written section, or the skills portion, and having filed a new application for examination, shall be required to take and pass within a two-year period only the section for which a failing grade was received. (1-1-97)

04. Inspection of Examination. (7-1-93)

a. An applicant who fails to obtain a passing grade in the skills portion may inspect his/her examination papers at such times and locations as may be designated by the Board. Inspection of such examination papers shall be permitted within a thirty (30) day period after receipt of notice by the applicant of his/her failure to pass the examination. (1-1-97)

b. At the time of inspection no one other than the examinee or his/her attorney and a representative of the Board shall have access to such examination papers. (1-1-97)

05. Inspection Review. (7-1-93)

a. Within thirty (30) days after the date notice of the results of the examination has been mailed to him/her, an applicant who was unsuccessful in the examination may petition the Board for a review of his/her examination papers. (1-1-97)

b. The petition for review shall be made in writing stating the reason for such review and citing the item or items against which the request is directed. (7-1-93)

c. The Board shall, upon receiving such petition for review, conduct a hearing at the next scheduled Board meeting. (1-1-97)

06. Retention of Examinations. The Board shall retain for at least six (6) months, all examination papers and notes submitted by applicants. (1-1-97)

301. -- 399. (RESERVED)

400. TEMPORARY PERMIT.

01. Eligibility. (7-1-93)

a. Any one (1) or more of the following shall be considered as minimum evidence that the applicant is qualified to hold a temporary permit: (4-11-15)

i. Hold a Certificate of Merit Reporter (RMR) issued by the National Court Reporters Association (NCRA); (3-14-11)

ii. Hold a Certificate of Registered Professional Reporter (RPR) issued by the National Court Reporters Association (NCRA); (3-14-11)

iii. Hold a Certified Shorthand Reporter certificate, or its equivalent, in good standing from another state; (4-11-15)

iv. Hold a diploma or certificate of completion of all requirements to graduate from a National Court Reporter Association (NCRA) approved school; (7-1-93)

v. Has otherwise demonstrated his/her proficiency by a certificate from an agency from another state. (1-1-97)

b. The applicant must have a high school diploma or equivalent. ()

02. Permit. All temporary permits shall be issued for a period of one (1) year and may be renewable for a single additional year if, before the permit expires, the permit holder: (4-11-15)

a. Submits a written renewal request to the Board; (3-14-11)

b. Establishes that they have passed at least one (1) skills segment of the Idaho Certified Shorthand Reporter Examination, the Registered Professional Reporter Examination (RPR), or the Registered Merit Reporter Examination (RMR); and (4-11-15)

c. Pays the required fees as set forth in this Chapter. (3-14-11)

401. -- 499. (RESERVED)

500. DISCIPLINARY PENALTY.

Costs and fees. The Board may order anyone licensed under Title 54, Chapter 31, Idaho Code, who is found by the Board to be in violation of the provisions of Title 54, Chapter 31, Idaho Code, to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee. (4-9-09)

501. -- 999. (RESERVED)

IDAPA 33 – REAL ESTATE COMMISSION

DOCKET NO. 33-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2097, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 33, rules of the Idaho Real Estate Commission:

IDAPA 33

- 33.01.01, *Rules of the Idaho Real Estate Commission*

The text of the pending fee 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 June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 5,328-5,338](#).

These pending fee rules are necessary to protect the welfare of the citizens of Idaho and confer a benefit upon its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. Without these Rules in place, the Real Estate Commission will be unable to adequately protect the public in regulated real estate transactions. The Rules provide public protection by ensuring licensees have sufficient Errors & Omissions insurance and that they possess the knowledge, skills, and competency necessary to function in the real estate business in a manner that protects and serves the public interest. Portions of the proposed text have been simplified to provide clarity and deleted to remove redundant language repeated from Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

IDAPA 33.01.01.100: Licensing Fees;
License Renewal Fees;
Late License Renewal Fees;
Fee to Print License Certificate;
Fee to Compile Education or License History.

These fees are being imposed pursuant to Section 54-2020, Idaho Code.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact MiChell Bird, (208) 334-3285.

Dated this 23rd day of October, 2019.

MiChell Bird
Executive Director
Idaho Real Estate Commission
575 E. Parkcenter Blvd. Ste 180
Boise, ID 83706
Phone: (208) 334-3285
Fax: (208)334-2050

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-2097 and 54-2020, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 33, rules of the Real Estate Commission:

IDAPA 33

- 33.01.01, *Rules of the Idaho Real Estate Commission* – Section 003 was modified to include 04.11.01 instead of 33.01.02, which is set to expire on July 1, 2019. Rule 000 and 001 were modified to include the Subdivided Lands Act in 33.01.01 instead of 33.01.03, which is set to expire on July 1.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. The Real Estate Commission is a self-governing agency authorized by statute to regulate real estate brokerage in Idaho. Without these Rules in place, the Commission will be unable to adequately protect the public in regulated real estate transactions.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which

makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget.

The Commission is a dedicated fund agency, with funding for all Commission operations coming primarily from license and application fees established by these rules. Failure to re-authorize these rules would prevent the Commission from collecting any licensing, renewal, or timeshare registration fees, thus endangering the Commission's ability to perform essential functions necessary to protect consumer, business, and public interests in Idaho.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

IDAPA 33.01.01.100.01-02: Licensing Fees;
IDAPA 33.01.01.101: Late License Renewal Fees;
IDAPA 33.01.01.102: Fee to Print License Certificate;
IDAPA 33.01.01.103: Fee to Compile Education or License History;
IDAPA 33.01.01.104: Fee for Branch Office License.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact MiChell Bird, (208) 334-3285.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 33-0000-1900F

33.01.01 – RULES OF THE IDAHO REAL ESTATE COMMISSION

000. LEGAL AUTHORITY.

The Rules of the Idaho Real Estate Commission contained herein have been adopted pursuant to Section 54-2007, Idaho Code. Any violation of these rules, or of any provision of Chapter 20, Title 54, or Chapter 18, Title 55, Idaho Code, is sufficient cause for disciplinary action as prescribed in Sections 54-2059, 54-2060, or 55-1811, Idaho Code. (3-15-02)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 33.01.01, “Rules of the Idaho Real Estate Commission,” IDAPA 33, Title 01, Chapter 01. (3-15-02)

02. Scope. These rules contain the requirements for implementation and enforcement of the Idaho Real Estate License Law, the Idaho Real Estate Brokerage Representation Act, and the Subdivided Lands Disposition Act, contained in Chapter 20, Title 54, or Chapter 18, Title 55, Idaho Code. ()

002. – 005. (RESERVED)

006. ELECTRONIC SIGNATURES.

Electronic signatures are permissible in accordance with the Uniform Electronic Transactions Act, Title 28, Chapter 50. ()

007. -- 099. (RESERVED)

**RULES 100 THROUGH 199
APPLICATION, LICENSURE AND TERMINATION OF LICENSES**

100. FEES.

License and other fees:

	Initial License	Renewal	Late Fee	Other
Broker	\$160	\$160	\$25	
Salesperson	\$160	\$160	\$25	
Business Entity	\$50	\$50	\$25	
Branch Office	\$50	\$50	\$25	
Cooperative License	\$100			
Education or License History				\$10
License Certificate				\$15

()

101. – 104. (RESERVED)

105. CONDITIONS TO RENEW EXPIRED LICENSE.

The Commission may accept a licensee’s application to renew an expired license upon the following conditions: (3-29-10)

01. Payment of Late Fee. The applicant must pay the late license renewal fee. ()

02. Renewal After Expiration of Active License. If an active license expires, the licensee must complete and submit with the application an attestation that during the period the license was expired, the licensee either did or did not do or attempt to do any acts described in the definitions of real estate broker or salesperson in Section 54-2004, Idaho Code. ()

03. Investigate or Discipline a Licensee. Nothing in this Section limits the ability of the Commission to investigate or discipline a licensee for violating Subsection 54-2018(3), Idaho Code, or for violating any other

provision of the Real Estate License Law or these rules. ()

106. -- 116. (RESERVED)

117. MANDATORY ERRORS AND OMISSIONS INSURANCE.

Every licensee, upon obtaining or renewing an active real estate license in the state of Idaho will have in effect and maintain a policy of errors and omissions insurance as required by Section 54-2013, Idaho Code, to cover all activities contemplated under Chapter 20, Title 54, Idaho Code and will certify such coverage to the Commission in the form and manner prescribed by statute, these rules, and any policy adopted by the Commission. ()

118. INSURANCE PLAN.

The Commission will make available to all active licensees, subject to terms and availability from a qualified insurance carrier, a policy of Errors and Omissions Insurance under a Group Plan obtained by the Commission. Licensees may obtain errors and omissions insurance independently of the Group Policy available through the Commission, subject, however, to the terms and conditions set forth in these rules. ()

01. Insurance Carrier. For the purposes of Section 118: ()

a. Shall maintain an A.M. Best Company rating of B+ or better, and an A.M. Best Financial Size Category of Class VI or higher; ()

b. Is and will remain for the policy term duly authorized by the Idaho Department of Insurance to do business in the state of Idaho as an insurance carrier; and ()

c. Is and will remain for the policy term qualified and authorized by the Idaho Department of Insurance to write policies of errors and omissions insurance in Idaho of the type contemplated by these rules. ()

02. Approved Policy. The policy shall cover all activities contemplated under Chapter 20, Title 54, Idaho Code, be subject to such terms and conditions as are customary in the insurance industry for policies of errors and omissions insurance, which are otherwise permissible under Idaho law and the rules of the Idaho Insurance Department, and which are contained in a policy of insurance which has been approved by the Department of Insurance. That policy shall provide, at a minimum, the following terms and conditions:

	Limit Liability Coverage for Each Occurrence Not Less Than	Annual Aggregate Limit Not Less Than
Individual License Coverage	\$100,000*	\$300,000*
Firm Coverage	\$500,000*	\$1,000,000*
*Not including costs of investigation and defense		

()

a. A deductible amount of not greater than three thousand five hundred dollars (\$3,500), which includes costs of investigation and defense; ()

b. A policy period equal to each licensee's two (2) year license renewal date or the prorated equivalent, or, if an annually renewable policy, a statement of the policy period, and in either case, the policy shall provide for continuous coverage during the policy period; (3-15-02)

c. An extended reporting period per insured of at least ninety (90) days following termination of the policy period; and (3-15-02)

d. Prior acts coverage shall be offered to licensees with continuous past coverage. (3-15-02)

119. (RESERVED)

120. CERTIFICATION A PREREQUISITE FOR LICENSE ISSUANCE OR RENEWAL.

Issuance or renewal of an active license requires certification of compliance that satisfies the requirements of Section 54-2013, Idaho Code. ()

121. FAILURE TO MAINTAIN INSURANCE.

Failure of a licensee to obtain and maintain insurance coverage required by Section 54-2013, Idaho Code, regardless whether coverage is later obtained and made retroactive by the carrier, will result in denial or inactivation of any active license and will be deemed insufficient application for licensure under Section 67-5254, Idaho Code. A late insurance renewal is considered failure to maintain insurance. Failure to maintain insurance shall be grounds for disciplinary action. ()

122. FALSIFICATION OF CERTIFICATES.

Any licensee who, acting alone or in concert with others, willfully or knowingly causes or allows a certificate of coverage to be filed with, or produced to, the Commission which is false, fraudulent, or misleading, will be subject to disciplinary action, including but not limited to suspension or revocation of license, in accordance with Chapter 52, Title 67, Idaho Code; provided, however, that nothing herein will entitle such licensee to notice and hearing on the automatic inactivation of license. ()

123. -- 299. (RESERVED)

RULES 300 THROUGH 399
BUSINESS CONDUCT

300. DISPUTES CONCERNING COMMISSIONS AND FEES.

The Idaho Real Estate Commission will not be involved in the resolution of disputes between licensees or between licensees and buyers and sellers concerning matters of commissions or fees. ()

301. (RESERVED)

302. TITLE OPINIONS.

No real estate broker or sales associate will pass judgment upon or give an opinion with respect to the marketability of the title to property in any transaction. ()

303. LEGAL OPINIONS.

A broker or sales associate will not discourage any party to a real estate transaction from seeking the advice of an attorney. ()

304. (RESERVED)

305. EDUCATION RECORDS ACCESS.

As provided for in Section 74-106, Idaho Code, the Commission may enable a designated broker to access and review the education record of any licensee currently licensed with the broker. ()

306. -- 399. (RESERVED)

RULES 400 THROUGH 499
CONTINUING EDUCATION

400. -- 401. (RESERVED)

402. APPROVED TOPICS FOR CONTINUING EDUCATION.

Continuing education is to assure that licensees possess the knowledge, skills, and competency necessary to function in a manner that protects and serves the public interest, or that promotes the professionalism and business proficiency of the licensee. The knowledge or skills taught in an elective course will enable licensees to better serve real estate consumers. ()

01. Topics Approved by the Commission. Topic areas for continuing education, as provided for in Sections 54-2023 and 54-2036, Idaho Code, will be approved by the Commission as they pertain to real estate brokerage practice and actual real estate knowledge. ()

02. Topics Not Eligible for Continuing Education Credits. Topics which are specifically exam preparation in nature or not directly related to real estate brokerage practice will not be eligible for approval. ()

403. -- 499. (RESERVED)

RULES 500 THROUGH 599
EDUCATION TEACHING STANDARDS

500. MINIMUM TEACHING STANDARDS.

All courses offered for credit by a certified provider will be taught in accordance with the standards and written policies adopted by the Real Estate Commission. Course instructors will conduct themselves in a professional manner when performing instructional duties and will not engage in conduct that criticizes, degrades, or disparages the Commission, any student, other instructor, brokerage, agency, or organization. ()

01. Certification Requirement. A course required to be taught by a Commission-certified or Commission-approved instructor will be taught only by an instructor that is currently approved or certified for that course. ()

02. Outlines and Curriculum. A course must be taught in accordance with the course outline or curriculum approved by the Commission. (3-13-08)

03. Attendance Requirement. The course instructor will adhere to the Commission's written attendance policy and credit hours will only be submitted for students who have successfully met the attendance requirements for which the course was approved. ()

04. Maintaining Exam Security. The instructor will take reasonable steps to protect the security of course examinations and will not allow students to retain copies of final course examinations or the exam answer key. ()

05. Use of Exam Questions Prohibited. The instructor will not obtain or use, or attempt to obtain or use, in any manner or form, Idaho real estate licensing examination questions. ()

501. -- 999. (RESERVED)

IDAPA 48 – IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

DOCKET NO. 48-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section(s) 54-3605(15); 54-3610, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 48, Rules of the Idaho Grape Growers & Wine Producers Commission.

IDAPA 48

- 48.01.01, *Rules of the Idaho Grape Growers & Wine Producers Commission*

The rulemaking was prompted by the expiration of the rules. The Commission considered the Red Tape Reduction Act and the continued efforts to clarify and streamline the rules. Minor housekeeping edits are intended to simplify existing language and reduce or eliminate unnecessary restrictions.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 6577 - 6579.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The rule specifies the amount of grape and wine tax to be levied in accordance with statute. The rule also adopts a late payment penalty in accordance with statute.

- Seven dollars (\$7) per ton of grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho.
- Seven dollars (\$7) per ton of grapes harvested by growers in Idaho during the previous calendar year for the purpose of the production of wine in Idaho.
- Seven dollars (\$7) per ton of grapes purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho.
- Four cents (\$.04) per gallons of grape juice purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Brenna Christison, (208) 332-1538.

Dated this 2nd day of October, 2019.

Brenna Christison
Operations & Finance Manager
Idaho Grape Growers and Wine Producers Commission

821 W. State Street
Boise ID 83702
(208) 332-1538

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-3605(15); 54-3610, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 48.01.01, Rules of the Idaho Grape Growers & Wine Producers Commission.

IDAPA 48

- 48.01.01, *Rules of the Idaho Grape Growers & Wine Producers Commission* – All rules except for *Subsections 020.04, 021.03.b. through 021.03.f., 021.05, 021.06, and 021.07.*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These temporary rules are necessary to the operation of the Idaho Grape Growers and Wine Producers Commission to complete the mission of supporting Idaho's grape growers and winemakers and acting as the united voice of the Idaho wine industry, helping to grow awareness and sales of Idaho wines.

The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. The IGGWPC budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the IGGWPC budget.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The rule specifies the amount of grape and wine tax to be levied in accordance with statute. The rule also adopts a late payment penalty in accordance with statute.

- Seven dollars (\$7) per ton of grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho.
- Seven dollars (\$7) per ton of grapes harvested by growers in Idaho during the previous calendar year for the purpose of the production of wine in Idaho.
- Seven dollars (\$7) per ton of grapes purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho.
- Four cents (\$.04) per gallons of grape juice purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Brenna Christison, (208) 332-1538.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 48-0101-1900F

48.01.01 – RULES OF THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

000. LEGAL AUTHORITY.

This chapter is adopted in accordance with Section 54-3605(15), Idaho Code. (3-19-07)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 48.01.01, “Rules of the Idaho Grape Growers and Wine Producers Commission.” (3-19-07)

02. Scope. These rules include, but are not limited to, levy of taxes and penalties as provided by Section 54-3610, Idaho Code. (3-19-07)

002. DEFINITIONS.

The definitions set forth in Title 54, Chapter 36, Idaho Code, apply to this chapter. ()

003. -- 019. (RESERVED)

020. TAX AND LATE PAYMENT PENALTY.

01. Levy and Rate of Tax. In accordance with Section 54-3610, Idaho Code, a tax is levied and imposed on wineries, grapes grown, used, or purchased, and grape juice purchased for the production of wine in Idaho. The rate of each tax is: (3-29-17)

a. Seven dollars (\$7) per ton of grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho. (3-29-17)

b. Seven dollars (\$7) per ton of grapes harvested by growers in Idaho during the previous calendar year for the purpose of the production of wine in Idaho. (3-29-17)

c. Seven dollars (\$7) per ton of grapes purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho. (3-29-17)

d. Four cents (\$.04) per gallons of grape juice purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho. (3-29-17)

02. Minimum Levy. The minimum taxes paid by any grower or winery is one hundred dollars (\$100) annually. (3-29-10)

03. Payment of Tax. All taxes must be paid on or before June 30 of each year as follows: ()

a. The grower harvesting grapes for the production of wine pays the tax levied upon the grower. ()

b. Each winery pays the tax levied upon the winery for the production of wine. ()

c. Purchasers of grapes grown or grape juice produced outside Idaho pay the taxes levied on such grapes and grape juice. ()

d. Purchasers of grape juice produced in Idaho pay the taxes levied on such grape juice. ()

04. Opt Out Alternative. A grower or producer may opt out of the levy of tax by submitting a letter to the Commission no later than June 30 of each year stating the grower or producer's name and address, and their intent to opt out of the application of the provisions of Title 54, Chapter 36, Idaho Code, for the upcoming fiscal year. ()

021. -- 999. (RESERVED)