

PENDING RULES COMMITTEE RULES REVIEW BOOK

**Submitted for Review Before
Senate Commerce &
Human Resources Committee
68th Idaho Legislature
First Regular Session – 2025**



Prepared by:

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

January 2025

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 09 – IDAHO DEPARTMENT OF LABOR

09.01.01 – RULES OF ADMINISTRATIVE PROCEDURE OF THE DEPARTMENT OF LABOR

DOCKET NO. 09-0101-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-1300 et seq., Idaho Code, and Sections 45-600 et seq., 74-106(7), 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:

These rules are being adopted as part of the IDOL's plan to review each rule every 5 years. The changes are consistent with the [Executive Order 2020-01, Zero Based Regulation](#).

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2024, Idaho Administrative Bulletin, [Vol. 24-10, pages 147-153](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Not applicable. There are no fees or charges associated with this rulemaking.

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

This rulemaking is not anticipated to have any fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Darlene Carnopis at (208) 696-2380.

DATED this 20th day of November, 2024.

Darlene Carnopis
Policy Coordinator
Idaho Department of Labor
317 W. 3rd St.
Boise, ID 83702
Phone: (208) 696-2380
Email: darlene.carnopis@labor.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 72-1300 et seq., Idaho Code, Sections 45-600 et seq., 74-106(7), 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 Oct. 16, 2024.

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: These rules are being presented for authorization as part of the IDOL's plan to review each rule every 5 years. There are no specific rulemaking changes planned by the IDOL at this time except for evaluation and amendment consistent with the Governor's [Zero-Based Regulation Executive Order](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. The IDOL intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules' statutory authority and the Governor's Executive Order. The IDOL will review the documents that are currently incorporated by reference in this rule and update that list as applicable.

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: No fiscal impact.

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, 2024, Idaho Administrative Bulletin, [Vol. 24-7, page 57-58](#).

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 proposed rule, contact Darlene Carnopis at 208-696-2380.

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 Oct. 23, 2024.

DATED this 30th day of August, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 09-0101-2401

09.01.01 – RULES OF ADMINISTRATIVE PROCEDURE OF THE DEPARTMENT OF LABOR

000. LEGAL AUTHORITY.

These rules are promulgated under Sections 45-616 and 72-1333(2), Idaho Code. (3-23-22)

001. SCOPE.

These rules govern all procedures for rulemaking, petitions for declaratory rulings, and determinations and appeals pursuant to the Employment Security Law, Title 72, Chapter 13, Idaho Code, and the Claims for Wages Act, Title 45, Chapter 6, Idaho Code, and for other programs administered by the Department unless otherwise specified by law. (3-23-22)

~~002. (RESERVED)~~

~~003. ADMINISTRATIVE APPEALS.~~

~~Administrative appeals from determinations under the Employment Security Law and the Claims for Wages Act may be taken as provided in these rules and applicable provisions of the Employment Security Law and the Claims for Wages Act. (3-23-22)~~

~~002. – 003. (RESERVED)~~

004. PAYMENTS TO THE DEPARTMENT.

Any payment tendered to the Department will be for collection only and will not constitute payment of any amount due until the payment clears the appropriate financial institution. Should the Department incur any additional expense in the payment collection, the expense will be paid by the person who tenders said payment to the Department. (3-23-22)

005. – 009. (RESERVED)

010. DEFINITIONS.

01. Appeals Examiner. A Department hearing officer designated to hear administrative appeals pursuant to the Employment Security Law and the Claims for Wages Act. (3-23-22)

02. Claims for Wages Act. The Claims for Wages Act codified at Title 45, Chapter 6, Idaho Code. (3-23-22)

03. Department. The Idaho Department of Labor. (3-23-22)

04. Determination. Unless the context clearly suggests otherwise, reference to a determination in these rules includes a determination, redetermination, or a revised determination. (3-23-22)

05. Employment Security Law. The Employment Security Law codified at Title 72, Chapter 13, Idaho Code. (3-23-22)

~~011. – 014. (RESERVED)~~

~~015. EXEMPTION FROM ATTORNEY GENERAL ADMINISTRATIVE PROCEDURE RULES FOR CONTESTED CASES.~~

~~Pursuant to Section 67-5206(5), Idaho Code, the procedures contained in Subchapter B, “Contested Cases,” of the Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01.100 through 04.11.01.799, do not apply to appeals within the Department. All appeals within the Department are governed solely by the provisions of the Employment Security Law, the Claims for Wages Act, these rules, and by the applicable federal law governing programs administered by the Department. (3-23-22)~~

~~**016. REASONS FOR EXEMPTION FROM ATTORNEY GENERAL'S ADMINISTRATIVE PROCEDURE RULES.**~~

~~**01. Unemployment Insurance Benefits and Tax Contribution Proceedings.** Sections 72-1361 and 72-1368, Idaho Code, provide that all proceedings to determine the rights to unemployment insurance benefits and tax contribution coverage are exempt from the contested case and judicial review provisions of the Idaho Administrative Procedure Act. Appeals of complaint determinations and other decisions arising within the complaint system or other programs administered by the Department must be determined by the requirements of applicable federal law. Procedures for administrative proceedings and appeals are provided for in the Employment Security Law and these rules. All procedures affecting the rights to benefits and unemployment insurance coverage must be determined solely by the requirements of the Employment Security Law. Such proceedings must be speedy and simple as required by the Federal Unemployment Tax Act and the Social Security Act. The Department determines that it can more adequately meet these requirements through promulgating its own rules rather than relying upon the rules applicable to other state agencies. (3-23-22)~~

~~**02. Claims for Wages Proceedings.** All proceedings to determine claims for wages are exempt from the contested case provisions of the Idaho Administrative Procedure Act pursuant to Section 45-617(2), Idaho Code. Procedures for administrative proceedings and appeals are provided for in the Claims for Wages Act and these rules. (3-23-22)~~

~~**017. (RESERVED)**~~

~~**011. – 017. (RESERVED)**~~

018. DECLARATORY RULING PROCEDURES.

Form and Contents of Petitions for Declaratory Rulings on Applicability of Statutes or Rules. Any person petitioning for a declaratory ruling on the applicability of a statute or Department rule must comply with this rule. (3-23-22)

01. Form of Petition. The petition must: identify the petitioner and state the petitioner's interest in the matter; state the declaratory ruling that the petitioner seeks; and indicate the statute, or rule, and the factual allegations upon which the petitioner relies to support the petition. (3-23-22)

02. Legal Assertions. Citations of cases and/or statutory provisions may accompany the legal assertions in a petition for a declaratory ruling. (3-23-22)

03. Filing Petition. A petition for a declaratory ruling on applicability of statutes or rules must be filed with the Director of the Department at 317 Main Street, Boise, Idaho 83735. (3-23-22)

~~**04. Disposition of Petitions for Declaratory Rulings.** When a petition is received in the form and content required by these rules, the Director or the Director's designee will review the petition contents and request additional information from the petitioner, if necessary, and thereafter rule on the petition and notify the petitioner and any other interested parties in writing of the ruling. (3-23-22)~~

~~**019. – 0245. (RESERVED)**~~

~~**025. WAGE CLAIMS PROCEDURES.**~~

~~Administrative procedures for wage claims filed with the Department pursuant to the Claims for Wages Act are governed by these rules and Section 45-617, Idaho Code. (3-23-22)~~

026. DISMISSAL OF WAGE CLAIMS FOR LACK OF PROSECUTION.

Wage claimants have a responsibility to seek prompt adjudication of their claims. The Department may dismiss, without prejudice, wage claims when claimants fail to respond within thirty (30) days to written notice from the Department that additional action is required on their part to prosecute their claim. The thirty (30) day period for a response begins the date the notice is mailed to the wage claimant's last known address. Mailed responses are deemed received the date they are postmarked. A wage claim dismissed for lack of prosecution may be refiled with the Department subject to limitations of Sections 45-614 and 45-617(1), Idaho Code. (3-23-22)

027. WAGE CLAIM AND EMPLOYMENT SECURITY LAW DETERMINATIONS.

01. Determinations and Time for Filing Appeals. Department determinations under the Claims for Wages Act and Employment Security Law must be in writing and contain provisions advising the interested parties of their right to appeal the determination within fourteen (14) days from the date of mailing, or the date of electronic transmission to an electronic-mail address approved by the Department, in accordance with Sections 45-617(5), 72-1361 and 72-1368(5), Idaho Code, and must contain and clearly identify the mailing address, fax number and electronic address for filing an appeal. The date of mailing or service indicated on the determination shall be deemed the date of service of the determination. A determination is final unless, within fourteen (14) days after notice, as provided in Sections 45-617(5) and 72-1368(5), Idaho Code, an appeal is filed by an interested party with the Department in accordance with these rules. If an appeal from a wage claim determination is not timely filed, the amount awarded by a final determination will be immediately due and payable to the Department. (3-23-22)

~~**02. Appeals Heard By Appeals Examiners.** Appeals from wage claim and Employment Security Law determinations will be heard by an appeals examiner in accordance with the Claims for Wages Act, the Employment Security Law, and these rules. (3-23-22)~~

~~**032. Computation of Time.** In computing any time period prescribed or allowed by the Employment Security Law or the Claims for Wages Act, the day of the act, event, or default is not to be included. Saturdays, Sundays, and holidays will be counted during the period, except, if the last day of the period is a Saturday, Sunday, or legal holiday, the period extends to the next business day following the Saturday, Sunday, or legal holiday. (3-23-22)~~

028. – 034. (RESERVED)

035. APPEALS TO APPEALS EXAMINER – FORM AND MANNER OF FILING OF NOTICES OF APPEAL.

01. Form of Notices of Appeal. Any appeal taken to an appeals examiner pursuant to the Employment Security Law and the Claims for Wages Act must be in writing, signed by an interested party, the appellant or representative, and contain words that, by fair interpretation, request the appeal process for a specific determination or other decision of the Department. (3-23-22)

02. Filing of Notices of Appeal. To appeal a determination or other decision of the Department, interested parties must follow these rules and the instructions on the determination or other decision being appealed. If an appeal is delivered personally, the personal delivery date will be noted on the appeal and deemed the date of filing. A faxed or electronically transmitted appeal will be deemed filed on the date received by the Department (mountain time) or, if received on a weekend or holiday, the next business day. If mailed, the appeal will be deemed filed on the date of mailing as determined by the postmark on the envelope containing the appeal, unless a party establishes by a preponderance of the evidence that but for error by the U.S. Postal Service, the envelope would have been postmarked within the period for timely appeal. If such a postal error is established, the appeal will be deemed to be timely filed. Ref. Section 72-1368(6), and Section 45-617, Idaho Code. (3-23-22)

~~**036. DATE OF SERVICE OF DETERMINATIONS.**~~

~~The date indicated on determinations and decisions as the “Date of Service” or “Date of Mailing” will be presumed to be the date the document was deposited in the United States mail, or the date the document was electronically transmitted to an electronic-mail address approved by the Department pursuant to Section 72-1368(5), Idaho Code, unless shown otherwise by a preponderance of competent evidence. (3-23-22)~~

~~**036. (RESERVED)**~~

037. EFFECT OF DELAY OR ERROR OF POSTAL SERVICE OR DEPARTMENT.

01. Department Determinations. If a party establishes by a preponderance of the evidence that because of delay or error by the U.S. Postal Service, or because of error on the part of the Department, a determination was not delivered to the party's last known address, or transmitted electronically to the party's electronic-mail address approved by the Department, within fourteen (14) days of the date of mailing or service indicated on the determination, the period for filing a timely appeal extends to fourteen (14) days from the date of

actual notice. (3-23-22)

02. Decisions of the Appeals Examiner. If a party establishes by a preponderance of the evidence that, because of delay or error by the U.S. Postal Service, or because of error on the part of the Department, a decision by an appeals examiner was not delivered to the party's last known address, or transmitted electronically to the party's electronic-mail address approved by the Department, within the time periods prescribed by the Employment Security Law or the Claims for Wages Act for filing an application for rehearing or an appeal to the Industrial Commission, as the case may be, then: (3-23-22)

a. For an application for rehearing that must be filed within ten (10) days of notice of service of a decision, the period for filing a timely application for rehearing extends to ten (10) days from the date of actual notice; and (3-23-22)

b. For an appeal to the Industrial Commission that must be filed within fourteen (14) days of notice of service of a decision, the period for filing a timely appeal extends fourteen (14) days from the date of actual notice. Ref. Section 72-1368 (5) and (6) and Section 45-617(7), Idaho Code. (3-23-22)

038. DISMISSAL IF FILING IS LATE.

Where it appears any appeal (request for hearing) to the appeals examiner, or claim, or any other request or application, was not filed within the time period prescribed for filing, it will be dismissed on such grounds; provided, however, before or after such dismissal, the adversely affected interested party will be notified and given an opportunity to show that such appeal, claim for review, petition, or other request was timely. If it is found that such appeal, claim for review, petition, or other request or application was timely, the matter will be decided on the merits. Copies of a decision under this section will either be given, mailed, or electronically transmitted to an electronic-mail address approved by the Department pursuant to Section 72-1368(5), Idaho Code, to all interested parties, together with a clear statement of right of appeal or review. Ref. Section 72-1368 and Section 45-617, Idaho Code. (3-23-22)

039. – 044. (RESERVED)

045. CONDUCT OF APPEALS HEARING.

Upon request for appeal, a hearing before an appeals examiner will be set. Written notice of the time and place of the hearing will be mailed or electronically transmitted to each interested party not less than seven (7) days prior to the hearing date. (3-23-22)

01. Telephone Hearings. Hearings will be held by telephone unless, at the sole discretion of the appeals examiner, a personal hearing should be set. In deciding the manner in which to conduct the hearing, the appeals examiner will consider factors, including but not limited to the desires of the parties, possible delay and expense, the burden of proof, the complexity of the issues, and the number and location of witnesses. (3-23-22)

02. Continuance. The appeals examiner may postpone or continue a hearing for good cause on the examiner's own motion or that of any party, before a hearing is concluded. The appeals examiner may dismiss an appeal for good cause, such as abandonment of the appeal. (3-23-22)

03. Rehearing. An application for rehearing will be in writing and filed in person or postmarked within ten (10) days after the appeals examiner's decision is served. (3-23-22)

04. No Appearance Hearings. If no party appears to present additional evidence, a decision may be based on the existing record. For this purpose, the existing record will consist of documents maintained by the Department in the ordinary course of adjudicating the issues in the case, copies of which are provided to the parties with the notice of hearing. (3-23-22)

05. Exhibits and Recordings. Hearing exhibits and recordings may be destroyed, reused, or otherwise disposed of after the expiration of the time period for appeal from the decisions of the appeals examiner. (3-23-22)

~~**06. Subpoenas.** After determining a subpoena of a witness or records is necessary and reasonable, the appeals examiner will issue the subpoena, which may be served by mail or in person. (3-23-22)~~

076. Failure to Respond to Subpoena. If a person fails to respond to a subpoena issued by mail, the appeals examiner will proceed with the scheduled hearing and determine, after hearing available testimony, whether the subpoena is still necessary and reasonable. If so, the hearing will be continued and a second subpoena will be issued and personally served. (3-23-22)

087. Witness Fees. Individuals who attend hearings before the appeals examiner as subpoenaed witnesses, not parties, are entitled to receive a fee of seven dollars and fifty cents (\$7.50) for each day or portion thereof for attendance. In no case will a witness be paid more than seven dollars and fifty cents (\$7.50) for any one (1) day. Subpoenaed witnesses are entitled to mileage expense at the current allowable mileage reimbursement rate as determined by the Idaho State Board of Examiners. For appeals under the Employment Security Law, such witness fees and mileage expenses will be paid from the Employment Security Administration fund. Under no circumstances will interested parties to a hearing be granted witness fees or mileage expenses. Mileage fees are not allowed for vicinity travel. (3-23-22)

098. Undecided Issues. When it is apparent that there is no prior ruling on an issue that must be decided under the Act, the appeals examiner may hear and decide the issue. (3-23-22)

109. Type of Hearing. The proceeding before an appeals examiner will be a hearing “de novo” or original hearing and not solely a review proceeding. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (3-23-22)

140. Role of Appeals Examiner. The appeals examiner will function as a fact finder and not solely as a judge. The appeals examiner will have the responsibility of developing all the evidence that is reasonably available. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (3-23-22)()

121. Order of Witnesses. The appeals examiner, in the exercise of reasonable discretion, will direct the order of witnesses and develop evidence in a logical and orderly manner to move the hearing along as expeditiously as possible. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (3-23-22)()

132. Evidence. The appeals examiner may exclude evidence that is irrelevant, unduly repetitious, or excludable on constitutional or statutory grounds, or on the basis of any evidentiary privilege provided by statute or recognized in the courts of this state. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (3-23-22)()

143. Disruptive Individuals. The appeals examiner may exclude disruptive individuals from the hearing or may postpone the hearing if the integrity of the proceedings is being compromised. If an interested party is excluded, they will be provided a copy of the recording of the proceedings and given an opportunity to submit written evidence and argument prior to the issuance of the decision and the opposing party will be given an opportunity to respond. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (3-23-22)()

154. Challenge of General Knowledge. If judicially cognizable facts or general, technical, or scientific facts within the appeals examiner's specialized knowledge are used in the decision, the parties will be given an opportunity to challenge them at the time of the hearing, or at the time of the issuance of the decision. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (3-23-22)()

165. Closing Arguments. Closing arguments will be limited to five (5) minutes for each party unless the appeals examiner grants an exception. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (3-23-22)()

046. COMMUNICATION WITH APPEALS STAFF.

No party involved in an appeal may communicate, either directly or indirectly, with appeals examiners, the Chief of the Appeals Bureau, or clerical staff of the Appeals Bureau, regarding any issue of fact or law relevant to an appeal, unless all parties involved have been provided notice and an opportunity to participate in such communication. No person acting on behalf of any party, including the Idaho Department of Labor, may attempt to influence the disposition of an appeal through such communications. No appeals examiner may knowingly cause a communication prohibited by this section to be made. (3-23-22)

01. Prohibition of Ex Parte Contacts. The prohibition on ex parte contacts contained in this rule

applies from the time an appeal is filed pursuant to IDAPA 09.01.01.025 or IDAPA 09.01.01.027 until the appeal becomes final and conclusive pursuant to Sections 72-1368 and 45-617, Idaho Code. (3-23-22)

02. Issues of Fact. As used in this rule, the term “issue of fact or law relevant to an appeal” includes any matter relating to the merits of an appeal but does not include questions of appeals procedure or case status inquiries. Parties may not direct questions of appeals procedure or case status inquiries to the appeals examiner assigned to their case but rather to other appeals examiners, the Chief of the Appeals Bureau (unless he or she is functioning as the appeals examiner in the case), or to clerical staff of the Appeals Bureau. (3-23-22)

03. Reporting Prohibited Contacts. An appeals examiner or other Appeals Bureau employee who receives a communication prohibited by this rule must place in the record of the case all such written communications or a memorandum stating the substance of all such oral communications. The Appeals Bureau must send a full copy of the communication to other interested parties to the appeal and allow an appropriate time for the parties to respond. (3-23-22)

047. – 059. (RESERVED)

060. INDUSTRIAL COMMISSION REVIEW OF APPEALS EXAMINER DECISIONS.

01. Claim for Review Under the Employment Security Law. A claim for review of the appeals examiner's decision, as provided in Section 72-1368, Idaho Code, must be made in writing, signed by the person claiming the review or by his attorney or agent, and filed with the Idaho Industrial Commission in accordance with rules adopted by the Commission. Ref. Sec. 72-1368(7) Idaho Code. (3-23-22)

02. Transcripts. Upon receipt of a notice that a claim for review has been filed with the Industrial Commission, a true and correct transcript of the recorded proceedings must be prepared if ordered by the Commission. Copies of transcripts or recording of the proceedings, together with exhibits received in the case, must be transmitted by the Department to the Commission and provided to all interested parties without charge. (3-23-22)

061. – 064. (RESERVED)

~~**065. JUDICIAL REVIEW OF WAGE CLAIM DECISIONS.**~~

~~A claimant or employer aggrieved by a final decision of the appeals examiner in a wage claim proceeding may seek judicial review of the decision pursuant to Title 67, Chapter 52, Idaho Code, and Section 45-619, Idaho Code, by timely filing a petition for judicial review in a court of competent jurisdiction. The Department is not an aggrieved party for purposes of any judicial review proceeding and will not be made a party in any petition for judicial review. The proper parties in a petition for judicial review are the claimant and the employer. (3-23-22)~~

~~**066.5. – 999. (RESERVED)**~~

IDAPA 09 – IDAHO DEPARTMENT OF LABOR
09.01.30 – UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES
DOCKET NO. 09-0130-2401 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-1300 et seq., Idaho Code, and Sections 45-600 et seq., 74-106(7), 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:

These rules are being adopted as part of the IDOL's plan to review each rule every 5 years. The changes are consistent with the [Executive Order 2020-01, Zero Based Regulation](#).

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2024, Idaho Administrative Bulletin, [Vol. 24-10, pages 154-174](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Not applicable. There are no fees or charges associated with this rulemaking.

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

This rulemaking is not anticipated to have any fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Darlene Carnopis at (208) 696-2380.

DATED this 20th day of November, 2024.

Darlene Carnopis
Policy Coordinator
Idaho Department of Labor
317 W. 3rd St.
Boise, ID 83702
Phone: (208) 696-2380
Email: darlene.carnopis@labor.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 72-1300 et seq., Idaho Code, Sections 45-600 et seq., 74-106(7), 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 Oct. 16, 2024.

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: These rules are being presented for authorization as part of the IDOL's plan to review each rule every 5 years. There are no specific rulemaking changes planned by the IDOL at this time except for evaluation and amendment consistent with the Governor's [Zero-Based Regulation Executive Order](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. The IDOL intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules' statutory authority and the Governor's Executive Order. The IDOL will review the documents that are currently incorporated by reference in this rule and update that list as applicable.

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: No fiscal impact.

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, 2024, Idaho Administrative Bulletin, [Vol. 24-7, page 59-60](#).

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 Darlene Carnopis at 208-696-2380.

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 Oct. 23, 2024.

DATED this 30th day of August, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 09-0130-2401

09.01.30 – UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES

000. LEGAL AUTHORITY.

These rules are promulgated under Section 72-1333, Idaho Code. (3-23-22)

001. SCOPE.

These rules govern claims for unemployment insurance benefits. (3-23-22)

002. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter are governed by Section 72-1368, Idaho Code and IDAPA 09.01.01, "Rules of Administrative Procedure of the Department of Labor." (3-23-22)

003. -- 009. (RESERVED)

010. DEFINITIONS.

~~01. **Additional Claim.** An initial claim made after a period of employment subsequent to a new claim in the same benefit year. (3-23-22)~~

021. Average Annual Wage. For the purpose of determining the taxable wage base, under Section 72-1350(1), Idaho Code, the average annual wage is computed by dividing that calendar year's total wages in covered employment, excluding State government and cost reimbursement employers, by the average number of workers in covered employment for that calendar year as derived from data reported to the Department of Labor by covered employers. (3-23-22)

032. Average Weekly Wage. For the purpose of establishing the maximum weekly benefit amount, under Section 72-1367(2)(a), Idaho Code, the average weekly wage is computed by dividing the total wages paid in covered employment (including State government and cost reimbursement employers) for the preceding calendar year, as computed from data reported to the Department of Labor by covered employers, by the monthly average number of workers in covered employment for the preceding calendar year and then dividing the resulting figure by fifty-two (52). (3-23-22)

043. Central Claims Office. A claims office designated by the director, where unemployment claims throughout the state are processed. (3-23-22)

~~05. **Chargeability Determination.** A determination issued with respect to whether a covered employer's account will be charged for benefits paid on a claim. (3-23-22)~~

~~06. **Claim.** An application for unemployment insurance or "benefits." (3-23-22)~~

~~07. **Continued Claim.** An application for waiting week credit or for benefits for specific compensable weeks. (3-23-22)~~

084. Corporate Officer. Any individual empowered in good faith by stockholders or directors in accordance with the corporation's articles of incorporation or bylaws to discharge the duties of a corporate officer. (3-23-22)

095. Fraud Overpayment. An established overpayment resulting from a determination that the claimant willfully made a false statement or willfully failed to report a material fact in order to obtain benefits. Ref. Sec. 72-1369, Idaho Code. (3-23-22)

~~106. **Full-Time Employment.** A week of full-time employment is one where the claimant worked what are customarily considered full-time hours for that industry or where the earnings were more than one and one half (1-1/2) times his weekly benefit amount. (3-23-22)~~

~~107. **Initial Claim.** The first claim for benefits made by an unemployed individual during a continuous~~

period of unemployment. An initial claim may be either new or additional. (3-23-22)

~~1208.~~ **Interstate Claim.** A claim filed by a worker who resides in a state other than the state (or states) in which he has earned wages in covered employment. (3-23-22)

~~1309.~~ **Intrastate Claim.** A claim filed by a worker who resides in Idaho and has earned wages within or as federal wages assigned to Idaho. (3-23-22)

~~14.~~ **Material.** A fact is material if it is relevant to a determination of a claimant's right to benefits. All information a claimant is asked to provide when applying for unemployment benefits or when making a continued claim report is material and relevant to a determination of a claimant's right to benefits. To be considered material, the fact need not actually affect the outcome of an eligibility determination. Ref. Section 72-1366, Idaho Code. (3-23-22)

~~150.~~ **Monetary Determination.** A determination of eligibility which lists a claimant's base period employer(s) and wages and establishes, if the claimant is eligible, his benefit year, his weekly benefit amount, and his total benefit amount. (3-23-22)

~~16.~~ **New Claim.** The first initial claim made in a benefit year. (3-23-22)

~~17.~~ **Non-Fraud Overpayment.** Any established overpayment other than an overpayment resulting from a determination that a claimant made a false statement or willfully failed to report a material fact in order to obtain benefits. Ref. Sec. 72-1369, Idaho Code. (3-23-22)

~~181.~~ **Non-Monetary Determination.** A determination issued by a claims examiner with respect to the personal eligibility conditions of a claimant. (3-23-22)

~~19.~~ **Tolerance Amount.** A tolerance of four dollars and ninety-nine cents (\$4.99) connection with the recovery of overpayments and at the discretion of the Director, overpayments for this amount or less may be compromised. Ref. Sec. 72-1369, Idaho Code. (3-23-22)

011. -- 099. (RESERVED)

100. ABLE TO WORK.

"Able to work" is the physical and mental ability to perform work under conditions ordinarily existing during a normal workweek. It does not mean that a person must be able to perform work in his customary occupation or the same kind of work he last performed. Ref. Sec. 72-1366(4), Idaho Code. (3-23-22)

01. Able to Perform Some Type of Work. A person must be able to perform work of some type for which he can qualify at the time he files an initial claim for unemployment insurance. (3-23-22)

02. Able to Work Part-Time. A person who is able to work only part of the workday or part of the workweek is not considered "able to work" for the purposes of Section 72-1366(4), Idaho Code. This rule does not apply to claimants who establish eligibility under Section 150 of these rules, "Claimants with Disabilities." (3-23-22)

03. Disability Compensation. A claimant's receipt of disability compensation does not in itself establish that he is unable to work or unavailable for work, even though the payee has been declared totally disabled. (3-23-22)

04. Illness Provision. A person who claims benefits under the illness provision must remain available for local office job referral; however, he may leave the area for treatment of his illness and continue to be eligible under the illness provision. (3-23-22)

05. Illness Provision as Applied to Transitional or Reopened Claim. The illness provision will continue to apply even though the current benefit year has ended and a transitional claim is filed the following year or the claim is reopened after a period of not filing with no intervening employment. (3-23-22)

06. Withdrawing from Labor Market Because of Illness. A claimant who withdraws from the labor

market because of illness or injury prior to filing a claim is not eligible until he is able and available for work. (3-23-22)

101. -- 124. (RESERVED)

125. ALIEN ELIGIBILITY.

01. Benefit Eligibility. To be eligible for benefits, an alien must fall within one (1) of the following three (3) categories at the time the work on which the claim is based was performed and at the time benefits are claimed, the alien must have current, valid authorization to work from the U.S. Department of Homeland Security in order to meet the continuing eligibility requirement of being able and available to work (unless the alien claimant is a Canadian resident who is claiming benefits under the Interstate Benefit Payment Plan, in which case the claimant must satisfy only Canadian availability requirements). Ref. Sec. 72-1366(4), (19), Idaho Code. (3-23-22)

a. Permanent Residence. Aliens who have been lawfully admitted to the United States as “immigrants” and those whose status has been adjusted from that of “non-immigrant” under the Immigration and Nationality Act. Evidence of this status is the Alien Registration Receipt Card, or “green card,” issued to each lawful permanent resident by the U.S. Department of Homeland Security. (3-23-22)

b. Performing Services. “Lawfully present for purposes of performing services” includes three (3) groups of aliens: (3-23-22)

i. Canadian and Mexican residents who commute daily or seasonally and are authorized to work in the United States; (3-23-22)

ii. Legally-admitted non-immigrants who are granted a status by the U.S. Department of Homeland Security which authorizes them to work in the United States during their stay; and (3-23-22)

iii. Other aliens with U.S. Department of Homeland Security authorization to work in the United States regardless of their status. (3-23-22)

c. Permanently Residing Under Color of Law. The category of individuals who are “permanently residing in the United States under color of law” includes the following groups of aliens: (3-23-22)

i. Refugees, asylees, and parolees, as identified in the Immigration and Nationality Act; (3-23-22)

ii. Aliens presumed by the U.S. Department of Homeland Security to be lawfully admitted for permanent residence; and (3-23-22)

iii. Aliens who, after review of their particular circumstances under U.S. Department of Homeland Security statutory or regulatory procedures, have been granted a status which allows them to remain in the United States for an indefinite period of time. For informal U.S. Department of Homeland Security action to authorize an alien’s residence under “color of law,” the U.S. Department of Homeland Security must know of the alien’s presence, and must provide the alien with official, documented assurance that enforcement of deportation is not planned. (3-23-22)

126. -- 149. (RESERVED)

150. CLAIMANTS WITH DISABILITIES.

An individual with a disability under the Americans with Disabilities Act (2008) (as defined at 29 C.F.R. Sec 1630.2(g)), and whose disability prevents the claimant from working full time or during particular shifts is not deemed unable to work or unavailable for work for so long as the claimant is able to perform some work and remains available for work to the full extent of his ability. (3-23-22)

01. Availability Requirement. A qualified claimant with a disability who is able to work with or without a reasonable accommodation will be considered as having complied with the requirement of being available for work provided the claimant is willing to work the maximum number of hours the claimant is able to work.

(3-23-22)

02. Burden of Proof. Claimant has the burden of proving eligibility under this provision with competent evidence. (3-23-22)

03. Additional Eligibility Requirements. Qualified claimants with disabilities must meet all other eligibility requirements, including the illness provision of Section 100 of these rules. (3-23-22)

151. -- 174. (RESERVED)

175. AVAILABLE FOR WORK.

“Available for work” is a state of mind that encompasses a readiness and willingness to work, and a desire to find a job, including the possibility of marketing one’s services in the claimant’s area of availability. There must remain a reasonable possibility of a claimant finding and obtaining, or being referred and hired for, suitable work. Ref. Sec. 72-1366(4), Idaho Code. (3-23-22)

01. Availability Requirements. The type of work for which the claimant is available must exist in the claimant’s area to the extent that a normal unemployed person would generally find work within a reasonable period of time. (3-23-22)

~~**02. Child Care.** Child care must be arranged so as not to restrict a claimant’s availability for work or for seeking work. (3-23-22)~~

~~**032. Compelling Personal Circumstances.** For the purposes of this rule, compelling personal circumstances are defined as: (3-23-22)~~

- ~~a. A situation in which the claimant required the assistance of emergency response personnel; (3-23-22)~~
- ~~b. The serious illness, death, or funeral of an immediate family member; or (3-23-22)~~
- ~~c. The wedding of the claimant or an immediate family member. (3-23-22)~~
- ~~d. Under this rule, “immediate family member” means a claimant's spouse, child, foster child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage. (3-23-22)~~
- ~~e. For the purposes of this rule, “workweek” is defined: (3-23-22)~~
 - ~~i. Code ~~R, U, or X~~ **Attached**. The claimant's normal work week as defined by the employer. (3-23-22)()~~
 - ~~ii. Code ~~B or C~~ **Workseeking**. Monday through Friday, 8 a.m.-5 p.m. (3-23-22)()~~
 - ~~iii. Code ~~D~~ **Approved Training**. Regular class hours. (3-23-22)()~~
- ~~f. Claimant work availability requirements are waived on Independence Day, Thanksgiving Day, Christmas Day, and New Year's Day. (3-23-22)~~

~~**043. Conscientious Objection.** No person may be held to be unavailable for work solely because of religious convictions not permitting work on a certain day. (3-23-22)~~

~~**054. Contract Obligation.** A person who is bound by a contract that prevents him from accepting other employment is not eligible for benefits. (3-23-22)~~

~~**065. Distance to Work.** A claimant seeking work must be willing to travel the distance normally traveled by other workers in his area and occupation. (3-23-22)~~

~~07. Domestic Circumstances.~~ A claimant is not eligible for benefits if domestic circumstances take precedence over the claimant's availability for work or for seeking work. (3-23-22)

~~08. Equipment.~~ Claimants will be required to provide necessary tools or equipment in certain occupations. The lack of these tools or equipment will directly affect a claimant's availability for work, unless he will accept other work. (3-23-22)

~~09.~~ **Evidence.** A claimant is responsible for providing proof of his availability for work and for seeking work if his availability is questioned or proof is required by these rules. (3-23-22)

~~10. Experience or Training.~~ A claimant is expected to be available for work consistent with his past experience or training, provided there is no change in his ability to perform that work. (3-23-22)

~~11.~~ **Full-Time/Part-Time Work.** An individual who restricts availability to part-time work pursuant to Section 72-1366(4)(c), Idaho Code, is fully employed and ineligible to receive benefits if the individual works hours comparable to the part-time work experience in their base period. A claimant must be available for a full workweek and a full, normal workday unless the claimant establishes: (3-23-22)

a. The majority of weeks worked during claimant's base period were for less than full-time work, which is established where the total base period wages divided by claimant's last regular rate of pay does not exceed two thousand seventy-nine (2079) hours; or (3-23-22)

b. Eligibility under Section 150 of these rules, "Claimants with Disabilities." (3-23-22)

~~12.~~ **Incarceration/Work Release.** A claimant who is incarcerated for any part of the workweek is not eligible for benefits for that week, unless the claimant can establish he has work release privileges which would provide him a reasonable opportunity to meet his work search requirements and obtain full-time employment. (3-23-22)

~~13.~~ **Jury Duty/Subpoenas.** A claimant serving on jury duty or subpoenaed is excused from the availability and work-seeking requirements of the law for that time period, and may refuse work that would commence during that time period. (3-23-22)

~~14. Licensing or Government Restrictions.~~ A claimant prohibited by law from engaging in certain work must be available for other employment to be eligible for benefits. (3-23-22)

~~15.~~ **Moving to Remote Area.** A claimant who moves to a remote locality where there is very little possibility of obtaining work will be ineligible for benefits. (3-23-22)

~~16.~~ **Public Official.** A public official who receives pay and performs "full-time" service is not unemployed or eligible for benefits. Part-time officials, even though receiving pay, may be considered available for work the same as any other individual employed on a part-time basis. Ref. Sec. 72-1312(1). (3-23-22)

~~17.~~ **Public Service.** Performing public service, including voluntary non-remunerated service, does not disqualify an individual for benefits as long as he is meeting the availability and work-seeking requirements. (3-23-22)

~~18.~~ **Restricting Work to Within the Home.** A claimant who restricts his availability to only work done within the home which severely limits the work available to him is ineligible for benefits. (3-23-22)

~~19.~~ **School Attendance or a Training Course.** A person who is attending school or a training course may be eligible for benefits if the attendance does not conflict in any way with that person's availability for work or for seeking work and if he will discontinue attendance upon receipt of an offer of employment that creates a conflict between employment and the schooling or training. (3-23-22)

~~20.~~ **Temporary Absence from Local Labor Market to Seek Work.** All claimants, regardless of their attachment to an industry or employer, must meet the same standard of remaining within their local labor market area

during the workweek in order to be considered available for work, unless the primary purpose of a temporary absence is to seek work in another labor market. Claimants otherwise eligible to receive benefits while participating in an approved training program or course are not deemed ineligible when the training or course occurs outside of their local labor market due to the unavailability of similar programs or courses within their local labor market. (3-23-22)

a. To remain eligible for benefits, claimants will remain within the state, territory, or country included in the USDOL Interstate Benefit Payment Plan. (3-23-22)

~~**21. Time.** (3-23-22)~~

~~**a.** Time Restrictions. A claimant may not impose restrictions on his time, including either hours of the day or days of the week, which will limit his availability to seek or accept suitable work. (3-23-22)~~

~~**b.** Shift Restrictions. A claimant who restricts his availability to a single shift may not be fully available for work if the restriction significantly reduces his chances of becoming employed. (3-23-22)~~

~~**22. Transportation Difficulties.** Lack of transportation is not a bona fide reason for a claimant to fail to be available for or to seek work. Transportation is the responsibility of the claimant. (3-23-22)~~

2316. Unreasonable Restrictions on Working Conditions. A claimant who places unreasonable restrictions on working conditions so as to seriously hinder his availability and search for work is ineligible for benefits. (3-23-22)

2417. Vacation. A person on a vacation approved by his employer during time when work is available is not eligible for benefits. (3-23-22)

2518. Wages. A claimant is eligible for benefits if the wages or other conditions of available work are substantially less favorable to the claimant than those prevailing for similar work in the local area. Ref. Sec. 72-1366(7)(b), Idaho Code. (3-23-22)

a. Demanding Higher Wages. A claimant is ineligible for benefits if he unduly restricts his availability for work by insisting on a wage rate that is higher than the prevailing wage for similar work in that area. (3-23-22)

b. Prior Earnings. The claimant's prior earnings and past experience are considered in determining whether he is available for suitable work. (3-23-22)

2619. Waiver of Two-Year Training Limitation. For purposes of approving a waiver of the two (2) year limitation on school or training courses, specified by Idaho Code Section 72-1366(8)(c)(ii), for claimants who lack skills to compete in the labor market, the following criteria must be met: (3-23-22)

a. Financial Plan. The claimant must demonstrate a workable financial plan for completing the school or training course after his benefits have been exhausted. (3-23-22)

b. Demand for Occupation. The claimant must establish there is a demand for the occupation in which the claimant will be trained. A "demand occupation" is one in which work opportunities are available and there is not a surplus of qualified applicants. (3-23-22)

c. Duration of Training. At the time that the claimant applies for the waiver, the duration of the school or training course is no longer than two (2) years to completion. (3-23-22)

~~**d.** Denial. No claimant will be denied a waiver of the two (2) year limitation on school or training because the claimant is already enrolled or participating in the school or training at the time he requests the waiver. (3-23-22)~~

176. -- 199. (RESERVED)

200. CANCELING CLAIMS.

Upon the written request of a claimant, a claim may be canceled at any time, provided that the claimant did not misrepresent or fail to report a material fact in making the claim and the claimant has repaid any benefits received on the claim, unless the benefits received will be offset from a new claim the claimant is filing. Ref. Sec. 72-1327A, Idaho Code. (3-23-22)

201. -- 224. (RESERVED)

225. DECEASED CLAIMANTS.

Upon the death of a benefit claimant who has completed a compensable period prior to his death, distribution of benefits due him will be made to the surviving spouse or, if none, to the dependent child or children. If there is no surviving spouse nor dependent child or children, the benefits become the property of the claimant's estate. (3-23-22)

226. -- 249. (RESERVED)

250. DETERMINATIONS/APPELLATE PROCESSES.

01. Rebuttal Procedure. Whenever any information is provided in response to a claim, and the information contradicts a statement made previously, all interested parties will be given an opportunity for rebuttal. Ref. Sec. 72-1368(3), Idaho Code. (3-23-22)

02. Reestablishing Eligibility After a Determination of Ineligibility. Evidence of requalifying wages includes, but is not limited to, the name of the employer, the mailing address, the dates of employment, the type of employment performed, and the claimant's gross earnings. Ref. Sec 72-1366(14), Idaho Code. (3-23-22)

251. -- 274. (RESERVED)

275. DISCHARGE.

01. Burden of Proof. The burden of proving that a claimant was discharged for employment-related misconduct rests with the employer. (3-23-22)

02. Disqualifying Misconduct. To disqualify a claimant for benefits, misconduct must be connected with the claimant's employment and involve one of the following: (3-23-22)

a. Disregard of Employer's Interest. A willful, intentional disregard of the employer's interest. (3-23-22)

b. Violation of Reasonable Rules. A deliberate violation of the employer's reasonable rules. (3-23-22)

c. Disregard of Standards of Behavior. If the alleged misconduct involves a disregard of a standard of behavior which the employer has a right to expect of his employees, there is no requirement that the claimant's conduct be willful, intentional, or deliberate. The claimant's subjective state of mind is irrelevant. The test for misconduct in "standard of behavior cases" is as follows: (3-23-22)

i. Whether the claimant's conduct fell below the standard of behavior expected by the employer; and (3-23-22)

ii. Whether the employer's expectation was objectively reasonable in the particular case. (3-23-22)

03. Inability to Perform or Ordinary Negligence. Mere inefficiency, unsatisfactory conduct, failure of good performance as the result of inability or incapacity, inadvertencies, isolated instances of ordinary negligence, or good faith errors in judgment or discretion are not considered misconduct connected with employment. (3-23-22)

04. Non-Job Related Conduct. If the claimant was discharged for conduct involving personal, non-job related behavior, the discharge is not for misconduct connected with employment. (3-23-22)

05. When Notice of Discharge Prompts a Resignation. If a claimant has resigned after receiving a

notice of discharge (or lay off due to a lack of work), but before the effective date of the discharge, both “separations” must be considered. The following three (3) elements should be present for both actions to affect the claimant’s eligibility: (3-23-22)

- a. The employee was given notice by the employer of a specific separation date; (3-23-22)
- b. The employee’s decision to quit before the effective date of the termination was a consequence of the pending separation; and (3-23-22)
- c. The voluntary quit occurred a short time prior to the effective date of the termination. (3-23-22)

06. Indefinite Suspension. A claimant who has been suspended without pay for an indefinite period of time, who has not been given a date to return to work, is considered discharged. (3-23-22)

276. -- 324. (RESERVED)

325. EMPLOYEES OF EDUCATIONAL INSTITUTIONS.

01. Possibility of Employment. An offer of employment by an educational institution or service agency is not “bona fide” if merely a possibility of employment exists. A possibility of employment, rather than a reasonable assurance, exists when: (3-23-22)

- a. The circumstances under which the claimant would be employed are not within the control of the educational institution; and (3-23-22)
- b. The educational institution does not provide evidence that such an individual normally would perform services the following academic year. (3-23-22)

02. Reasonable Assurance. “Reasonable assurance” of continuing employment exists when an educational institution or service agency provides an oral or written statement to the Department indicating that the claimant has been given a bona fide offer of a specific job in the second academic period. In addition, for such “reasonable assurance” to exist, the terms and conditions of the job offered in the second period must not be substantially less favorable than the terms and conditions of the job performed in the first period. (3-23-22)

03. Reasonable Assurance Later Given. A claimant who initially was determined not to have a reasonable assurance of continuing employment, will subsequently become disqualified for benefits under Sections 72-1366(17)(a), (b), or (c), Idaho Code, when an educational institution or service agency gives the claimant such reasonable assurance. (3-23-22)

04. Retroactive Payments. A claimant seeking retroactive payments pursuant to 72-1366(17)(b), Idaho Code, must make a request for the retroactive payment with the Department no later than thirty (30) days after the beginning of the second school year or term or retroactive payment will not be made. In addition, the claimant must provide written evidence from the employer who previously provided reasonable assurance of continuing work, that the claimant was not offered an opportunity to return to work in the second of two (2) successive school years or terms. (3-23-22)

05. Under Contract, but Between School Terms. Employees of educational institutions who are hired under contract for the school term, are considered unemployed between school terms even though they may receive their salary in twelve (12) monthly payments. (3-23-22)

326. -- 349. (RESERVED)

350. EXTENDED BENEFITS.

Ref. Sec. 72-1367A, Idaho Code. (3-23-22)

01. Evidence of Employment for Extended Benefits. Satisfactory evidence that an individual’s prospects for obtaining work in his customary occupation within a reasonably short period includes: (3-23-22)

a. A letter signed by a prospective employer giving assurances of work within the next four (4) weeks; or (3-23-22)

b. A verifiable, written statement by the claimant that he will have work within the next four (4) weeks. (3-23-22)

02. Remuneration Earned. Remuneration earned must be in employment where an employee-employer relationship exists to satisfy requalification requirements for Extended Benefits. (3-23-22)

351. -- 374. (RESERVED)

375. FULLY EMPLOYED/NOT UNEMPLOYED.
Ref. Section 72-1312(1), Idaho Code. (3-23-22)

~~**01. Excessive Earnings Week.** An excessive earnings week is a week in which the claimant's wages allocable to that week are more than one and one half (1 1/2) times the claimant's weekly benefit amount. (3-23-22)~~

021. Leave of Absence. A claimant who is on a mutually agreed upon leave of absence, and whose employer has committed to the claimant's return to work at the end of the leave, is employed and not eligible for benefits. (3-23-22)

032. Suspension. A claimant suspended with or without pay for a specific number of days, who has been given a date to resume employment after the suspension, is not considered unemployed and is not eligible for benefits. (3-23-22)

043. Corporate Officer. (3-23-22)

a. A corporate officer has the burden of proving by a preponderance of evidence that he is unemployed due to circumstances beyond his control or the control of a family member with an ownership interest in the corporation. (3-23-22)

b. Circumstances beyond a corporate officer's control or the control of a family member with an ownership interest in the corporation. Circumstances beyond a corporate officer's or a family member's control are circumstances that last through the corporate officer's benefit year end date and include, but are not limited to, the following: (3-23-22)

i. Unemployment due to the corporate officer's removal from the corporation under circumstances that satisfy the personal eligibility conditions of Section 72-1366, Idaho Code; (3-23-22)

ii. Unemployment due to dissolution of the corporation; or (3-23-22)

iii. Unemployment due to the sale of the corporation to an unrelated third party. (3-23-22)

376. -- 399. (RESERVED)

400. LABOR DISPUTE/UNION RULES.
A "labor dispute" is a controversy with respect to wages, hours, working conditions, or right of representation affecting the work or employment of a number of individuals employed for hire which results in a deadlock or impasse between the contending parties. Ref. Sec. 72-1366(7), (10), Idaho Code. (3-23-22)

01. Burden of Proving Nonparticipation. The burden of proving non-participation, lack of financing and similar factors is upon the claimant. (3-23-22)

02. Involvement of Work Site in Labor Dispute. A claimant will not be denied benefits because of a labor dispute if the dispute is not in any way directly connected with the factory, establishment, or premises at which the individual is or was last employed. (3-23-22)

03. Lack of Work. A claimant's unemployment will be deemed due to lack work and not due to a labor dispute if it is shown that because of the labor dispute the employer's business has fallen off to the extent that he can no longer utilize the services of the claimant due to the drop in business. (3-23-22)

04. Laid Off Before Labor Dispute. A claimant laid off because of lack of work from an employer where a labor dispute later occurred will not be considered unemployed due to the labor dispute. (3-23-22)

05. Period of Ineligibility. The period of ineligibility applies for the whole of any week in which any part of a claimant's unemployment is due to a labor dispute. (3-23-22)

06. Picketing Work Site. The act of picketing the work site of a labor dispute constitutes participation in the labor dispute, whether or not payment is made for such services. (3-23-22)

07. Refusal to Cross Picket Line. Voluntary refusal to cross a peaceable picket line to work constitutes participation in the labor dispute. (3-23-22)

08. Subsequent Employment. Subsequent employment does not make the claimant eligible for benefits if his unemployment is still due to the labor dispute. As long as the claimant intends to return to the employer where the labor dispute exists, his unemployment is due to the labor dispute regardless of any intervening employment. (3-23-22)

09. Termination of Labor Dispute. The period of ineligibility due to the labor dispute terminates at the end of the calendar week in which the labor dispute no longer exists. The termination of the dispute does not automatically make a claimant eligible for benefits. (3-23-22)

10. Union Member. The fact that an individual is a dues-paying union member alone does not constitute financing a labor dispute. Nor does the fact that he is not a union member establish that he is not financing or participating in the dispute. (3-23-22)

401. -- 424. (RESERVED)

425. NEW CLAIMS/ADDITIONAL CLAIMS.
Ref. Sec. 72-1308, Idaho Code. (3-23-22)

01. Claims for Benefits, Delayed Filing. When the Central Claims Office has determined that a claimant's attempt to file an initial claim was delayed due to problems with the Department's telephone or electronic filing system, the claim may be backdated if the claimant reported the access problem to the Central Claims Office within seven (7) days of the date the problem occurred. When a claim is backdated, the continued claim report for the period of time involved is timely if filed during the same week or the next week after the claim is filed. (3-23-22)

02. Effective Date of Backdated Claims. When the filing of an initial claim for benefits is backdated due to a Department system malfunction, the effective date is the Sunday of the week in which the claimant first reported to the Central Claims Office to file the claim or attempted to access the telephone or electronic claim filing system and there were problems with the system. (3-23-22)

03. Filing of New Claims, Additional, and Reopen Claims. For purposes of this section, "new claim" means the first initial claim made in a benefit year. Intrastate and interstate claims, including, without limitation, new claims, additional claims, and reopen claims, may be filed electronically or by telephone at the Department's discretion. (3-23-22)()

a. Electronically Filed Claims. Claimants may file claims electronically by accessing Idaho's Internet claim system or, if filing through an American Job Center, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant completes the application process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an American Job Center is effective as of the Sunday of the week of the date shown on the date/time stamp. (3-23-22)

b. Interstate Claims. Any claim filed by an interstate claimant is accepted in the same manner and conditions for which claims are accepted from intrastate claimants. (3-23-22)

c. Telephone Claims. A claimant may also file a claim by calling the Central Claims Office. A claim filed via telephone is effective as of the Sunday of the week in which the claimant first calls the Central Claims Office to initiate the claim. (3-23-22)

d. Claimants' Electronic Verification. A unique ~~confidential number or other electronic method of verification~~ password or personal identification number approved by the Department may be used by a claimant or an employer to submit information or engage in transactions with the Department through electronic or telephonic means. Use of this method of verification has the same force and effect as a manual signature. (3-23-22)()

04. Registration/Reporting Requirements -- Interstate Claimants. Interstate claimants are required to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants. Ref. Sec. 72-1366(1), (2), Idaho Code. (3-23-22)

05. Requirement to Provide Information. If a claimant fails to provide the Department with all necessary information pertinent to eligibility, the claimant is denied benefits until the information is provided. Any individual making a claim for benefits must provide the Department with: (3-23-22)

- a. The claimant's legal name; (3-23-22)
- b. The claimant's Social Security Number; (3-23-22)
- c. The address where the claimant's mail is delivered; (3-23-22)
- d. The claimant's place of last employment; (3-23-22)
- e. The name, correct mailing address, dates of employment, and the reason for separation from all of the claimant's most recent and base-period employers; (3-23-22)
- f. If requested by the Department, a list of all other employment in the past twenty-four (24) months; (3-23-22)
- g. The claimant's plans for finding other employment at the earliest possible time; and (3-23-22)
- h. Other information necessary for the proper processing of the claim. (3-23-22)
- i. Once a claim has been established, the claimant must provide, upon request, a record of the claimant's work search, in order for the Department to assess compliance with personal eligibility requirements. (3-23-22)

j. If the claimant's identifying information does not match with data provided by the Social Security Administration, the Division of Motor Vehicles, or other public entities for identity verification purposes, the claimant will be provided notice and an opportunity to provide proof of identity before benefits are denied. (3-23-22)

06. Separation Notice. (3-23-22)

a. Notice to Employer of Separation. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), when contacted by a Department representative for a response, must respond to the Department with the reasons for the separation whenever the claimant: (3-23-22)

- i. Left his employment voluntarily; (3-23-22)
- ii. Was discharged from his employment due to misconduct; (3-23-22)

- iii. Is unemployed due to a strike, lockout, or other labor dispute; (3-23-22)
- iv. Is not working due to a suspension; or (3-23-22)
- v. Was separated for any other reason except lack of available work. (3-23-22)

b. Employer Response. The employer's response must be given by the employer or on the employer's behalf by someone having personal knowledge of the facts concerning the separation. The employer should provide to the Department, via electronic media or mail, copies of any documentation supporting their position. (3-23-22)

07. Additional Claim or Reopened Claim. A claim must be reestablished after a claimant has failed to report or has reported excessive earnings for two (2) or more consecutive weeks. (3-23-22)

08. Use of Wage Credits. All unemployment insurance wage credits from any source that are assignable to the state of Idaho will be used in establishing a claim and determining the claimant's monetary eligibility. Ref. Sec. 72-1367(1), Idaho Code. (3-23-22)

09. Valid Claim. To be a valid claim for benefits, a claim must be filed during a week of no work, a week of less than full-time work in which the total wages payable to the claimant for work performed in such week amount to less than one and one-half (1-1/2) times the claimant's weekly benefit amount, or a week in which the claimant is separated from employment. Ref. Sec. 72-1327A and 72-1312, Idaho Code. (3-23-22)

426. -- 449. (RESERVED)

450. QUIT. Ref. Sec. 72-1366(5), Idaho Code. (3-23-22)

01. Burden of Proof. The claimant has the burden of proof to establish that he voluntarily left his employment with good cause in connection with the employment to be eligible for benefits. (3-23-22)

02. Cause Connected with Employment. To be connected with employment, a claimant's reason(s) for leaving the employment must arise from the working conditions, job tasks, or employment agreement. If the claimant's reason(s) for leaving the employment arise from personal/non job-related matters, the reasons are not connected with the claimant's employment. (3-23-22)

03. Good Cause. The standard of what constitutes good cause is the standard of reasonableness as applied to the average man or woman. Whether good cause is present depends upon whether a reasonable person would consider the circumstances resulting in the claimant's unemployment to be real, substantial, and compelling. (3-23-22)

04. Moral or Ethical Quit. A claimant who leaves a job because of a reasonable and serious objection to the work requirements of the employer on moral or ethical grounds and is otherwise eligible, will not be denied benefits. (3-23-22)

05. Quit Due to Health or Physical Condition. A claimant whose unemployment is due to his health or physical condition which makes it impossible for him to continue to perform the duties of the job will be deemed to have quit work with good cause connected with employment. (3-23-22)

06. Quit for Permanent Work or Quit Part-Time Work for Increase in Work Hours. A claimant who quits a temporary job for a permanent job or who quits part-time employment for employment with an increase in the number of hours of work will be deemed to have quit work with good cause connected with employment. (3-23-22)

07. Quit or Retirement During Employer Downsizing. An individual who has continuing suitable work available and who voluntarily elects to retire or to terminate employment during a period of reorganization or downsizing will be deemed to have voluntarily quit the employment for personal reasons. (3-23-22)

08. Unrelated Discharge Prior to Pending Resignation. The eligibility of a claimant discharged before a pending resignation has occurred for reasons unrelated to the pending resignation will be determined on the basis of the discharge. (3-23-22)

09. When Notice of Resignation Prompts a Discharge. If a claimant had given notice of a pending resignation, but was discharged before the effective date of the resignation, both “separations” must be considered. The following three (3) elements should be present for both actions to affect the claimant’s eligibility: (3-23-22)

- a. The employee gave notice to the employer of a specific separation date; (3-23-22)
- b. The employer’s decision to discharge the claimant before the effective date of the resignation was a consequence of the pending separation; and (3-23-22)
- c. The discharge occurred a short time prior to the effective date of the resignation. (3-23-22)

10. Quit Due to Harassment. Good cause for quitting employment may be established by showing the party was subjected to any form of harassment that is unlawful under the Idaho Human Rights Act, Title 67, Chapter 59, Idaho Code. (3-23-22)

451. -- 459. (RESERVED)

460. PROFESSIONAL ATHLETES BETWEEN SEASONS.
Ref. Sec. 72-1366(18), Idaho Code. (3-23-22)

01. Base Period Wages. No base period wages are used to establish a claim when substantially all services performed during the base period consist of participation in sports, athletic events, training, or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) if the individual performed such services in the first season (or similar period) and there is a reasonable assurance that the individual will perform such services in the later of such seasons (or similar periods). (3-23-22)

- 02. Reasonable Assurance.** Reasonable assurance requires the following: (3-23-22)
- a. The claimant has a contract, either written or oral; (3-23-22)
 - b. The claimant offered to work and the employer expressed an interest in hiring the player for the next season (or similar period); or (3-23-22)
 - c. The claimant expresses a readiness and willingness or intent to participate in the sport the following season. Reasonable assurance exists if the claimant asserts he or she intends to pursue employment as a professional athlete the next season despite not having a specific employer to return to or a formal offer of employment. (3-23-22)

03. Substantially All Services. An individual is deemed to have performed “substantially all services” in sports, athletic events, training, or preparing to so participate if ninety percent (90%) or more of the base period wages were based on such services. (3-23-22)

461. -- 474. (RESERVED)

475. REFUSAL OF WORK/FAILURE TO APPLY.
Ref. Sec. 72-1366(6), (7), Idaho Code. (3-23-22)

01. Citizenship or Residency Requirements. An employer’s restrictions on citizenship or residency is deemed good cause for a claimant’s failure to apply for available work if he does not meet the requirements. (3-23-22)

02. Claimant Conduct. A claimant who, by his conduct, causes an employer to withdraw an offer of suitable work or terminate the offer after the claimant has accepted it is ineligible. (3-23-22)

- 03. Claimant Responsibility.** A claimant has the responsibility to apply for and accept suitable work. (3-23-22)
- 04. Conscientious Objection.** A claimant may refuse employment that requires him to work on his Sabbath if his religious convictions do not permit him to work on that day. (3-23-22)
- 05. Employer Requirements.** Claimants are expected to comply with reasonable, lawful requirements that are typical of certain occupations, such as a requirement that a worker be bonded. Unreasonable requirements by employers will not be used as a basis to deny benefits. However, a claimant must have good cause to refuse or fail to meet an employer's reasonable, lawful employment requirements to be eligible for benefits. (3-23-22)
- 06. Failure to Report.** A claimant who fails to report to the Department when so directed, fails to follow explicit instructions for applying for suitable, available work, or fails to report to work after accepting employment, without good cause, is ineligible. Ref. Sec. 72-1366(2), (6), Idaho Code. (3-23-22)
- 07. Failure to Return to Work After Layoff.** A claimant who has been laid off, but fails to return to work on the date specified by the employer at the time of layoff or fails to respond to a callback after a layoff, will be considered to have refused an offer of work if the ongoing employment relationship is severed as a result. If the claimant declines work with the employer but the ongoing employment relationship is not severed as a result, the claimant's availability for work will be examined, but the claimant will not be considered to have refused an offer of work under Sections 72-1366(6) or (21)(a)(ii)(A), Idaho Code. (3-23-22)
- 08. Government Requirements.** A claimant who cannot meet government requirements within a reasonable period of time has good cause for refusing that opportunity to work. (3-23-22)
- 09. Moral Objections.** A claimant is not ineligible for failing to apply for or accept employment if the claimant has reasonable, serious objections to the work or the workplace on moral or ethical grounds. (3-23-22)
- 10. Offer of Work.** A claimant whose unemployment is due to his failure without good cause to accept available, suitable work is ineligible. The job offer must have been genuine and known to the claimant. (3-23-22)
- 11. Part-Time Work.** A claimant must be available for and willing to accept suitable part-time work in the absence of suitable full-time work. (3-23-22)
- 12. Personal Circumstances.** To have good cause to refuse to apply for or accept available, suitable work because of personal circumstances, a claimant must show that his circumstances were so compelling that a reasonably prudent individual would have acted in the same manner under the same circumstances. (3-23-22)
- 13. Prospect of More Suitable Work.** A claimant is not ineligible for failing to accept employment if he has excellent prospects for more suitable work with his former employer or in his regular occupation. (3-23-22)
- 14. Suitable Work.** Every claimant has the right to restrict his availability to suitable work. (3-23-22)
- 15. Travel Distance.** A claimant is not ineligible if the travel distance to available work is excessive or unreasonable. A claimant is ineligible if he fails to apply for and accept suitable work within a commuting area similar to other workers in his area and occupation. (3-23-22)

~~476.—499. (RESERVED)~~

500. REISSUING BENEFIT PAYMENTS.

~~Whenever a benefit payment is lost, stolen, destroyed, or forged, the claimant will be issued a new benefit payment upon his proper presentation of the facts and submission of an affidavit, in a form prescribed by the Department, for the issuance of a new benefit payment. Ref. Section 72-1368(1), Idaho Code. (3-23-22)~~

~~**01. Affidavit for Issuance of New Benefit Payment.** A claimant's affidavit filed for the issuance of a new benefit payment must be signed before a notary public or an authorized representative of the Department. (3-23-22)~~

~~02. Reissuance of Stolen Benefit Payments. If a claimant knows who took a benefit payment, he must provide evidence that he has taken all reasonably available legal steps and been unsuccessful in recovering the benefit payment before the Department will consider reissuing the benefit payment. (3-23-22)~~

~~501476.~~ -- 524. (RESERVED)

525. REPORTABLE INCOME.
Ref. Sections 72-1312, 72-1328, Idaho Code. (3-23-22)

01. Back Pay or Disputed Wages. Amounts received as a result of labor relations awards or judgments for back pay, or for disputed wages, constitute wages for the weeks in which the claimant would have earned them, or are assignable to the weeks stipulated in the award or judgment. (3-23-22)

02. Disability/Injury Compensation. Injury or disability compensation payments are not considered wages and are not reportable income for unemployment insurance purposes. (3-23-22)

~~03. Disability Retirement Payments. Retirement payments as a result of disability are treated the same as other types of retirement payments. Ref. Section 72-1312(4), Idaho Code. (3-23-22)~~

043. Gratuities or Tips. Gratuities or tips must be reported by a claimant for the week in which each gratuity or tip is earned. (3-23-22)

~~054.~~ **Holiday Pay.** Holiday pay must be reported as though earned in the week in which the holiday occurs. (3-23-22)

065. Non-Periodic Remuneration. All non-periodic remuneration such as one-time severance pay, profit sharing, and bonus pay is reportable for the week in which paid. (3-23-22)

~~076.~~ **Penalty or Damage Awards.** Amounts awarded to a claimant as a penalty or damages against an employer, other than for lost wages, do not constitute wages. (3-23-22)

087. Pension, Retirement, or Annuity Payments. The pension deduction provision of Section 72-1312(4), Idaho Code, only applies if the pension, retirement pay, annuity, or other similar periodic payment is made under a plan maintained or contributed to by a base period employer. The dollar amount of the weekly pension will be deducted from the claimant's weekly benefit amount unless the claimant has made contributions toward the pension. If the claimant has made contributions toward the pension plan, no deduction for the pension will be made from the claimant's weekly benefit amount. Ref. Section 72-1312(4), Idaho Code. (3-23-22)

a. Pension Contributions. The burden is on the claimant to establish by substantial, competent evidence that he has made contributions toward the pension, retirement pay, annuity or other similar payment plan. (3-23-22)

b. Pension Payment Changes. Any change in the amount of the pension, retirement, or annuity payments which affects the deduction from the claimant's weekly benefit amount will be applied in the first full week after the effective date of the change. (3-23-22)

~~098.~~ **Relief Work or Public Assistance.** (3-23-22)

~~a.~~ Remuneration received for relief work or public service work will be considered wages on the same basis as any other employment. (3-23-22)()

~~b.~~ Eligibility When Public Assistance Received. A person receiving public assistance is eligible for benefits if no work is involved and the claimant is otherwise eligible. (3-23-22)

~~109.~~ **Severance Pay.** An equal portion of a periodic severance payment must be reported in each week of the period covered by the payment. However, severance pay received in a lump sum payment at the time of

severance of the employment relationship must be reported when paid. (3-23-22)

140. Vacation Pay. Vacation pay allocable to a certain period of time in accordance with an employment agreement must be reported in the week to which it is allocable. However, vacation pay received in a lump-sum payment at the time of severance of the employment relationship must be reported when paid. (3-23-22)

~~**12. Verification of Earnings on Claim Reports.** The Department may verify the earnings and/or reasons for separation reported by claimants on claim reports filed for benefit payments. Ref. Section 72-1368(1), Idaho Code. (3-23-22)~~

131. Wages for Contract Services. A person who is bound by a contract which does not prevent him from accepting other employment but who receives pay for a period of not working, is required to report the contract payments as earnings in equal portions in each week of the period covered by the contract. This rule does not apply to employees of educational institutions. (3-23-22)

142. Wages for Services Performed Prior to Separation. Wages for services performed prior to a claimant's separation are reportable for the week in which earned. (3-23-22)

153. Temporary Disability Benefits. For any week with respect to which a claimant is receiving or has received temporary disability benefits under a worker's compensation law of any state or under a similar law of the United States, such payments must be reported in an amount attributable to such week. (3-23-22)

526. -- 549. (RESERVED)

550. REPORTING REQUIREMENTS.

Each claimant must report weekly or biweekly for benefits as directed. When filing claim reports, a claimant must use the reporting method assigned by the Department. Failure to file timely reports in a manner required by this rule will result in ineligibility for benefits for the week(s) claimed. Ref. Section 72-1366(1), Idaho Code. (3-23-22)

01. Mailed Reports. Reports that are mailed are considered timely when the envelope containing the report is postmarked within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period will extend to the next working day. (3-23-22)

02. Internet Reports. Reports filed via the Internet are considered timely when made between 12:00 a.m., mountain time zone, of the Sunday following the week being claimed and midnight 11:59 p.m., mountain time zone of the Saturday following the week being claimed. (3-23-22)

03. Facsimile Reports. Reports filed by facsimile are considered timely when transmitted on a form provided by the Department to a telephone number designated by the Department to receive such documents within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period will extend to the next working day. Reports are deemed filed upon receipt by the Department. (3-23-22)

04. Electronic Mail Reports. Reports filed by electronic mail are considered timely when electronically mailed in a format provided by the Department to an email address designated by the Department to receive such documents within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period will extend to the next working day. Reports are deemed filed upon receipt by the Department. (3-23-22)

05. Telephone Reports. Reports filed by telephone are timely if the claimant contacts the Central Claims Office at a telephone number designated by the Department to provide such reports during regular business hours within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period will extend to the next working day. (3-23-22)

06. When Report Missing. If a claimant establishes, by credible and corroborated evidence, that a missing report was properly filed as required by this rule, a replacement report will be considered timely. (3-23-22)

551. -- 574. (RESERVED)

575. SEEKING WORK.

Ref. Sec. 72-1366(4), (6), Idaho Code.

(3-23-22)

~~01. Attitude and Behavior. A claimant's attitude and behavior must be conducive to a positive reaction by employers to his job search.~~ (3-23-22)

~~02. Effort to Secure Employment. A claimant will be expected to do what is normally done by unemployed persons that are seeking work.~~ (3-23-22)

~~03. Employer's Hiring Practices. An employer's reluctance to hire a claimant because of his appearance or physical condition is not a determining factor in ruling on the claimant's eligibility.~~ (3-23-22)

041. Job Attachment Classifications. For the purpose of administering the work search requirements of Section 72-1366(4) and (6), Idaho Code, a claimant will be classified according to his attachment to an employer or industry, as follows: (3-23-22)

a. Code ~~R-Recall, U-Union~~ or ~~X-Both~~ **Attached.** A claimant who has a firm attachment to an employer, industry or union, or who is temporarily or seasonally unemployed, and expects to return to his former job or employer in a reasonable length of time not to exceed a maximum of sixteen (16) weeks. If during the sixteen (16) weeks the claimant returns to work temporarily for the job attached employer, the claimant's period of job attachment will be extended by one (1) week for each week of verified full-time employment as defined by Section 72-1312, Idaho Code. (3-23-22)()

b. Code ~~B~~ **Workseeking.** A claimant who possesses marketable skills in an occupation, but has no immediate prospects for reemployment, and whose employment expectations (i.e., wages, hours, etc.) are realistic in relation to the normal labor market supply and demand in his area of availability. (3-23-22)()

c. Code ~~D~~ **Approved Training.** A claimant who is assigned to a training course under the provisions of Section 72-1366(8), Idaho Code. (3-23-22)()

~~05. Jobs Availability. A claimant will not be required to make useless employer contacts if there are no jobs available in the area due to seasonal factors.~~ (3-23-22)

062. License or Permits. A claimant must provide or be capable of obtaining a license or permit if required by law for performance of the work. (3-23-22)

073. No Employment Prospects. A claimant must apply for and accept a lower or beginning pay rate for employment if he has no prospects for a better paying job in the locality. (3-23-22)

084. Seasonal Availability. A claimant who is regularly employed on a seasonal basis must be available for other types of work in the off-season to be eligible for benefits. (3-23-22)

095. Work-Seeking Requirement Categories. A claimant must seek work in accordance with the following categories of work-seeking activity, as instructed by a Department representative or as notified by the Department via electronic claims messaging. A claimant must meet the requirements of the code to which the claimant is assigned. A claimant's category of work-seeking activity will be determined and modified based on the claimant's prevailing local labor market conditions and/or the average county unemployment rates. Failure to comply with work-seeking requirements will result in a denial of benefits. (3-23-22)

a. Code ~~0~~ **zero (0)** claimant must maintain regular contact with his employer(s) or union. (3-23-22)()

b. Code ~~1~~ **claimant must engage in one (1) or more of the following activities to increase his prospects of securing employment: Code five (5) claimant must make work search actions in accordance with Section 72-1366(4)(a)(i), Idaho Code.** (3-23-22)()

- ~~Office;~~
- ~~i. Make at least one (1) employer contact each week in the manner prescribed by the Central Claims Office; (3-23-22)~~
 - ~~ii. Attend a Job Search Workshop; (3-23-22)~~
 - ~~iii. Expand work search efforts to surrounding areas or states; (3-23-22)~~
 - ~~iv. Send resumes to firms/businesses that hire people with his skills; (3-23-22)~~
 - ~~v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-23-22)~~
 - ~~vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (3-23-22)~~
- ~~e. Code 2 claimant must engage in one (1) or more of the following activities to increase his prospects of securing employment: (3-23-22)~~
- ~~Office;~~
- ~~i. Make at least two (2) employer contacts per week in the manner prescribed by the Central Claims Office; (3-23-22)~~
 - ~~ii. Attend a Job Search Workshop; (3-23-22)~~
 - ~~iii. Expand work search efforts to surrounding areas or states; (3-23-22)~~
 - ~~iv. Send resumes to firms/businesses that hire people with their skills; (3-23-22)~~
 - ~~v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-23-22)~~
 - ~~vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (3-23-22)~~
- ~~d. Code 3 claimant must engage in one (1) or more of the following activities to increase his prospects of securing employment: (3-23-22)~~
- ~~Office;~~
- ~~i. Make at least three (3) employer contacts per week in the manner prescribed by the Central Claims Office; (3-23-22)~~
 - ~~ii. Attend a Job Search Workshop; (3-23-22)~~
 - ~~iii. Expand work search efforts to surrounding areas or states; (3-23-22)~~
 - ~~iv. Send resumes to firms/businesses that hire people with their skills; (3-23-22)~~
 - ~~v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-23-22)~~
 - ~~vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (3-23-22)~~

576. -- 599. (RESERVED)

600. SELF-EMPLOYMENT.

A claimant is ineligible when his self-employment is of such size and nature that the operation of it is his principal duty and working for an employer is merely incidental. Ref. Sec. 72-1366(13), Idaho Code. (3-23-22)

01. Occupational Conflicts. Agricultural activities, commercial enterprises, family enterprises, and commission sales work are examples of self-employment which may render a claimant ineligible unless he can show he is seeking employment and is available for suitable work. (3-23-22)

02. Potential Employability. A claimant is eligible if his self-employment in no way interferes with his potential employability and work schedule. (3-23-22)

~~601. – 649. (RESERVED)~~

~~**650. SIGNATURES OF ILLITERATES AND WITNESSES.**~~

~~If a claimant is unable to write his name, he must instead use the mark (X). The mark must be witnessed by a Department representative or an individual who must enter, immediately after the mark (X), the words "His Mark." Next, the name of the claimant must be printed, followed by the signature of the Department representative or the individual who witnessed the mark. Ref. Sec. 72-1366 (1), Idaho Code. (3-23-22)~~

~~651.01. – 674. (RESERVED)~~

675. TOTAL TEMPORARY DISABILITY ALTERNATE BASE PERIOD (TTD).

The alternate base period provision of Section 72-1306(2), Idaho Code, will apply only if the claimant cannot establish monetary eligibility by using the regular base period described in of Section 72-1306(1), Idaho Code. (3-23-22)

676. – 699. (RESERVED)

700. PARTIAL PAYMENTS OF AMOUNTS OWED THE DEPARTMENT.

Upon the Department's receipt of a partial payment of an overpayment and accrued interest and penalties thereon, the Department must, unless other arrangements have been made with the debtor and approved by the Department, apply the partial payment to the amounts owed as follows: (3-23-22)

01. Interest. The partial payment must be applied first to any accrued interest of the amounts due, starting with the oldest accrued interest; (3-23-22)

02. Penalties. After any accrued interest has been paid in full, the partial payment must be applied next to any assessed penalties, starting with the oldest assessed penalty; (3-23-22)

03. Fraud Overpayments. After all accrued interest and assessed penalties have been paid in full, the partial payment must be applied next to any fraud overpayments due, starting with the oldest fraud overpayment; and (3-23-22)

04. Nonfraud Overpayments. After all fraud overpayments have been paid in full, the partial payment must be applied next to any nonfraud overpayments, starting with the oldest nonfraud overpayment. Ref. Sec. 72-1369, Idaho Code. (3-23-22)

701. – 724. (RESERVED)

725. RECOVERIES.

Unless the overpayment resulted from a determination that the claimant willfully made a false statement or willfully failed to report a material fact, overpayments will be deducted from any future benefits payable. Ref. Secs. 72-1369 and 72-1366, Idaho Code. (3-23-22)

726. – 749. (RESERVED)

750. WAIVER OF REPAYMENT.

An interested party must submit a written request for a waiver of repayment within fourteen (14) days of the date of mailing of the Determination of Overpayment. Ref. Sec. 72-1369 (3-23-22)

751. – 999. (RESERVED)

IDAPA 09 – IDAHO DEPARTMENT OF LABOR
09.01.35 – UNEMPLOYMENT INSURANCE TAX ADMINISTRATION RULES
DOCKET NO. 09-0135-2401 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-1300 et seq., Idaho Code, and Sections 45-600 et seq., 74-106(7), 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:

These rules are being adopted as part of the IDOL's plan to review each rule every 5 years. The changes are consistent with the [Executive Order 2020-01, Zero Based Regulation](#).

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2024, Idaho Administrative Bulletin, [Vol. 24-10, pages 175-190](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Not applicable. There are no fees or charges associated with this rulemaking.

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

This rulemaking is not anticipated to have any fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Darlene Carnopis at (208) 696-2380.

DATED this 20th day of November, 2024.

Darlene Carnopis
Policy Coordinator
Idaho Department of Labor
317 W. 3rd St.
Boise, ID 83702
Phone: (208) 696-2380
Email: darlene.carnopis@labor.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 72-1300 et seq., Idaho Code, Sections 45-600 et seq., 74-106(7), 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 Oct. 16, 2024.

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: These rules are being presented for authorization as part of the IDOL's plan to review each rule every 5 years. There are no specific rulemaking changes planned by the IDOL at this time except for evaluation and amendment consistent with the Governor's [Zero-Based Regulation Executive Order](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. The IDOL intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules' statutory authority and the Governor's Executive Order. The IDOL will review the documents that are currently incorporated by reference in this rule and update that list as applicable.

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: No fiscal impact.

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, 2024, Idaho Administrative Bulletin, [Vol. 24-7, page 61-62](#).

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 Darlene Carnopis at 208-696-2380.

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 Oct. 23, 2024.

DATED this 30th day of August, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 09-0135-2401

09.01.35 – UNEMPLOYMENT INSURANCE TAX ADMINISTRATION RULES

000. LEGAL AUTHORITY.

These rules are promulgated under Section 72-1333, Idaho Code. (3-23-22)

001. SCOPE.

These rules govern Department procedures and the rights and duties of employers under the Unemployment Insurance Program. (3-23-22)

002. ADMINISTRATIVE APPEALS.

Administrative appeals from determinations under this chapter may be taken as provided in IDAPA 09.01.01, "Rules of Administrative Procedure of the Department of Labor," and Sections 72-1361 and 72-1368, Idaho Code. (3-23-22)

003. -- 010. (RESERVED)

011. GENERAL PROVISIONS.

01. Quarterly Reporting. Subject employers shall report all wages paid for services in covered employment each calendar quarter. In the event a subject employer does not pay wages during a calendar quarter, the employer shall file a quarterly report indicating that no wages were paid. Ref. Section 72-1337, Idaho Code. (3-23-22)

02. Contribution Due Date. If the normal due date falls on a weekend or holiday the next workday is the due date for contributions. Ref. Section 72-1349, Idaho Code. (3-23-22)

03. Penalties and Interest on Bankruptcy. Penalty and/or interest shall not be assessed on amounts covered in the Department's Proof of Claim with the Bankruptcy Court for the period after the filing date of the Bankruptcy Petition and ending with the conclusion of bankruptcy proceedings and distribution of assets. Post petition penalty and interest shall be compromised, provided the amount due is paid in full by a date established after the termination of the bankruptcy proceedings. Ref. Section 72-1356, Idaho Code. (3-23-22)

04. Lien Interest. Lien interest on a delinquent account shall be assessed against the remaining unpaid balance computed from the day following the recording of a tax lien. Ref. Section 72-1360, Idaho Code. (3-23-22)

~~**05. Penalty and Interest During Controversy.** Penalty and/or interest shall be compromised for periods when a valid controversy exists if amounts determined to be due are paid in full by a date established at the conclusion of the issue. Ref. Sections 72-1354 and 72-1360, Idaho Code. (3-23-22)~~

06. Determinations and Appeals. The rules governing the form, filing, and other procedures relating to determinations under this chapter, and any appeal from those determinations, are provided in IDAPA 09.01.01, "Rules of Administrative Procedure of the Department of Labor." (3-23-22)

~~**07. When Reports Replace Determinations.** In cases where a determination of amounts due is made by the Department pursuant to Section 72-1358, Idaho Code, the reports shall replace the determination and will be used to establish the employer's liability if: (3-23-22)~~

~~**a.** The employer files reports for the periods covered by the determination before the determination becomes final; and (3-23-22)~~

~~**b.** The Department determines that the reports are accurate and complete. If the Department determines the reports are not accurate or complete, the reports shall be treated as an appeal of the determination. (3-23-22)~~

08. Determination of Payment Date. Each amount shall be deemed to have been paid on the date that

the Department receives payment thereof in cash or by check or other order for the payment of money honored by the drawer on presentment; provided, that if sent through the mail, it shall be deemed to have been paid as of the date mailed as determined by the postmark on the envelope containing same, or the date of the check in lieu of a postmark. Provided further, that in the case of payments received by means of garnishment, execution, or levy, the amount received shall be deemed to have been paid as of the date that the order of garnishment, execution, or levy is served. Ref. Section 72-1349, Idaho Code. (3-23-22)

097. Release of Lien upon Payment in Full. An amount secured by a lien shall be deemed to be satisfied when payment in full is received by the Department in the form of cash, money order, or other certified funds, or proof presented that a check or other negotiable instrument has been honored by its drawer upon presentment. Ref. Section 45-1908, Idaho Code. (3-23-22)

1008. Contribution Reports. Each contribution shall be accompanied by an employer's contribution report. All contribution reports shall be filed electronically with the department unless the employer has petitioned the department in writing for a waiver and the department has granted a waiver allowing the filing of a non-electronic contribution report. All contribution reports shall be in a form or medium prescribed and furnished or approved for such purpose by the department, giving such information as may be required, including number of individuals employed and wages paid or payable to each, which must be signed, furnished, or acknowledged by the covered employer or, on their behalf by someone having personal knowledge of the facts therein stated, and who has been authorized by the covered employer to submit the information. Ref. Section 72-1349, Idaho Code. (3-23-22)

a. Common paymaster arrangements as referenced by Internal Revenue Code Section 3306 are prohibited for Idaho unemployment insurance purposes. Each covered employer shall complete and submit an Idaho business registration form and the Department will assign to the covered employer a unique unemployment insurance account number. The covered employer must file quarterly reports under its assigned unemployment insurance account number. The workers of one (1) covered employer may not be reported using the assigned unemployment insurance account number of a different covered employer or related entity. Ref. Sections 72-1325 and 72-1315, Idaho Code. (3-23-22)

012. -- 039. (RESERVED)

040. COMPROMISE OF PENALTY AND CIVIL PENALTY.

Pursuant to Section 72-1354, Idaho Code, the Director or his authorized representative may, for good cause shown, compromise the amount of penalties owed on an employer account. An employer shall submit a request in writing for compromise of penalties, setting forth the reason(s) for the delinquency, and attaching any available evidence supporting the request. (3-23-22)

01. Good Cause. An employer has established good cause if the employer can show that one (1) of the following criteria has been met: (3-23-22)

a. The reason for the delinquency was beyond the reasonable control of the employer. Examples of circumstances that are beyond the reasonable control of the employer include, but are not limited to, the following: (3-23-22)

i. Departmental error, including but not limited to providing incorrect information to the employer or not furnishing proper forms in sufficient time to permit timely payment of contributions; (3-23-22)

ii. Death or serious illness or injury of the employer or the employer's accountant or members of their immediate families; (3-23-22)

iii. Destruction by fire or other casualty of the employer's place of business or business records; or (3-23-22)

iv. Postal service delays. (3-23-22)

b. The delinquency was due to circumstances for which the imposition of penalties would be inequitable. (3-23-22)

c. Good cause is also established in the case of an employer who has never received a status determination, who has never paid any contributions to the director, who voluntarily approaches the Department to inquire as to whether workers are engaged in covered employment, and the failure to pay contributions was due to the employer's good faith belief that the employer was not a covered employer pursuant to the provisions of Idaho Employment Security Law. Ref. Section 72-1354, Idaho Code. (3-23-22)

041. -- 050. (RESERVED)

051. ROUNDING WAGES REPORTED ON CONTRIBUTION REPORT TO NEXT LOWER DOLLAR AMOUNT.

The total wages and taxable wages shown on the contribution report which are to be used in computing contributions due shall be reduced to the next lower dollar amount. Ref. Section 72-1349, Idaho Code. (3-23-22)

052. -- 055. (RESERVED)

056. APPLICATION OF PAYMENTS ON DELINQUENT ACCOUNTS.

Unless otherwise specified and approved by the Department, apply payment as follows: (3-23-22)

01. First Application. First, credit such payment in satisfaction of interest due for the calendar quarter or period most delinquent in point of time; (3-23-22)

02. Second Application. Next, credit the remainder of such payment in satisfaction of penalty due for such calendar quarter or period most delinquent in point of time; (3-23-22)

03. Third Application. Next, credit the remainder of such payment in satisfaction of contributions due for the calendar quarter or period most delinquent in point of time; (3-23-22)

04. Subsequent Applications. Such applications shall be applied in a like manner for each remaining delinquent quarter. Any remaining credit shall be applied to interest on civil penalties then to civil penalty due until the amount of payment is exhausted. Ref. Section 72-1354, Idaho Code. (3-23-22)

057. -- 060. (RESERVED)

061. DEFINITIONS.

The definitions listed in IDAPA 09.01.35, "Unemployment Insurance Tax Administration Rules," Section 011, and the following are applicable to the UI Compliance Bureau. (3-23-22)

01. Tolerance Amount. A tolerance of four dollars and ninety-nine cents (\$4.99) is established in connection with collection of amounts due; and under normal circumstances, no delinquency or credit will be issued or carried on the books of accounts for this amount or less. Ref. Section 72-1349, Idaho Code. (3-23-22)

02. Wages. The term "wages" includes all remuneration from whatever source, paid or given in exchange for services performed or to be performed, including the cash value of remuneration in any medium other than cash. "Wages" in covered employment, and subject to unemployment insurance reporting, include, but are not limited to: (3-23-22)

a. Commissions, bonuses, draws, distributions, dividends and any other forms or types of payments made by corporations or other similar entities if paid in exchange for services; (3-23-22)

b. Bonuses, prizes, and gifts given to an employee in recognition of services, sales, or production; (3-23-22)

c. Commissions for past services in covered employment; (3-23-22)

d. Remuneration paid to corporate officers which is paid in exchange for services performed or to be performed for or on behalf of the corporation; (3-23-22)

- e. Salary advances against commissions; (3-23-22)
 - f. All forms of profit sharing for services rendered unless specifically exempt under Section 72-1328, Idaho Code; (3-23-22)
 - g. Excess travel or employer business allowances over actual expense, or over the federal allowance per diem rate for the area of travel, unless returned to the employer; (3-23-22)
 - h. Vacation or “idle-time” pay, no matter when paid; (3-23-22)
 - i. Personal expense reimbursement, not gifts, i.e., clothing, family expenses, rent. (3-23-22)
 - j. The director or his authorized representative shall determine the fair market value of any other remuneration, regardless of its classification, form, or label, which is paid to a worker in exchange for services. In making such determination, consideration will be given to the prevailing wage for similar services. Ref. Section 72-1328, Idaho Code. (3-23-22)
- 03. Exclusions From Wages.** The term “wages” described in Section 72-1328, Idaho Code, does not include the following: (3-23-22)
- a. Prizes or gifts for special occasions which are expressions of good will; (3-23-22)
 - b. Bonuses paid for signing a contract; (3-23-22)
 - c. Fees paid to participate periodically in meetings of boards of directors unless exceedingly high; i.e., amounts comparable to other employers in the same industry, of relatively the same size; (3-23-22)
 - d. Drawings or advances by partners of a partnership, or by members of a limited liability company treated for federal tax purposes as a partnership or sole proprietorship; (3-23-22)
 - e. Rental charge for personal equipment provided by the employee on the job: if (3-23-22)
 - i. There is a rental agreement; and (3-23-22)
 - ii. The worker has received a reasonable wage for services performed; and (3-23-22)
 - iii. The fees are held separately on the employer’s records. (3-23-22)
 - f. Stock or membership interests issued for purposes other than services performed or to be performed; (3-23-22)
 - g. Reimbursement for actual employee expense, or business allowance arrangements with employees that requires them: (3-23-22)
 - i. To have paid or incurred reasonable job related expenses while performing services as employees; and (3-23-22)
 - ii. To account adequately to the employer for these expenses; and (3-23-22)
 - iii. To return any excess reimbursement or allowance. (3-23-22)
 - h. Payments for employee travel expenses, provided: (3-23-22)
 - i. Payments are job related expenses while performing services; and (3-23-22)
 - ii. Payments do not exceed actual expenses or the federal allowance per diem rate for the area of

travel; and (3-23-22)

iii. Records for days of travel pertaining to per diem payments are verifiable. (3-23-22)

i. Employee fringe benefits as set forth in Section 132 of the Internal Revenue Code, which are excluded from an employee's gross income and which are not subject to federal unemployment taxes. (3-23-22)

j. Noncash payment to farmworkers. Noncash payments for farm work will be excluded from wages if they are "de minimis" in relation to the amount of cash wages paid to the farmworkers, or are not intended to be treated as the cash equivalent of wages, or as the cash payment of wages. Ref. Section 72-1328, Idaho Code. (3-23-22)

k. Payments of any kind by a partnership to its partner or by a sole proprietorship to its owner. (3-23-22)

04. Treatment of Limited Liability Companies. For purposes of state unemployment tax coverage, a limited liability company will have the same status as it may have elected for federal tax purposes, or as that status may be determined or required by the federal government, subject to the provisions of Subsections 061.02 and 061.03. Any member of a limited liability company that has elected to be treated as a corporation for federal tax purposes shall be treated as a corporate officer for state Employment Security Law purposes. (3-23-22)

05. Domestic Employment. Domestic employment is defined as work performed in the operation or maintenance of a private home, local college club, or local chapter of a college fraternity or sorority, as distinguished from services as an employee in pursuit of an employer's trade, occupation, profession, enterprise, or vocation. In general, domestic employment "in the operation or maintenance of a private home, local college club, or local chapter of a college fraternity or sorority" includes, but is not limited to, services rendered by cooks, waiters, butlers, maids, janitors, handymen, gardeners, housekeepers, housemothers, and in-home caregivers. Ref. Section 72-1315, Idaho Code. (3-23-22)

06. Casual Labor. Casual labor is labor that meets the requirements of Section 72-1316A(19), Idaho Code. The term, "services not in the course of the employer's trade or business," refers to services that do not promote or advance the trade or business of the employer. (3-23-22)

07. Willfully. When applied to the intent with which an act is done or omitted, willfully implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, in the sense of having an evil or corrupt motive or intent. It is more nearly synonymous with "intentionally," "designedly," "without lawful excuse," and therefore not accidental. Ref. Section 72-1372 and 72-1351A, Idaho Code. (3-23-22)

062. SUBSTANCE VS. FORM.

In recognizing covered employers, covered employment and in classifying wages, the Department shall examine both the substance and the form of the arrangement, contract, transaction or event, but more consideration shall be given to the substance of the arrangement, contract, transaction or event than to the form. If it is determined that true economic substance is lacking or the operations, accounting practices and records do not reflect the purported form or legal status, the Department shall, regardless of the form, determine proper coverage or classification. (3-23-22)

063. -- 080. (RESERVED)

081. EMPLOYER RECORDS.

Each person hiring one (1) or more individuals, whether or not such employment is sufficient to create the status of a covered employer, shall maintain records for five (5) years to show the information hereinafter indicated. Ref. Section 72- 1337, Idaho Code. (3-23-22)

01. Required Information. Such records shall show with respect to each employee unless the Department has ruled that the services do not constitute covered employment: (3-23-22)

a. Full name and home address of worker; (3-23-22)

- b. Social Security account number; (3-23-22)
- c. The place of work within this State; (3-23-22)
- d. Date on which employee was hired, rehired, or returned to work after temporary or partial layoff; (3-23-22)
- e. Date employment was terminated; whether the termination occurred by voluntary action of the individual and the reason given, or by discharge or death, and the reason for discharge; (3-23-22)
- f. Wages paid for employment in each pay period and total wages for all pay periods ending in each quarter of the year, showing separately: money wages; the cash value of other remuneration; and the amount of all bonuses or commissions. (3-23-22)

02. Travel or Employee Business Expenses. Amounts paid to employees as allowances or reimbursement for travel and employee business expenses and the amounts of such expenditures actually incurred and accounted for by them. (3-23-22)

03. Records to Be Made Available. The records to be made available to the director or his authorized representative, in accordance with the provisions of Section 72-1337, Idaho Code, shall include all of the business records, such as journals, ledgers, time books, minute books, or any other records or information which would tend to establish the existence of and/or amounts paid for services performed, whether or not in covered employment, and for information necessary to assist in or enable collection efforts or any other investigations conducted by the Department. (3-23-22)

082. -- 095. (RESERVED)

096. EMPLOYER STATUS REPORT.

01. Status Report. Each employer shall report on such form or any online system as may be prescribed and furnished, such information as may be necessary to make an initial or subsequent determination of status under the Idaho Code. Said reports shall be signed by the employer, or on behalf of the employer by a duly authorized representative for such purpose. Ref. Section 72-1337, Idaho Code. (3-23-22)

02. Exceptions. The provisions of this Rule do not apply to any employer for whom the services performed do not, by virtue of the provisions of Section 72-1316, Idaho Code, constitute covered employment, except that the director reserves the right, in his discretion, to require any such employer at any time to make the reports mentioned in Section 096 of this rule. Ref. Section 72-1337, Idaho Code. (3-23-22)

097. -- 105. (RESERVED)

106. CLAIMS OF EXEMPTION.

Any employer claiming that services performed for the employer or remuneration paid by the employer does not constitute covered employment or covered wages, as defined in Section 72-1316 and 72-1328, Idaho Code, shall make a report to the Department of Labor of all pertinent facts upon which said claim is based, which report needs to be signed by the person making the claim, if he is the employer, or on behalf of the employer by an authorized representative. Ref. Section 72- 1337, Idaho Code. (3-23-22)

107. REMUNERATION PAID CONSTITUTES BOTH TAXABLE WAGES AND EXCLUDED AMOUNTS.

When remuneration paid includes payment for other than wages for services performed in covered employment, the employer's records must account for wages and other remuneration separately. When this distribution is not shown on the records, the employee's entire remuneration will be deemed to be wages. Ref. Section 72-1337, Idaho Code. (3-23-22)

108. ELECTION TO EXEMPT CORPORATE OFFICERS.

A corporation may elect to exempt one (1) or more corporate officers from coverage by registering with the Department each qualifying corporate officer it elects to exempt pursuant to Section 72-1352A, Idaho Code. Registrations in the format prescribed by the Department made on or before December 15th shall become effective on the first day of the next calendar year and remain effective for at least two (2) consecutive calendar years. Exemptions are not retroactive and no refund or credit shall be given for contributions paid before the effective date of the exemption. Exemptions continue to remain in effect after two (2) consecutive calendar years unless the exemption is terminated according to Subsection 108.04 of this rule or coverage is reinstated according to Subsection 108.05 of this rule. (3-23-22)

01. Public Company Election. A public company, as defined in Section 72-1352A, Idaho Code, may elect to exempt any bona-fide corporate officer who: (3-23-22)

a. Is voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation; (3-23-22)

b. Is a shareholder of the corporation; (3-23-22)

c. Exercises control in the daily management of the corporation; and (3-23-22)

d. Does not perform manual labor as a primary work responsibility. (3-23-22)

02. Election for Corporations That Are Not Public Companies. A corporation that is not a public company as defined in Section 72-1352A, Idaho Code, may exempt from coverage any bona-fide corporate officer who: (3-23-22)

a. Is a shareholder of the corporation; (3-23-22)

b. Voluntarily agrees to be exempted from coverage; and (3-23-22)

c. Exercises substantial control in the daily management of the corporation. (3-23-22)

03. Election to Exempt Not Applicable. The election to exempt does not apply to corporate officers covered by Sections 72-1316A, 72-1322D and 72-1349C, Idaho Code. (3-23-22)

04. Termination of Exemption. A corporate officer's exemption terminates upon the corporate officer's failure to satisfy the election criteria of Section 72-1352A, Idaho Code. It is the responsibility of the corporation to notify the Department in writing in a format required by the Department when an exempt corporate officer no longer meets the election criteria. A corporation is responsible for any taxes, penalties, and interest due after the date the exemption is terminated or should have been terminated. (3-23-22)

05. Reinstatement of Coverage. A corporation may elect to reinstate coverage for one (1) or more corporate officers previously exempted. Reinstatement requires written notice from the corporation to the Department in a format required by the Department. Reinstatement requests received by the Department on or before December 15th become effective the first day of the calendar year following the end of the exemption's initial two (2) year effective date. Coverage shall not be reinstated retroactively. (3-23-22)

06. Definitions. For purposes of this chapter: (3-23-22)

a. "Bona-fide corporate officer" is defined as any individual empowered in good faith by stockholders or directors, in accordance with the corporation's articles of incorporation or bylaws, to discharge the duties of a corporate officer. (3-23-22)

b. "Exercise substantial control in the daily management of the corporation" is defined as when an individual makes managerial decisions over a business function or functions that have some effect on the entire corporation. This includes the authority to hire and fire, to direct other's activities in the corporation, or the responsibility to account for and pay over taxes or debts incurred by the corporation. (3-23-22)

07. Services in Employment. Unless specifically exempted, services performed by corporate officers are considered services in employment and are covered for purposes of unemployment insurance. (3-23-22)

109. -- 110. (RESERVED)

111. SERVICES PERFORMED PART IN COVERED EMPLOYMENT AND PART IN EXCLUDED EMPLOYMENT.

When wages paid cover services performed both in covered employment and excluded employment, the employer's records must show the hours and wages for covered employment and also hours and wages for excluded employment. When this distribution is not shown on the records, the employee's entire wage will be deemed to have been earned in covered employment. Ref. Section 72-1337, Idaho Code. (3-23-22)

112. DETERMINING STATUS OF WORKER.

01. Determining if Worker Is an Employee. In making a determination as to whether a worker is performing services in covered employment, it shall be determined whether the worker is an employee. To determine whether a worker is an employee, the following factors may be considered: (3-23-22)

a. The way in which the business entity represented its relationship with the worker prior to the investigation or litigation, including representations to the Internal Revenue Service; (3-23-22)

b. Statements made to the Department; (3-23-22)

c. Method of payment to the worker, in particular whether federal, state, and FICA taxes are withheld from paychecks; and (3-23-22)

d. Whether life, health, or other benefits are provided to the worker at the business entity's expense. (3-23-22)

02. Determining if Worker Is an Independent Contractor. If it cannot be determined that a worker is an employee pursuant to Subsection 112.01 above, then a determination shall be made whether the worker is an "independent contractor" pursuant to the terms of Section 72-1316(4), Idaho Code. For the purposes of that section and these rules, an independent contractor is a worker who meets the requirements of both Sections 72-1316(4)(a) and (b), Idaho Code. (3-23-22)

03. Proving Worker Is Free from Control or Direction in His Work. To meet the requirement of Section 72-1316(4)(a), Idaho Code, the alleged employer must prove that a worker has been and will continue to be free from control or direction in the performance of his work, both under his contract of service and in fact. The following factors may be considered in this determination: (3-23-22)

a. Whether the alleged employer has control over the details of the work, the manner, method or mode of doing the work, and the means by which the work is to be accomplished, but without reference to having control over the results of the work. (3-23-22)

b. The freedom from direction and control must exist in theory (under a contract of service) and in fact; and (3-23-22)

c. The employer must demonstrate that it lacked a right to control the worker. (3-23-22)

04. Proving Worker Is Engaged in Independently Established Business. To meet the requirement of Section 72-1316(4)(b), Idaho Code, it must be proven that a worker is engaged in an independently established trade, occupation, profession or business. The following factors are significant and shall be considered in making this determination, although no single factor is regarded as controlling: (3-23-22)

a. The level of skill required to perform the work; (3-23-22)

i. A worker who performs routine tasks requiring little or no training is indicative of the worker's

status as an employee. (3-23-22)

ii. A worker who performs work requiring skills marketable as a trade, occupation, profession or business, such as an electrician, attorney, physician, or CPA, is indicative of the worker's status as an independent contractor. (3-23-22)

iii. A worker who performs work requiring special licensing or compliance with regulatory requirements is indicative of the worker's status as an independent contractor. (3-23-22)

iv. A worker who receives all or substantially all of the worker's job training from the alleged employer is indicative of the worker's status as an employee. (3-23-22)

b. The extent to which the worker's services are an integral part of the alleged employer's business; (3-23-22)

i. A worker who performs the primary type of work that the alleged employer is in business to provide to its customers or clients is indicative of the worker's status as an employee. For example, an automotive repair business hires an additional mechanic to help in its service repair shop. Since the work provided by the worker is the primary type of work the automotive repair business provides to its customers, the work is indicative of the worker's status as an employee. (3-23-22)

ii. A worker who performs a specific job that is secondary to an integral part of the employer's business is indicative of the worker's status as an independent contractor. For example, if a manufacturing business requiring routine electrical work within its manufacturing facility hires an independent electrical company to provide that service, the electrical work performed is indicative of the worker's status as an independent contractor. (3-23-22)

iii. A worker who supervises the alleged employer's employees is indicative of the worker's status as an employee. (3-23-22)

iv. If the success of a business depends to an appreciable degree upon the performance of certain services, the worker performing those services is indicative of that worker's status as an employee. (3-23-22)

v. If a worker is not required to work solely for the alleged employer and there is a separate contractual relationship for each job that ends upon the completion of that job, the work is indicative of the worker's status as an independent contractor. (3-23-22)

c. The permanency of the relationship; (3-23-22)

i. The longer a worker works solely for a single alleged employer, the more indicative it is of the worker's status as an employee. (3-23-22)

ii. A worker who makes the worker's services available to the general public for hire on a regular and consistent basis is indicative of the worker's status as an independent contractor. (3-23-22)

iii. A worker whose hours worked are regularly scheduled, rather than sporadic or occasional, is indicative of the worker's status as an employee. (3-23-22)

iv. Work with a specific ending date that ends the working relationship between the worker and the alleged employer is indicative of the worker's status as an independent contractor. (3-23-22)

v. Work that is open ended allowing the worker to continue working for the same alleged employer as long as performance standards are met, is indicative of the worker's status as an employee. (3-23-22)

d. A worker's investment in facilities and equipment; (3-23-22)

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

(3-23-22)

ii. A worker who uses the tools and equipment of the alleged employer is indicative of the worker's status as an employee. (3-23-22)

iii. A worker's significant investment in tools and equipment compared to the cost of the tools and equipment provided by the alleged employer is indicative of the worker's status as an independent contractor. (3-23-22)

iv. A worker who is financially responsible to the alleged employer for damage to equipment or tools is indicative of the worker's status as an independent contractor. (3-23-22)

v. A worker's investment in physical facilities used by the worker in performing services is indicative of the worker's status as an independent contractor. (3-23-22)

vi. A worker's lack of investment in physical facilities indicating a dependence on the alleged employer for whom the worker's services are performed is indicative of the worker's status as an employee. (3-23-22)

e. Whether a worker is customarily engaged in an outside trade, occupation, profession, or business providing the same type of services the worker provides for the alleged employer engaging his services; (3-23-22)

i. A worker who provides one (1) type of service for an alleged employer, while providing the same type of service to others for hire, is indicative of the worker's status as an independent contractor. (3-23-22)

ii. A worker who provides one (1) type of service for an alleged employer, while providing a different type of service to others for hire, is indicative of the worker's status as an employee of the alleged employer. (3-23-22)

iii. A worker who advertises independently via yellow pages, business cards, web pages, or other types of media is indicative of the worker's status as an independent contractor. (3-23-22)

f. A worker's opportunities for profit and loss; (3-23-22)

i. A worker required to carry business related expenses such as insurance, bonding, or workers compensation coverage is indicative of the worker's status as an independent contractor. (3-23-22)

ii. A worker's ability to earn a profit by performing work more efficiently or suffer a loss because of the work performed is indicative of the worker's status as an independent contractor. (3-23-22)

iii. A worker who is subject to a risk of economic loss due to significant investments or a bona fide liability for expenses is indicative of the worker's status as an independent contractor. (3-23-22)

g. Other factors when viewed fairly in light of all the circumstances that may or may not indicate that the worker was engaged in an independently established trade occupation, profession, or business. These factors may include control of the premises, right to determine hours, or who sets the rate of pay. (3-23-22)

05. Meeting Criteria for Covered Employment. A worker who meets one (1), but not both, of the tests in Subsections 112.03 and 112.04 above shall be found to perform services in covered employment. (3-23-22)

06. Evidence of Contractual Liability for Termination. For purposes of making a determination under Section 72-1316(4), Idaho Code, and this regulation, the party alleging that summary termination by either party would result in contractual liability must present some evidence upon which to base such allegation. Ref. Section 72-1316(4), Idaho Code. (3-23-22)

113. -- 130. (RESERVED)

131. FARM COMMODITY OWNERSHIP.

In determining if the farm operator-processor produced more than fifty percent (50%) of the commodities being processed, the following apply: (3-23-22)

01. Quantity. It will be determined on a quantity basis where the farm operator processes only one (1) commodity. (3-23-22)

02. Wages. It will be determined on the basis of the relationship between wages paid for processing commodities raised by the farm operator-processor and total wages paid for processing where the farm operator processes several commodities. Wages paid for processing each commodity will be determined. The proportionate share of such wages paid for processing that portion of the commodity raised by the farm operator-processor will be ascertained on the basis of the percentage of such commodity which was produced by the farm operator. This will be done for each commodity processed so as to ascertain total wages paid for processing commodities produced by the farm operator-processor. If such total is more than fifty percent (50%) of the total wages paid for processing all commodities, the activity will be exempt but if it is fifty percent (50%) or less, it will not be exempt. Ref. Section 72-1304, Idaho Code. (3-23-22)

132. STATUS.

01. Status Information Required. To determine the taxable status of an employer, detailed information regarding the business activities of any person engaged in business in Idaho shall be submitted as required, including articles of incorporation, articles of organization, minutes of boards of directors, financial reports, partnership agreements, number of employees, wages paid, employment contracts, income tax records, and any other records or other information which may tend to establish such person's status. Ref. Section 72-1337, Idaho Code. (3-23-22)

02. Notification to Liable Employers. An employer shall be notified in writing of any determination as to its liability for contributions, or its status as a covered employer if a formal determination was made after the employer questioned its status. The determination shall be in the form required by IDAPA 09.01.01.27.01, and shall become final if no timely appeal is taken to an appeals examiner pursuant to the Rules of Administrative Procedure of the Department of Labor. (3-23-22)

03. Employer Quarterly Report Forms. Employers who are liable to pay tax contributions, or who have elected a cost reimbursement option in lieu of tax contributions, shall submit quarterly report forms in any form or medium designated by the director or his authorized representative. Ref. Section 72-1349, Idaho Code. (3-23-22)

04. Update Requirements. Covered employers shall furnish the Department with pertinent status data when new or additional information is available. Ref. Section 72-1337, Idaho Code. (3-23-22)

133. (RESERVED)

134. PROFESSIONAL EMPLOYER ORGANIZATIONS.

A professional employer organization shall fully comply with the requirements of the Professional Employer Recognition Act, Chapter 24, Title 44, Idaho Code in order to be eligible for any transfers of experience rating as allowed by Section 72-1349B, Idaho Code. (3-23-22)

01. Methods of Reporting. To report the wages and employees covered by the professional employer arrangement between a professional employer and client, professional employers and their clients shall make reports to the Department in one (1) of the following ways, subject to the conditions in Subsections 134.02 through 134.06 of this rule: (3-23-22)

a. Report the workers included in the professional employer arrangement under the employer account number of the professional employer and transfer the rate of the client to the professional employer; or (3-23-22)

b. Report the workers included in the professional employer arrangement under the employer account number of the client without an experience rate transfer. Ref. Section 72-1349B, Idaho Code. (3-23-22)

02. Joint Transfer of Experience Rate. In order to effect a transfer of a client's experience rate into the experience rate of a professional employer organization, both the client and the professional employer organization shall jointly apply for the transfer of the experience rate within the same timeframes as required of employers by Section 72-1351(5), Idaho Code, from the date of the contract entered into between the professional employer organization and the client required by Section 44-2405, Idaho Code. Failure to submit a timely joint request for transfer of experience rate shall result in the professional employer organization reporting wages for the client under the employer account number of the client. Ref. Section 72-1351(5), Idaho Code. (3-23-22)

03. Partial Transfers of Experience Rate Prohibited. In the event that a client and a professional employer organization jointly apply to transfer the experience rate of the client into that of the professional employer, the client's entire experience rate and factors of experience rate shall be transferred into that of the professional employer, and no partial transfers of experience factors or the experience rate shall be allowed. Ref. Section 72-1349B, Idaho Code. (3-23-22)

04. Partial Reporting of Workers. If some of the client's workers are included in the professional employer arrangement and some are not included, and the professional employer organization and the client elect to report the workers included in the professional employer arrangement under the employer account number of the client, then only one (1) quarterly report shall be remitted to the Department, which shall list or include all the client's workers whether or not included in the professional employer arrangement. Ref. Section 72-1349B, Idaho Code. (3-23-22)

05. Combined Wages or Services for Purposes of Coverage. If a client employer has employees or employment, or both, that does not independently meet the coverage or threshold requirements necessary to constitute covered employment, such employees, services or employment shall nonetheless be deemed to meet the coverage requirements of the Employment Security Law if, in combination with other employees, employment or services of such other employees of the professional employer organization or any of its clients, such wages, services or employees do jointly meet coverage requirements. (3-23-22)

135. -- 165. (RESERVED)

166. FIELD OPERATIONS CONTROL.

When circumstances dictate, and as a result of nonpayment of liabilities, the employer shall be notified by mail to the last known address of lien proceedings against the employer's interests, with an explanation of the amounts due, and the accrual of interest at the proper rate until the lien is satisfied. Ref. Section 72-1360, Idaho Code. (3-23-22)

01. Limitation for Commencing Administrative Procedures. The director may commence an administrative proceeding for purposes of establishing a tax liability, or otherwise to enforce the provisions of Section 72-1349, Idaho Code, by issuing a determination at any time within five (5) years from the due date of a quarterly report or the date a quarterly report is filed, whichever is later, subject to tolling pursuant to Section 72-1349, Idaho Code. (3-23-22)

a. Notification of Audits. Employers shall be notified as soon as practicable of an impending payroll records audit for tax liability purposes. This shall allow time in which to agree as to a convenient time and place for audit. Ref. Section 72-1337, Idaho Code. (3-23-22)

b. Frequency of Audits. The frequency of audits or inspections of an employer's records to ensure compliance with the law and Department rules shall be based on the following criteria: (3-23-22)

i. On the basis of random selection and other selection criteria in accordance with federal requirements; (3-23-22)

ii. As a result of information received from any source, provided that the information received is of such a nature that it would be reasonable to conduct an audit or inspection of records as a result of that information; or (3-23-22)

iii. As a result of a previous audit, if the business practices or records of the employer are of such a nature that it would be reasonable for a Department employee to re-inspect or re-audit the records to ensure future

compliance with the law. Ref. Section 72-1337, Idaho Code. (3-23-22)

02. Execution Against Assets. The Department of Labor, when the situation warrants, shall levy upon or execute against any real or personal property, both tangible and intangible, in which an indebted person has an interest, including any offsets as allowed by Section 67-1026, Idaho Code. Ref. Section 72-1360, Idaho Code. (3-23-22)

03. Relief of Indebtedness. Neither the full running of the statute of limitations nor the writing off of the account as uncollectible relieves an employer of tax indebtedness. Ref. Section 72-1364, Idaho Code. (3-23-22)

167. -- 185. (RESERVED)

186. ACCOUNTING AND DELINQUENCY CONTROL.

Overpayments on employer accounts may be refunded without written application by the employer. Credits resulting from overpayments or adjustments to an employer's account shall be refunded periodically unless such credit is applied to a subsequent balance due. Ref. Section 72-1357, Idaho Code. (3-23-22)

01. Erroneous Wage Reports. An employer submitting an erroneous report of employee wages resulting in payment of unearned unemployment insurance benefits shall have said benefit payments subtracted from any refund due that employer, if such employer benefited from the unearned benefit payments. Ref. Section 72-1372, Idaho Code. (3-23-22)

02. Notification of Underpayments. Employers shall be notified periodically of any taxes, penalties, or lien interest due on their tax account. Ref. Section 72-1349, Idaho Code. (3-23-22)

03. Cancellation of Refund Warrants. Refund warrants, outstanding after the validity date, shall be canceled, stop-payment procedures initiated, and then reissued only upon completion of an affidavit for the replacement of the lost or destroyed warrant. Ref. Section 72-1357, Idaho Code. (3-23-22)

187. -- 220. (RESERVED)

221. TRANSFER OF EXPERIENCE RATING.

Upon request, employers shall be informed of the requirements for transferring an experience rating record. Notification shall be issued to interested parties when an experience rating record transfer request is made. Ref. Sections 72-1351 and 72-1351A, Idaho Code. (3-23-22)

01. Mandatory Transfer of Rate. An experience rating record transfer shall be mandatory if there is a transfer of trade or business and ownership or management or control is substantially the same between the predecessor and successor. The parties in interest shall be notified of such transfer of experience as determined from the facts applicable to the case. The determination shall be in the form required by IDAPA 09.01.01.027.01, and become final if no appeal is taken to an appeals examiner pursuant to the Rules of Administrative Procedure of the Department of Labor. (3-23-22)

02. Partial Experience Rate Transfers. The following method is used to compute the pro-rata share of the experience rate account that is to be transferred from the predecessor to a successor. The pro-rata share is determined by dividing the gross payroll associated with the portion of the business acquired by the total gross payroll for the entire business operations for the same time period. The time period upon which this computation is based is the four (4) most recently completed quarters as reported by the predecessor prior to the date of acquisition or change in entity. (3-23-22)

03. Continued Predecessor Employment for Liquidation. When a total transfer of experience rating record has been completed and it is found that the predecessor employer continues to have employment in connection with the liquidation of his business, such employer shall continue to pay contributions at the assigned rate for the period of liquidation but not to extend beyond the balance of the rate year. Ref. Section 72-1351, Idaho Code. (3-23-22)

04. Management or Ownership or Control Substantially the Same. For the purposes of Subsection

72-1351A, Idaho Code, in determining whether the ownership or management or control of a successor is substantially the same as the ownership or management or control of the predecessor factors to be considered include, but are not limited to, the extent of policy making authority, the involvement in daily management of operations, the supervision over the workforce, the percentage of ownership of shares or assets, and the involvement on boards of directors or other controlling bodies. (3-23-22)

05. Wage Paid by Predecessor. The successor employer may use wages paid by the predecessor employer to arrive at the wage base for purposes of calculating taxable wages only when the experience rate of a predecessor employer has been transferred to a successor employer. Ref. Sections 72-1349(1), 72-1351(5), and 72-1350(8), Idaho Code. (3-23-22)

222. -- 230. (RESERVED)

231. EXPERIENCE RATING -- QUALIFYING PERIOD.

When an eligible employer ceases to have covered employment for a period of six (6) consecutive quarters or more, they must complete another qualifying period in order to again be eligible for consideration for a reduced contribution rate. Ref. Section 72-1319, Idaho Code. (3-23-22)

232. -- 240. (RESERVED)

241. BOARD, LODGING, MEALS.

When board, lodging, meals, or any other payment in kind considered as payment for services performed by an employee constitute a part of wages or wholly comprise an employee's wages, the value of such board, lodging, or other payment shall be determined as follows: (3-23-22)

01. Cash Value. If a cash value for such board, lodging, or other payment is agreed upon in any contract of hire, the amount so agreed upon shall be used provided it is a reasonable, fair market value. If there is no agreement, or if the contract of hire states an amount less than a reasonable, fair market value, the Department of Labor shall determine the reasonable or fair market value to be used. Ref. Section 72-1328, Idaho Code. (3-23-22)

02. Meals and Lodging Not Included in Gross Wages. The value of meals and lodging furnished by an employer to the employee will not be included in the employee's gross income if it meets the following tests: (3-23-22)

- a.** The meals or lodging are furnished on the employer's business premises; (3-23-22)
- b.** The meals or lodging are furnished for the employer's convenience; and (3-23-22)
- c.** In the case of lodging (but not meals), the employees must be required to accept the lodging as a condition of their employment. This means that they must accept the lodging to allow them to properly perform their duties. (3-23-22)
- d.** In order to exclude the value of lodging from an employee's gross wages, the employer must show that the wages paid to the employee for services performed meets the prevailing wage for those services. If the employer's records do not show or establish that the employee received the prevailing wage for services performed, then the reasonable or fair market value of the lodging will be included in the employee's gross income as wages. Ref. Section 72-1328, Idaho Code. (3-23-22)

03. Meals or Lodging for Employer Convenience. Meals or lodging furnished will be considered for the employer's convenience if the employer has a substantial business reason other than providing additional pay to the worker. A statement that the meals or lodging are not intended as pay is not enough to prove that either meals or lodging are furnished for the employer's convenience. Ref. Section 72-1328, Idaho Code. (3-23-22)

04. Subsistence Remuneration. In the case of employees who receive remuneration in the form of subsistence, such as groceries, staples, and fundamental shelter, the fair value of such subsistence will be determined by the Director. Ref. Section 72-1328, Idaho Code. (3-23-22)

242. -- 255. (RESERVED)

256. DETERMINATION OF FAIR VALUE OF REMUNERATION FOR PERSONAL SERVICES.

When the amount paid to an employee by an employer includes remuneration for other than personal services such as equipment use, travel costs, etc., the Director shall determine the fair value of the remuneration for the employee's personal services. In making such determination, the Director shall consider the wages specified in the contract of hire, the prevailing wages for similar work under comparable conditions, and other pertinent factors. The wages so determined by the Director shall be reported by the employer. Ref. Section 72-1328, Idaho Code. (3-23-22)

257. -- 261. (RESERVED)

262. DETERMINATION OF PROPER QUARTER IN WHICH TO ASSIGN AND REPORT WAGES.

01. Wage Assignment to Proper Calendar Quarter. Wages paid shall be assigned to the calendar quarter in which the wages were: (3-23-22)

a. Actually paid to the employee in accordance with the employer's usual and customary payday as established by law or past practice; or (3-23-22)

b. Due the employee in accordance with the employer's usual and customary payday as established by law or past practice but not actually paid on such date because of circumstances beyond the control of the employer or the employee; or (3-23-22)

c. Not paid on the usual or customary payday as established by law or past practice but set apart on the employer's books as an amount due and payable or otherwise recognized as a specific and ascertainable amount due and payable to the worker in accordance with an agreement or contract of hire under which services were rendered. Ref. Section 72-1367, Idaho Code. (3-23-22)

02. Draws and Advances on Wages. Payments to employees made prior to regular or established paydays will be assignable and reportable during the quarter in which they would have been paid unless a practice is established whereby all employees or a class of employees are given an opportunity to take a "draw" by which such action, another "regular" payday appears to have been created. (3-23-22)

03. Judgments of Wages. Amounts received as a result of labor relations awards or judgments for back pay, or for disputed wages, constitute wages and will be reported in the quarter or quarters in which the award or judgment has become final, after all appeals have been exhausted, or the quarter or quarters to which the court assigns the wages, if different. Ref. Section 72-1328, Idaho Code. (3-23-22)

04. Awarded Damages Against Employers. Amounts awarded to the claimant as a penalty or damages against the employer, other than for lost wages, do not constitute wages. Ref. Section 72-1328, Idaho Code. (3-23-22)

263. DETERMINATION OF REPORTABLE QUARTERS.

An employer shall be covered for all four (4) quarters in the calendar year in which the employer becomes a covered employer as well as for all four (4) quarters in the succeeding calendar year. Employers are not required to file quarterly reports until meeting the coverage criteria pursuant to Section 72-1315, Idaho Code. Upon becoming a covered employer within a calendar year, the quarterly report(s) for the quarter(s) prior to the employer becoming covered shall be filed with the quarterly report for the quarter in which the employer became covered. Quarterly reports for the periods subsequent to coverage shall be filed when due after the end of each quarter. Ref. Sections 72-1315 and 72-1337, Idaho Code. (3-23-22)

264. -- 999. (RESERVED)

IDAPA 17 – INDUSTRIAL COMMISSION

17.01.01 – ADMINISTRATIVE RULES UNDER THE WORKER'S COMPENSATION LAW

DOCKET NO. 17-0101-2301 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508 and 72-304, Idaho Code.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 2, 2024, Idaho Administrative Bulletin, [Vol. 24-10, pages 212-244](#).

The Commission has approved and adopted only one relatively minor change to this pending rule from the previously published proposed rule, based on comments the Commission received at the Public Hearings on the ZBR Re-write of this Chapter. In the proposed rule, the Commission added a provision to Rule 17.01.01.601.07 that imposed a timeline of seven (7) days for sureties or self-insured employers to provide requested information to the Commission to process a claim. Some of our stakeholders expressed concern that the seven-day time limit to provide the requested information placed a heavy burden on sureties, particularly if the surety did not have regular communication with or a well-established relationship with the injured worker's employer. To address this concern, the Commissioners amended the subsection to clarify that the Commission simply expects the surety or self-insured employer to respond to the Commission's request for information within the seven-day timeline. Therefore, the Commission amended Rule 17.01.01.601.07 by striking the following language "provide the requested information promptly" and replacing it with "respond."

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

As authorized in Section 72-301, Idaho Code, mandates the Idaho Industrial Commission to adopt rules governing the qualifications of self-insured employers. The pending rule 17.01.01.301.02b imposes a \$250 application fee for an employer to self-insure. This is not an increase of the current application fee. Nor does the proposed rule impose any new or additional 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: There is no anticipated fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kamerron Slay, 208-334-6017 or Kamerron.slay@iic.idaho.gov.

DATED this 20th day of November, 2024.

George Gutierrez
Director
Industrial Commission
11321 W. Chinden Blvd.

P.O. Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6000
Fax: 208-334-2321

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508 and 72-304, Idaho Code.

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

17.01.01 – Administrative Rules Under The Worker's Compensation Law

Monday, October 7, 2024 – 10:00 a.m. - 11:00 a.m. (MT)
Sawtooth Room, Chinden Campus Building 2
11321 W. Chinden Blvd.
Boise, ID 83714

[Virtual Meeting Link](#)

17.01.01 – Administrative Rules Under The Worker's Compensation Law

Thursday, October 24, 2024 – 10:00 a.m. - 11:00 a.m. (MT)
Sawtooth Room, Chinden Campus Building 2
11321 W. Chinden Blvd.
Boise, ID 83714

[Virtual Meeting Link](#)

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Industrial Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The proposed amendments to the rules don't impose any new or increased fees.

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

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 November 1, 2024 Idaho Administrative Bulletin, Vol. 23-11, pg. 18-19 and the May 1, 2024 Idaho Administrative Bulletin, Vol.24-5, pg. 206-210.

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:

Incorporation of the CMS Fee Schedules (Physician Fee Schedule, Acute Inpatient Prospective Payment System, Hospital Outpatient Prospective Payment System, Ambulatory Surgical Center Payment System) and the CPT Codes are necessary because, pursuant to Idaho Code 72-803, the Commission is required to use these schedules to set fees for physician services for medical services and for medicine and related benefits. Additionally, it is critical to use a universally recognized standard so both payors and providers are aware of how costs for medical services, medicine and related benefits will be reimbursed. Incorporation of the EDI Implementations Guides is necessary because it is an industry practice to use a universally recognized standard for claim data and reporting.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kamerron Slay, Commission Secretary, (208) 334- 6017 or Kamerron.slay@iic.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 28, 2024.

DATED this 28th day of August, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 17-0101-2301

Italicized red text that is *double underscored* indicates amendments to the proposed text as adopted in the pending rule.

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.~~ (3-23-22)()

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.~~ (3-23-22)

~~02. **Scope.** This chapter includes the Industrial Commission's worker's compensation rules.~~ (3-23-22)

001. **(RESERVED)**

002. **WRITTEN INTERPRETATIONS** **INCORPORATION BY REFERENCE.**

~~The Industrial Commission uses the following guidelines for implementing the EDI reporting requirements set out in~~

~~this Chapter. These rules incorporate by reference the following documents, which may be obtained from the main office of the Industrial Commission or are available on the agency's website. (3-23-22)()~~

~~**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/>. (3-23-22)~~

~~**02. EDI Implementation Guide.** International Association of Industrial Accidents Boards and Commissions (IAIABC) EDI Claims Release 3.0 or, after September 14, 2023, Release 3.1, Implementation Guide ("EDI Implementation Guide"). The IAIABC Claims Release 3.0 and Release 3.1 Implementation Guides are available at the IAIABC website at <https://www.iaiaabc.org/>. (4-6-23)~~

01. EDI Implementation Guide. The Industrial Commission uses the International Association of Industrial Accident Boards and Commissions (IAIABC) Electronic Data Interchange (EDI) Claims Implementation Guide ("EDI Implementation Guide"), as published annually, available at <http://www.iaiaabc.org/edi-claims>, and the IAIABC Claims EDI Implementation Guide and Trading Partner Tables available at <https://iic.idaho.gov/>. See Rule 601 of these rules. ()

02. CMS Fee Schedules. Pursuant to Idaho Code § 72-803, these rules incorporate by reference the Physician Fee Schedule, Hospital Outpatient Prospective Payment System, and Ambulatory Surgical Center Payment System, as published by the Centers for Medicare and Medicaid Services (CMS), effective January 1, 2024, available at <https://www.cms.gov/medicare/payment/fee-schedules/physician>; <https://www.cms.gov/medicare/payment/prospective-payment-systems/hospital-outpatient>; <https://www.cms.gov/medicare/payment/prospective-payment-systems/ambulatory-surgical-center-asc> respectively. Additionally, these rules incorporate by reference the Acute Inpatient Prospective Payment System, as published by the CMS, effective October 1, 2024, available at <https://www.cms.gov/medicare/payment/prospective-payment-systems/acute-inpatient-pps>. See Rule 803 of these rules. ()

03. CPT Codes. Pursuant to Idaho Code § 72-803, these rules incorporate by reference the Current Procedural Terminology (CPT) codes, as published by the American Medical Association, effective January 1, 2024, available at ama-assn.org/practice-management/cpt. See Rule 803 of these rules. ()

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: (3-23-22)

01. Adjustor. Means an individual who adjusts worker's compensation claims. (3-23-22)

02. Ambulatory Payment Classification (APC). Means the payment system adopted by Centers for Medicare and Medicaid Services (CMS) for outpatient services (3-23-22)()

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. (3-23-22)

04. Ambulatory Surgery Center (ASC). Means a facility providing medical services on an outpatient basis only. (3-23-22)()

05. Approval by Commission. Means the Commission has approved attorney fees in conjunction with an award of compensation or an Settlement Agreement (SA) ~~LSS~~ or otherwise in accordance with Section 802 of this rule upon a proper showing by the attorney seeking to have the fees approved. (3-23-22)()

06. Average Wholesale Price (AWP). 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. (3-23-22)()

- 07. Charge.** Means the expense or cost. For hospitals and ASCs, “charge” means the total charge. (3-23-22)
- 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. (3-23-22)
- 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. (3-23-22)
- c.** Reasonable charge. Means a charge that does not exceed the Provider's “usual” charge and does not exceed the “customary” charge. (3-23-22)
- d.** Usual charge. Means the most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. (3-23-22)
- 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: (3-23-22)
- a.** There are compensation benefits available for distribution on equitable principles; (3-23-22)
- b.** The services of the attorney operated primarily or substantially to secure the fund out of which the attorney seeks to be paid; (3-23-22)
- c.** It was agreed that counsel anticipated payment from compensation funds rather than from the client; (3-23-22)
- d.** The Claim is limited to costs, fees, or other disbursements incurred in the case through which the fund was raised; and (3-23-22)
- e.** There are equitable considerations that necessitate the recognition and application of the Charging Lien. (3-23-22)
- 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. (3-23-22)
- 10. Claims Administrator.** Means an organization, including insurers, third party administrators, independent adjusters, or self-insured employers, that services worker's compensation claims. (3-23-22)
- 11. Claims Services.** Aspects of claims handling to include but are not limited to reserve setting, three-point contacts, accident investigations, acceptance or denial of claims, authorization of medical treatment, authorization and triggering of the medical and income benefit payments to be issued. Medical fee schedule adjustments and issuance of authorized benefit payments may be considered ministerial or administrative functions. ()
- 12. Claimant.** Means a person who has filed a Claim for worker's compensation benefits and includes their agents, such as attorneys. (3-23-22)
- ~~**12. Commission.** Means the Idaho Industrial Commission. (3-23-22)~~
- 13. Critical Access Hospital.** Means a hospital currently designated as a critical access hospital by CMS. (3-23-22)
- 14. Current Procedural Terminology (CPT).** Means the medical code published by the American Medical Association. (3-23-22)()
- 15. Death Claim.** Means a Claim arising from the death of a worker as a result of a work-related injury or occupational disease. (3-23-22)

16. **Electronic Data Interchange (EDI).** Means a computer to computer exchange of data in a standardized format. (3-23-22)()
17. **Fee Agreement.** Means a written agreement between a worker and an attorney in conformity with the Idaho Rules of Professional Conduct. (3-23-22)
- 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. (3-23-22)
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. (3-23-22)
19. **First Report of Injury (FROI).** 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. (3-23-22)()
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. (3-23-22)
21. **Healthcare Common Procedure Coding System (HCPCS).** Means the set of healthcare procedure codes based on the American Medical Association's Current Procedural Terminology. (3-23-22)()
22. **Hospital.** Means an acute care facility providing medical or rehabilitation services on an inpatient and outpatient basis. (3-23-22)
23. **IAIABC EDI ~~Release 3.0 or 3.1~~ Claims.** Means the IAIABC authored EDI Claims ~~Release 3.0 or 3.1~~ standards that cover the transmission of claims (FROI and SROI) information ~~through electronic reporting.~~ (3-23-22)()
24. **Impairment Rated Claim.** Means those claims in which the Provider establishes an impairment rating for the ~~injured worker~~ claimant or the claimant has a statutory impairment award per the schedule. (3-23-22)()
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. (3-23-22)
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. (3-23-22)
27. **Indemnity Claim.** Means any claim made for the payment of indemnity benefits. (3-23-22)
- ~~28. **Legacy Claim.** Means a FROI that was either filed on paper or electronically prior to the EDI Claims Release 3.1 implementation. (3-23-22)~~
- ~~29.~~ **Litigated Case.** Means a case in which a complaint has been filed. (3-23-22)
- ~~30~~**29. **Medical Only Claim.** Means the ~~injured worker~~ claimant 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. (3-23-22)()

3130. Medical Report. Means and includes without limitation, all bills, chart notes, surgical records, testing results, treatment records, hospital records, prescriptions, and medication records. (3-23-22)

321. Medicare Severity - Diagnosis Related Group. Means a system adopted by CMS that groups hospital admissions based on diagnosis codes, surgical procedures, and patient demographics. (3-23-22)

332. 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. (3-23-22)

343. Payor. Means the entity that is responsible for making payment to a Provider for services rendered to treat an ~~industrially injured patient~~ claimant and includes self-insured employers, sureties, adjusters, and their agents. (3-23-22)()

354. 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. (3-23-22)

365. Pharmacy. Means a facility as defined in Section 54-1705(29), Idaho Code. (3-23-22)

376. Supplemental or Subsequent Report of Injury (SROI). Means the filing of additional information with the Industrial Commission, regarding benefits paid or changes in the status or condition of an ~~injured worker~~ claimant, of a Claim for benefits, as required by Sections 72-602(2), (3), and (4), Idaho Code; filed in accordance with these rules. (3-23-22)()

387. Termination of Disability. Means the date upon which the obligation of the Employer/Surety becomes certain as to duration and amount whether by settlement agreement (SA), decision, or periodic payments in the ordinary course of claims processing. If resolved by ~~LSS SA~~, the termination of disability shall occur on the date the ~~LSS SA~~ is ~~approved and filed or~~ 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. (3-23-22)()

398. Time Loss Claim. Means the ~~injured worker~~ claimant 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~~ claimant requires, or required, in-patient treatment as a result of such injury or disease. (3-23-22)()

4039. Trading Partner. Means an insurance carrier, self-insured employer, or Claims Administrator that has entered into a Trading Partner Agreement with the Industrial Commission. (3-23-22)

440. 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. (3-23-22)

~~011. ABBREVIATIONS.~~

~~The following abbreviations have the meaning set forth below:~~ (3-23-22)

~~01. APC. Means Ambulatory Payment Classification. (3-23-22)~~

~~02. ASC. Means Ambulatory Surgery Center. (3-23-22)~~

~~03. AWP. Means Average Wholesale Price. (3-23-22)~~

~~04. CMS. Means Centers for Medicare and Medicaid Services. (3-23-22)~~

~~05. CPT. Means Current Procedural Terminology. (3-23-22)~~

- ~~06. EDI. Means Electronic Data Interchange. (3-23-22)~~
- ~~07. FROI. Means First Report of Injury. (3-23-22)~~
- ~~08. HCPCS. Means Healthcare Common Procedure Coding System. (3-23-22)~~
- ~~09. IAABC. Means International Association of Industrial Accident Boards and Commissions. (3-23-22)~~
- ~~10. ISIF. Means the Industrial Special Indemnity Fund, which is commonly referred to as the Second Injury Fund. (3-23-22)~~
- ~~11. LSS. Means Lumps Sum Settlement. (3-23-22)~~
- ~~12. MSDRG. Means Medicare Severity Diagnosis Related Group. (3-23-22)~~
- ~~13. NCCI. Means National Council on Compensation Insurance. (3-23-22)~~
- ~~14. NDC. Means National Drug Code. (3-23-22)~~
- ~~15. RBRVS. Means Resource Based Relative Value Scale. (3-23-22)~~
- ~~16. RVU. Means Relative Value Unit. (3-23-22)~~
- ~~17. SROI. Means Supplemental or Subsequent Report of Injury. (3-23-22)~~

~~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. (3-23-22)~~

~~013~~**1. -- 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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

~~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. (3-23-22)~~

~~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. (3-23-22)~~

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 additional following requirements: (3-23-22)()

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. (3-23-22)

b. Application. To receive approval from the Industrial Commission, an insurance carrier must ~~supply an application with~~ submit a completed application, available from the Industrial Commission's Fiscal Department, including: (3-23-22)()

i. ~~A statement recommendation from the Director of the~~ Idaho Department of Insurance ~~documenting compliance with Paragraph 01.a, above that the carrier be approved to transact worker's compensation insurance in the State of Idaho;~~ A statement appointing the (3-23-22)()

ii. The latest audited financial statement of said carrier; (3-23-22)

iii. ~~The name and address of the agent for service of process in Idaho~~ A statement appointing the Director of the State of Idaho Department of Insurance as its agent to receive service of legal process; (3-23-22)()

iv. The name and address of the carrier's appointed 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; (3-23-22)()

v. A statement that the carrier will distribute blank forms that are prescribed by the Commission to its insured; (3-23-22)

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. (3-23-22)

vii. A statement that renewal certificates on said bonds will be issued and filed with the Industrial Commission immediately, when and if renewed; (3-23-22)

viii. A statement that all surety contract cancellations will be canceled in compliance with Section 72-311, Idaho Code; (3-23-22)

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; (3-23-22)

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 (3-23-22)()

xi. A statement that the carrier will make reports to the Commission as are required-; and (3-23-22)()

~~xii.~~ A copy of the Certificate of Authority from the carrier's State of Domicile. ()

02. Self-Insured Employers. In order to gain written approval from the Industrial Commission to self-insure under Section 72-301, Idaho Code, an employer shall comply with the following requirements: (3-23-22)()

a. Payroll. Have an average annual Idaho Payroll over the preceding three (3) years of at least ~~four~~ seven million dollars (\$~~4~~7,000,000). (3-23-22)()

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, including: (3-23-22)()

~~ei.~~ Documentation. ~~Submit documentation~~ demonstrating the sound financial condition of the employer, such as the most recent CPA reviewed or, if available, audited, financial statement. (3-23-22)()

~~dii.~~ Claims Adjusting. ~~Designate in writing~~ Written designation of 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. (3-23-22)()

~~eiii.~~ Previous Claims. ~~Provide a~~ A claims 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. (3-23-22)()

~~fi.~~ Excess Insurance. ~~Provide a~~ A copy of an insurance plan that ~~must~~ includes excess insurance coverage ~~and or~~ copies of all proposed policies of excess worker's compensation insurance coverage. (3-23-22)()

~~g.~~ Actuarial Study. ~~Provide a~~ An actuarial study prepared by a qualified actuary determining adequate rates for the proposed self-funded worker's compensation plan based upon a fifty percent (50%) confidence level. (3-23-22)()

~~hvi.~~ Feasibility Study. ~~Provide a~~ A self-insurance feasibility study that includes an analysis of the advantages and disadvantages of self insurance as compared to current coverage, and the related costs and benefits. (3-23-22)()

~~ivii.~~ Custodial Agreement. ~~Set up a~~ A custodial agreement with the State Treasurer for securities required to be deposited under Sections 72-301 and 72-302, Idaho Code. (3-23-22)()

~~jviii.~~ Supplemental Information. ~~Provide supplemental~~ information as requested. (3-23-22)()

~~kix.~~ Initial Security Deposit. Prior to final approval, ~~deposit~~ an initial security deposit must be made with the Idaho State Treasurer ~~in the form permitted by~~ per 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. (3-23-22)()

~~lx.~~ Initial Guaranty Agreement. ~~The Commission may allow or, w~~ Where financial reports or other factors such as the high risk industry of the employer indicate the need, the Commission may require an employer that is organized as a joint venture or a wholly owned subsidiary to provide an initial 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~~ Self-insured Indemnity and Guaranty Agreement and, as applicable, the companion Consent of the Board of Directors, both available on the Commission's website.

(3-23-22)()

~~m. Written Approval. Obtain written approval from the Industrial Commission. (3-23-22)~~

~~xi.~~ 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. (3-23-22)

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: (3-23-22)

a. Maintain Statutory Security Deposits with the State Treasurer. (3-23-22)

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. (3-23-22)

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. (3-23-22)

~~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. (3-23-22)~~

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. (3-23-22)

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. (3-23-22)

i. Each authorized insurance carrier shall notify the Commission ~~Secretary~~ Secretary in writing of any change ~~of the designated resident adjuster(s) to the primary claims administrator within fifteen (15) days of such change and report the designated claims administrator for every insured Idaho employer within fifteen (15) days of such change through proof of coverage (POC).~~ to the primary claims administrator within fifteen (15) days of such change and report the designated claims administrator for every insured Idaho employer within fifteen (15) days of such change through proof of coverage (POC). (3-23-22)()

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: (3-23-22)

(1) Investigate and adjust all claims for compensation; (3-23-22)

(2) Pay all compensation benefits due; (3-23-22)

(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; (3-23-22)

(4) Enter into compensation agreements and ~~LSSs~~ SAs with Claimants; (3-23-22)()

(5) Provide at the employer's expense necessary forms to any employee who wishes to file a Claim under the Worker's Compensation Law. (3-23-22)

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. (3-23-22)

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. (3-23-22)

f. Report Proof of Coverage. (3-23-22)

i. Each insurance carrier shall report all proof of coverage to [National Council on Compensation Insurance \(NCCI\)](#). 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. (~~3-23-22~~) ()

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

iii. The report shall be submitted ~~on~~ in a manner as prescribed by the Industrial Commission 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. (3-23-22)()

iv. ~~The report~~ Reports submitted in a format other than online filing, such as hard copy or email attachment, 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. (3-23-22)()

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. (3-23-22)

~~1. 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.~~ (3-23-22)

02. Self-Insured Employers. A self-insured employer approved under Subsection 301.02 shall comply with the following requirements: (3-23-22)

a. Payroll Requirements. Maintain an average annual Idaho Payroll over the preceding three (3) years of at least ~~four~~ seven million dollars (~~\$4,000,000~~), if such employer was originally approved by the Commission subsequent to June 30, 2025, and four million dollars (\$4,000,000), if such employer was originally approved by the Commission prior to July 1, 2025. 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. (3-23-22)()

b. Security Deposit with Treasurer. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

~~iv. All security deposited by the self insured employer shall be maintained as provided by Section 72-302, Idaho Code.~~ (3-23-22)

iv. Any withdrawal or partial release of security deposited hereunder must be requested in writing and approved by the Commission. Only one (1) request may be made per calendar year. (3-23-22)()

c. Continue or Provide Guaranty Agreement. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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: (3-23-22)

i. Investigate and adjust all claims for compensation; (3-23-22)

ii. Pay all compensation benefits due; (3-23-22)

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; (3-23-22)

iv. Enter into compensation agreements and ~~LSSs~~ SAs with Claimants; (3-23-22)()

v. Provide at the employer's expense necessary forms to any employee who wishes to file a Claim under the Worker's Compensation Law. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

iv. The report shall be submitted on or in a manner as prescribed by the Industrial Commission 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. (3-23-22)()

v. ~~The report~~ Reports submitted in a format other than online filing, such as hard copy or email attachment, 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. (3-23-22)()

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. (3-23-22)

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. (3-23-22)

~~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. (3-23-22)~~

hg. 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. (3-23-22)

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. (3-23-22)~~

01. **Procedure for Submitting Premium Tax Forms.** The form IC 4008, ~~available on the Commission's website,~~ to be filed in the manner prescribed by the Commission, shall be used to report numbers of policies and the total gross premiums written. ~~The original shall be sent to the Commission; a~~ A copy shall also must be attached to the reporting entity's annual premium tax statement that is filed with the Idaho Department of Insurance. Forms submitted in a format other than online filing, such as hard copy or email attachment, shall be signed and certified to be correct by a corporate officer. 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. (3-23-22)(____)

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 file in the manner prescribed by the Commission's ~~current report a~~ form IC 4010, along with the accompanying computation form IC 4010a, ~~available on the Commission's website.~~ Forms submitted in a format other than online filing, such as hard copy or email attachment, shall be signed and certified to be correct by a corporate officer. 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. (3-23-22)(____)

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: (3-23-22)

- a. A copy of the completed form ERM-6 filed with NCCI; (3-23-22)
- b. The resulting experience modification factor received from NCCI; and (3-23-22)
- c. The completed IC 4010 Semi-Annual Premium Tax Form for Self-Insurers and IC 4010a Computation Form. (3-23-22)

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:~~ (3-23-22)

01. Idaho Office. (3-23-22)

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.~~ (3-23-22)()

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. (3-23-22)

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. (3-23-22)

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~~ all documents relevant to the claim file: (3-23-22)()

- a. FROI and Claim for Benefits; (3-23-22)
- b. Copies of bills for medical care; (3-23-22)
- c. Copy of lost-time computations, if applicable; (3-23-22)
- d. Correspondence reflecting reasons for any delays in payments, the resolution of such delays, and acceptance or denial of compensability; (3-23-22)
- e. Employer's return-to-work communications; and (3-23-22)
- f. Medical reports. (3-23-22)

03. Correspondence. All original correspondence involving adjusting decisions regarding Idaho worker's compensation claims shall be authorized ~~from and maintained at in-state offices~~ and accessible through electronic reproduction by the resident Idaho adjuster. (3-23-22)()

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. (3-23-22)

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~~ An EDI Filing of the FROI, Claim for Benefits, and notices of occupational illness and fatality shall be sent electronically to the Industrial Commission. (3-23-22)()

- 06. Compensation Payments - Generally.** (3-23-22)
- a. All compensation, as defined by Section 72-102, Idaho Code, must be issued from the in-state office. (3-23-22)
- b. Except as ordered otherwise by the Commission, the insurance carrier or self-insured employer may make compensation payments by either: (3-23-22)
- i. Check or other readily negotiable instrument; (3-23-22)
- 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~~ Upon the Claimant's written request, through an electronic payment transfer to an account designated by the Claimant. The Claimant or Claimant's attorney may discontinue receiving the electronic transfer payment and revert to receiving compensation payments via check by written notification; or (3-23-22)(____)
- 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~~ An insurance carrier or a self-insured employer may pay compensation through either: (1) an automated teller machine (ATM) card, (2) debit card, or (3) access card (hereinafter, collectively referred to as an "access card") to a Claimant if there is a signed agreement between the insurance carrier or self-insured employer and the Claimant. An insurance carrier or self-insured employer shall not reduce compensation payments paid to a Claimant through an access card for any fees, surcharges, and adjustments unless they are for direct costs in replacing an access card through an expedited mail service, international transaction fees, or out-of-network ATM fees. The Claimant or Claimant's attorney may discontinue receiving payment via access card by written notification. (3-23-22)(____)
- c. Notwithstanding subsection (ii) and (iii) above ~~If~~ 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. Upon request, updated electronic payment history shall be provided by written notification to represented parties. (3-23-22)(____)
- 07. Electronic Transfer Payments.** (3-23-22)
- ~~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. (3-23-22)~~
- ~~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: (3-23-22)~~
- ~~i. Requests in writing that payment be made by electronic transfer; (3-23-22)~~
- ~~ii. Provides the information required by Paragraph 305.07.a. above; and (3-23-22)~~
- ~~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. (3-23-22)~~
- ~~e. 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. (3-23-22)~~

~~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. (3-23-22)~~

~~**08.- Access Card Payments. (3-23-22)**~~

~~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. (3-23-22)~~

~~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. (3-23-22)~~

~~e. An insurance carrier or a self insured employer providing compensation payments to a Claimant through an access card shall: (3-23-22)~~

~~i. Permit the Claimant to withdraw the entire amount of the balance of an access card in one transaction; (3-23-22)~~

~~ii. Not reduce compensation payments paid to a Claimant through an access card for the following fees, surcharges, and adjustments: (3-23-22)~~

~~(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; (3-23-22)~~

~~(2) ATM withdrawal or point of sale purchase for more than the card holds and the transaction is denied; (3-23-22)~~

~~(3) ATM balance inquiries; (3-23-22)~~

~~(4) Withdrawing money from network ATMs; (3-23-22)~~

~~(5) Withdrawing money from a teller; (3-23-22)~~

~~(6) Customer service calls; (3-23-22)~~

~~(7) Activating the card; (3-23-22)~~

~~(8) Fees for card inactivity; (3-23-22)~~

~~(9) Closing account; (3-23-22)~~

~~(10) Access card replacement through standard mail; (3-23-22)~~

~~(11) Withdrawing the entire payment in one transaction; (3-23-22)~~

~~(12) Point of sale purchases, or (3-23-22)~~

~~(13) Any other fees or charges that are not authorized under Subparagraph 305.08.e.iii., and (3-23-22)~~

~~iii. Only permit a Claimant to be charged for the following: (3-23-22)~~

- (1) Fees for access card replacement through an expedited mail service; (3-23-22)
- (2) International transaction fees, and (3-23-22)
- (3) Out-of-network ATM fees. (3-23-22)
- ~~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:~~ (3-23-22)
 - ~~i. A summary of the Claimant's liability for unauthorized electronic fund transfers; (3-23-22)~~
 - ~~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; (3-23-22)~~
 - ~~iii. The type of electronic fund transfers that the Claimant may make and any limitations on the frequency of transfers; (3-23-22)~~
 - ~~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; (3-23-22)~~
 - ~~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; (3-23-22)~~
 - ~~vi. A summary of the Claimant's right to receipts and periodic statements; (3-23-22)~~
 - ~~vii. All bank locations and network ATMs in the United States where the Claimant may access his or her funds at no cost; (3-23-22)~~
 - ~~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. (3-23-22)~~
- ~~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:~~ (3-23-22)
 - ~~i. Are printed in not less than twelve (12) point font; (3-23-22)~~
 - ~~ii. Include the full text to communicate all terms and conditions; (3-23-22)~~
 - ~~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 (3-23-22)~~
 - ~~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. (3-23-22)~~
- ~~f. An access card issued to a Claimant under this Subsection 305.08 shall:~~ (3-23-22)
 - ~~i. Not bear any information that could reasonably identify the Claimant as a participant in the worker's compensation system; and (3-23-22)~~
 - ~~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). (3-23-22)~~
- ~~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:~~ (3-23-22)

~~i. Provides a comparison of the current terms and the changes; and (3-23-22)~~
~~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. (3-23-22)~~

~~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. (3-23-22)~~

~~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.e.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. (3-23-22)~~

~~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. (3-23-22)~~

097. Checks and Drafts. Checks must be signed and issued within the state of Idaho; drafts are prohibited. (3-23-22)

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~~ **this subsection** of this rule to permit an insurance carrier or a self-insured employer to sign and issue checks outside the state of Idaho. (3-23-22)()

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. (3-23-22)

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. (3-23-22)

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~~ **this subsection** of this rule. (3-23-22)()

~~408.~~ **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~~ **Notice** of the first income benefit check shall be sent to the Industrial Commission electronically on the same day of issuance. (3-23-22)()

~~409.~~ **Prompt Claim Servicing.** Prompt claim servicing includes, but is not limited to: (3-23-22)

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. (3-23-22)

b. Payment of medical bills in accordance with the provisions of Section 803 of these rules. (3-23-22)

c. Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

e. Temporary Partial Disability (TPD) payments ~~shall~~ may 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. (3-23-22)()

~~120.~~ **120. Audits.** The Industrial Commission ~~will~~ may perform ~~periodic~~ audits to ensure compliance with the above requirements. (3-23-22)()

~~131.~~ **131. 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. (3-23-22)

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.~~ (3-23-22)()

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. (3-23-22)

307. RULE GOVERNING REPORTING INDEMNITY AND MEDICAL PAYMENTS AND MAKING PAYMENT OF INDUSTRIAL SPECIAL INDEMNITY FUND (ISIF) 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~~
The reported indemnity payments only are used to calculate the pro rata share of the annual assessment for the ISIF,
under Section 72-327, Idaho Code. (3-23-22)()

01. Filing. The report of indemnity and medical payments shall be filed with the Industrial Commission simultaneously with the first Semi-Annual Premium Tax Report; which, pursuant to Section 72-523, Idaho Code, is due each year on March 3rd. (3-23-22)

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~~ on Form IC2-327 in the manner prescribed by the Industrial Commission. (3-23-22)()

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. (3-23-22)

04. Penalty for Late Filing. A penalty shall be assessed by the Commission for filing the report of indemnity and medical payments later than March 3rd each year. (3-23-22)

a. A penalty of two hundred dollars (\$200) for late filing of seven (7) days or less. (3-23-22)

b. A penalty of one hundred dollars (\$100) per day for late filing of more than seven (7) days. (3-23-22)

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. (3-23-22)

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%). (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

04. Examples Not Exclusive. The above-listed examples ~~shall not be taken as~~ are not exclusive in computing the average weekly wage. (3-23-22)()

402. RULE GOVERNING ~~CONVERSION OF~~ AVERAGE OF MULTIPLE 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.~~ (3-23-22)

021. 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. (3-23-22)

~~**032. 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. The Commission may take steps to correct a manifest injustice resulting from averaging multiple ratings.~~ (3-23-22)()

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. (3-23-22)

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. (3-23-22)

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.~~ (3-23-22)

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. A medical authorization for release of records signed by Claimant shall remain in effect until revoked. 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, or their attorney, 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. (3-23-22)()

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)~~

~~**021. 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. (3-23-22)()~~

~~**032. 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. (3-23-22)~~

~~**043. 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. (3-23-22)~~

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. (3-23-22)~~

021. 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. (3-23-22)

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. (3-23-22)

503. -- 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. (3-23-22)~~

~~**021. EDI Reporting.** The Commission ~~requires electronic submission of FROIs and SROIs in accordance with the most current versions of the~~ adopts the IAIABC EDI Claims Release 3.0, or release 3.1 after September 14, 2023, and the Commission's EDI Guides and Tables's electronic claims record layout and transaction standards as the required reporting mechanism for all initial claim filings and subsequent reports 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~~ The Commission's EDI Claims Guides and Tables are available on the website. (4-6-23)()~~

~~**032. Trading Partner Agreements.** Before commencing ~~with~~ electronic reporting, Trading Partners shall electronically submit 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~~ If 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. (3-23-22)()~~

~~**043. Report Form and Content for Parties Exempt from EDI Requirements.** (3-23-22)~~

~~a. Individual ~~injured workers~~ claimants, ~~injured worker's~~ claimant's legal counsel, and employers that are not insured are not required to comply with EDI requirements for FROIs and SROIs. (3-23-22)()~~

~~b. Parties exempt from EDI requirements must submit FROIs on a form 1A-1 and SROIs on a form IC-8, or in a format substantially similar. Both forms are available on the Commission's website. (3-23-22)~~

~~**054. 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. (3-23-22)~~

~~**065. 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.~~ (3-23-22)()~~

~~**076. 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. (3-23-22)~~

087. Timely Response Requirement. When the Commission requests additional information ~~in order~~ to process the Claim, the ~~Claimant or employer surety or self-insured employer~~ shall ~~provide the requested information promptly~~ respond within seven (7) days. The Commission's request may be ~~either~~ in writing or telephonic. (3-23-22)()

602. FINAL REPORTS.

01. Report Requirements. An electronic filing of the Final Report as prescribed by Commission EDI requirements shall be filed for all indemnity claims or any claims resolved by ~~lump sum~~ settlement agreement within thirty (30) days from the date the surety or self-insured employer closes the claim file. In the case of medical-only claims, no Final Report need be filed. For death claims and permanent total disability claims, Annual Reports shall be filed within the first quarter of each calendar year. A Final Report shall be filed within thirty (30) days from the date the surety or self-insured employer closes the death or permanent total disability claim file. In the event the Commission is unable to reconcile the Annual Report or Final Report, a written request for additional information may be made, ~~either in writing or telephonically~~, and the surety or self-insured employer shall submit the requested information within fifteen (15) working days of the request. 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 fifteen (15) working days of the request. (3-23-22)()

02. Format. The required format for Final Reports is contingent on the claim file date: (3-23-22)

a. ~~Final Reports for legacy claims filed on paper or via EDI Claims 1.0 prior to November 4, 2017, shall be submitted in a format substantially similar to IC Form 6, available on the Commission's website, or EDI Claims Release 3.1 after September 14, 2023.~~ (4-6-23)

b. ~~Final Reports for legacy claims filed via EDI Claims 3.0 shall be submitted electronically via EDI Claims 3.0, or EDI Claims 3.1 after September 14, 2023.~~ (4-6-23)

032. Change in Status of Employer. In case of any default by the Employer or in the event the Employer ~~shall~~ fails to pay any final award or awards, by reason of insolvency or because a receiver has been appointed, the receiver or successor shall continue to report to the Commission, including the submission of Annual Reports, Final Reports and schedules of outstanding awards. (3-23-22)()

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 Pursuant to 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. Pursuant to Section 72-316, Idaho Code, ~~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.~~ (3-23-22)()

02. By Whom Given. ~~Any notice to a worker required by Section 72-806, Idaho Code, Notice of Change of Status~~ 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. (3-23-22)()

03. Form of Notice. ~~Any notice to a worker required by Section 72-806, Idaho Code, Notice of Change of Status~~ 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. If the worker has elected to receive electronic correspondence, notice may be emailed to the worker within fifteen (15) days. The Notice shall be given in a format substantially similar to IC Form 8, available on the Commission's website. (3-23-22)()

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.~~ (3-23-22)

054. 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.~~ The party will provide notice to the Commission consistent with its policy on electronic submission of the FROI and SROI. In the case of an overpayment recovery request made pursuant to I.C. 72-316, notice shall be contemporaneously submitted to the Commission by email or in paper format. (3-23-22)()

802. RULE GOVERNING APPROVAL OF ATTORNEYS FEES.

~~**01. Purpose.** The Industrial Commission promulgates this rule to govern the approval of attorney fees.~~ (3-23-22)

021. Charges Presumed Reasonable: (3-23-22)

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 (3-23-22)

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 (3-23-22)

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. (3-23-22)

~~**032. Statement of Charging Lien.**~~ (3-23-22)

a. All requests for approval of fees shall be deemed requests for approval of a Charging Lien. (3-23-22)

b. An attorney representing a Claimant in a Worker's Compensation matter shall ~~in any proposed LSS,~~ within thirty (30) days of the Commission's dismissal of any Settlement Agreement 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: (3-23-22)()

i. The date upon which the attorney became involved in the matter; (3-23-22)

ii. Any issues which were undisputed at the time the attorney became involved; (3-23-22)

iii. The total dollar value of all compensation paid or admitted as owed by employer immediately prior to the attorney's involvement; (3-23-22)

iv. Disputed issues that arose subsequent to the date the attorney was hired; (3-23-22)

v. Counsel's itemization of compensation that constitutes Available Funds; (3-23-22)

vi. Counsel's itemization of costs and calculation of fees; and (3-23-22)

vii. The statement of the attorney identifying with reasonable detail his or her fulfillment of each element of the Charging Lien. (3-23-22)

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. The thirty (30) day-time period for counsel to submit the affidavit or memorandum may be waived for good cause shown. (3-23-22)()

043. Procedure if Fees Are Determined Not to Be Reasonable. (3-23-22)

a. Upon receipt of the affidavit or memorandum, ~~the Commission will designate staff members to determine reasonableness of the fee. T~~he Commission staff will notify counsel in writing of the ~~staff's~~ **Commission'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. (3-23-22)()

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

054. 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: (3-23-22)

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. (3-23-22)

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. (3-23-22)

803. MEDICAL FEES.

01. General Provisions for Medical Fees. The following provisions shall apply to Commission approval of claims for medical benefits. (3-23-22)

a. **Acceptable Charge.** Payors shall pay Providers the acceptable charge for medical services. (3-23-22)

b. **Coding.** The Commission will generally follow the coding guidelines published by CMS and by the American Medical Association (**AMA**), including the use of modifiers and payment status indicators unless otherwise specified in Section 803 of this rule. (3-23-22)()

c. **Disputes.** Disputes between Providers and Payors are governed by Subsection 803.06 of this rule and JRP 19. (3-23-22)

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. (3-23-22)

02. Acceptable Charges For Medical Services Provided By Physicians Under The Idaho Worker's Compensation Law. (3-23-22)

a. The Commission adopts the Resource-Based Relative Value Scale (RBRVS), published by CMS, as amended, as the standard to be used to determine acceptable charges by physicians. (3-23-22)

b. Modifiers. Modifiers for physicians will be reimbursed as follows: (3-23-22)

i. Modifier 50: Additional fifty percent (50%) for bilateral procedure. (3-23-22)

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. (3-23-22)

iii. Modifier 80: Twenty-five percent (25%) of coded procedure. (3-23-22)

iv. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (3-23-22)

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 Relative Value Unit (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. (3-23-22)()

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR
Anesthesia	00000 - 09999	Anesthesia	\$60.33
Surgery - Group One	22000 - 22999	Spine	\$135.00
	23000 - 24999	Shoulder, Upper Arm, & Elbow	
	25000 - 27299	Forearm, Wrist, Hand, Pelvis & Hip	
	27300 - 27999	Leg, Knee, & Ankle	
	29800 - 29999	Endoscopy & Arthroscopy	
	61000 - 61999	Skull, Meninges & Brain	
	62000 - 62259	Repair, Neuroendoscopy & Shunts	
	63000 - 63999	Spine & Spinal Cord	
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	

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

(3-23-22)

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. (3-23-22)

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. (3-23-22)

f. Medicine Dispensed by Physicians. Reimbursement to physicians for any ~~medicine drug or topical agent, including over-the-counter (OTC),~~ shall not exceed the lesser of 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, or one hundred thirty percent (130%) of the AWP for the lowest-cost therapeutic equivalent drug.~~ Reimbursement to physicians for repackaged medicine shall be lesser of the AWP for the medicine prior to repackaging, identified by the National Drug Code (NDC) reported by the original manufacturer, or one hundred thirty percent (130%) of the AWP for the lowest-cost therapeutic equivalent drug. Reimbursement may be withheld until the original manufacturer's NDC is provided by the physician. Physicians who dispense medications shall not receive a dispense or compounding fee. (3-23-22)(____)

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. (3-23-22)

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. (3-23-22)

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%). (3-23-22)

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%). (3-23-22)

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). (3-23-22)

i. Medical services for which there is no APC weight listed shall be reimbursed at seventy-five percent (75%) of the reasonable charge, except when bundled with another service appearing on the same bill or is a service defined in 803.03.c.ii. - iv. of this rule. (3-23-22)()

ii. Status ~~code indicator~~ N-items codes 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. (3-23-22)()

iii. Outpatient physical, occupational, and speech therapy services will be reimbursed according to the allowable professional charge under Subsection 803.02 of this rule. ()

iv. Status indicator Q codes are not subject to composite APC packaging standards. ()

(1) Implantable Hardware may be eligible for separate payment under Subparagraph 03.d.iii. of this rule. (3-23-22)

~~(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.~~ (3-23-22)

~~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%).~~ (3-23-22)

~~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%).~~ (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

04. Acceptable Charges For Medicine Provided By Pharmacies. The following standards shall be used to determine the acceptable charge for medicine provided by pharmacies. (3-23-22)

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. (3-23-22)

b. Generic Medicine. The standard for determining the acceptable charge for generic medicine shall be the AWP, plus an eight dollar (\$8) dispensing fee. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

a. Durable Medical Equipment (DME) Providers. Within the first thirty (30) days of equipment use, the Payor shall be given the option to rent or purchase DME. Rented equipment shall be considered purchased once the rental charges exceed the purchase price, which may not exceed ten percent (10%) of the invoice cost. If purchased, the DME shall become the property of the Claimant. ()

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. (3-23-22)

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. (3-23-22)

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.~~ Except for the circumstances listed below, payment is forfeited when the charges are not billed within

twelve (12) months from the date of service and may not be balance billed as defined in Section 72-102(2), Idaho Code: (3-23-22)()

- i. The industrial nature of the injury is initially unknown to the Provider: ()
- ii. A change in Employer's coverage or designated claims administrator is unknown to the Provider. ()
- iii. This list is not exhaustive, and the Commission has discretion to address disputes regarding timeliness of the billing in the dispute resolution procedures of the Commission set out in Paragraph 803.06.iv. of this rule. ()
- iv. 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. (3-23-22)
- v. 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. (3-23-22)
- vi. 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. (3-23-22)
- 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. (3-23-22)
- 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. (3-23-22)
- e. Preliminary Objections and Requests for Clarification. (3-23-22)
 - 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. (3-23-22)
 - 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. (3-23-22)
 - iii. Each Preliminary Objection and Request for Clarification shall contain the name, address, and phone number of the individual Claims Administrator located within the state of Idaho that the Provider may contact regarding the Preliminary Objection or Request for Clarification. (3-23-22)()
 - 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. (3-23-22)
- f. Provider Reply to Preliminary Objection or Request for Clarification. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

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. (3-23-22)

804. – 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.03.02 – LIFE SETTLEMENTS

DOCKET NO. 18-0302-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-1965, Idaho Code.

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

This rule sets the requirements for the sale and settlement of life insurance contracts where the owner is an Idaho resident. 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, 2024, Idaho Administration Bulletin, [Volume 24-9, pages 467-472](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

No fee or charge imposed or increased.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

DATED this 3rd day of October, 2024.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

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 41-211 and 41-1965, Idaho Code.

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

<p>Monday, September 23, 2024 2:00 p.m. - 3:30 p.m.(MT)</p>
<p>Idaho Department of Insurance 700 W. State St., 3rd Floor Boise, ID 83702</p> <p>Web Meeting Link: Click here to join the meeting Meeting ID: 259 030 737 919 Passcode: PWSpjG Download Teams Join on the web</p>

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

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

The purpose of this rule sets requirements for the sale and settlement of life insurance contracts where the owner is an Idaho resident.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee or charge imposed or increased.

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

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, 2024 Idaho [Administrative Bulletin, Volume 24-7, pages 114-115](#) under docket number 18-ZBRR-2401.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2024.

DATED this 2nd day of August, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 18-0302-2401

18.03.02 – LIFE SETTLEMENTS

000. LEGAL AUTHORITY.

~~Title 41, Chapters 2 and 19,~~ Sections 41-211 and 41-1965, Idaho Code. (3-31-22)()

001. ~~TITLE AND SCOPE.~~

~~01. Title.~~ 18.03.02, “Life Settlements.” (3-31-22)

~~02. Scope.~~ This rule sets forth requirements regarding the sale and settlement of life insurance contracts where the owner of the contract is an Idaho resident, consistent with Sections 41-1950 through 41-1965, Idaho Code. (3-31-22)()

002. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions found in Section 41-1951, Idaho Code, the following apply: ()

~~01. Advertising Materials.~~ (3-31-22)

~~a. Printed and published material, audio visual material, and descriptive literature of a broker or provider used in direct mail, newspapers, magazines, radio scripts, TV scripts, web sites and other internet displays or communications, other forms of electronic communications, billboards and similar displays;~~ (3-31-22)

~~b. Descriptive literature and sales aids of all kinds issued by a provider or broker for presentation to members of the insurance buying public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters; and~~ (3-31-22)

~~e. Prepared sales talks, presentations and material for use by providers and brokers.~~ (3-31-22)

~~021. Affiliation.~~ Any contractual relationship outside of the proposed life settlement contract, any ownership interest or relation, any familial relation, an employment relation, any relationship creating financial dependency, any arrangement that provides one party the ability to control or influence the actions of another party, or any other arrangement or relationship that might reasonably result in parties treating one another in a less than arm’s length manner. (3-31-22)

~~02. Registration.~~ The process completed by a broker or provider pursuant to Section 41-1952, Idaho Code. ()

~~03. Operating as a Broker.~~ As defined in Section 41-1951(6), Idaho Code. (3-31-22)

~~04. Operating as a Provider.~~ As defined in Section 41-1951(8), Idaho Code. (3-31-22)

011. **RENEWAL OF REGISTRATION TO OPERATE AS LIFE SETTLEMENT PROVIDER OR LIFE SETTLEMENT BROKER.**

~~01. Registration.~~ Not later than ten (10) days after first operating as a provider or broker a person will notify the Director that they are acting as a provider or broker by registering with the Department and paying

~~applicable fees as set forth at IDAPA 18.01.02, "Schedule of Fees, Licenses and Miscellaneous Charges". Registration includes information as prescribed by the Director along with a certification from the applicant that they have read and familiarized themselves with the requirements of Sections 41-1950 through 41-1965, Idaho Code, and these rules.~~ (3-31-22)

~~**02. Renewal of Registration.** Registration as a broker or provider continues until the next renewal date of the person's producer license. If the initial registration takes place within ninety (90) calendar days from the producer license expiration date, registration will continue until the following producer license renewal date. Registration may be renewed by payment of the applicable renewal fee as set forth at IDAPA 18.01.02. An insurance producer who allows their registration as a broker or provider to lapse may, within twelve (12) months from the renewal due date, reinstate the registration by paying a penalty in the amount of double the unpaid renewal fee. If a registration is allowed to lapse for more than twelve (12) months without reinstatement, a producer wishing to act a broker or provider will re-register with the Department and pay the applicable registration fee prior to operating as a broker or provider.~~ (3-31-22)()

012. FILING OF ~~FORMS~~ ADVERTISING MATERIALS.

~~**01. Filing of Life Settlement Contracts and Disclosure Forms.** No person may use a life settlement contract or disclosure form in Idaho unless the form is first filed with the Department along with a certification that the form meets the requirements of Sections 41-1950 through 41-1965, Idaho Code. The certification will be in the form as prescribed by the Director and signed by a person registered as a provider or broker.~~ (3-31-22)

~~**021. Filing of Advertising Materials.** No person may use advertising materials promoting or advertising the availability of life settlements or life settlement services in Idaho unless the materials are first filed with the Department. If the advertising is not in written form, a written script will be filed. All advertising relating to the business of life settlements will have a unique identifying form number in the lower left-hand corner of the advertising piece and needs to comply the following standards:~~ (3-31-22)

~~**a.** Be truthful and not misleading in fact and implication. All information is set out conspicuously and in close conjunction with the statements and will not be minimized, rendered obscure, ambiguous, or intermingled with the context of the advertisement so as to be confusing or misleading.~~ (3-31-22)

~~**b.** Reference the complete form number of any life settlement contract being advertised and clearly identify the full and complete name of the provider or broker using the promotional material. Advertising materials cannot use a trade name, any insurance group designation, name of the parent company of the provider or broker, name of a particular division of the provider or broker, service mark, slogan, symbol or other device which would have the capacity and tendency to mislead or deceive as to the true identity of the provider or broker without disclosing the name of the actual provider or broker using the advertising material.~~ (3-31-22)

~~**c.** No advertisement will omit information or use words, phrases, statements, references or illustrations if the omission of such information or use of such words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving sellers or prospective sellers as to the nature or extent of any policy benefit payable. The fact that the contract offered is made available to a prospective seller for inspection prior to consummation of the sale or an offer is made to rescind the life settlement contract if the seller is not satisfied, does not remedy misleading statements.~~ (3-31-22)

~~**d.** Advertising materials cannot use words or phrases in a manner which exaggerates any benefits beyond the terms of the life settlement contract and fairly and accurately describe the negative features as well as the positive features of the life settlement contract and life settlement program. An advertisement cannot represent or imply that life settlements by the provider are "liberal" or "generous," or use words of similar import, or that benefits of a life settlement are or will be beyond the actual terms of the life settlement contract.~~ (3-31-22)

~~**e.** Advertising materials cannot be designed to encourage or promote the purchase of life insurance for the purpose of transferring ownership to third party investors who lack an insurable interest in the in the life of the insured.~~ (3-31-22)

~~**f.** An advertisement cannot create the impression directly or indirectly that a provider, a broker, its~~

financial condition or status, a life settlement contract or program, or the payment of life settlement benefits is approved, endorsed, or accredited by any division or agency of this state or the United States Government. (3-31-22)

g. Testimonials used in advertisements needs to be genuine, represent the current opinion of the author, be applicable to the life settlement contract advertised and be accurately reproduced. A provider or broker using a testimonial makes as its own all of the statements contained therein, and the advertisement, including such statement, is subject to all the provisions of these rules. If the person making a testimonial, an endorsement or an appraisal has a financial interest in the provider or broker, or a related entity as a stockholder, director, officer, employee, or otherwise, such fact is disclosed in the advertisement. If a person is compensated for making a testimonial, endorsement or appraisal, such fact will be disclosed in the advertisement by language substantially as follows: "Paid Endorsement." (3-31-22)

h. The source of any statistics used in an advertisement are identified in the advertisement. (3-31-22)

032. Font Size for Printed Materials. Pertinent text of all printed materials needs to be filed with the director under the Life Settlement Act, including, but not limited to, notices, disclosure forms, contract forms, and advertising material, is to be formatted using at least a twelve (12) point font. Signature blocks, footnotes or text not relevant to the understanding of the printed material may be printed in a smaller font, but in no case smaller than a ten (10) point font. (3-31-22)

043. Disapproval of Noncompliant Forms. The Director may disapprove any form needed to be filed pursuant to this Section if, the form does not comply with any part of Title 41, Idaho Code, or these rules, or the form is unreasonable in its terms, contrary to the interests of the public, misleading to the public, unfair to the owner, or is printed or provided in a manner making any part of the form substantially illegible. (3-31-22)

013. ANNUAL REPORTING REQUIREMENTS.

~~All persons registered with the Director as a provider will file an annual statement with the Director, on or before March 1st of each year. An annual report is needed regardless of whether any life settlement contracts with Idaho owners were executed during the year.~~ (3-31-22)

013. (RESERVED)

014. EXAMINATION AND RECORDS.

Brokers and providers are subject to examination by the Director in accordance with Title 41, Chapter 2, Idaho Code, and pay, at the direction of the Director, the actual travel expenses, reasonable living expense allowance, and reasonable compensation incurred on account of the examination upon presentation of a detailed account of the charges and expenses. (3-31-22)

015. AFFILIATION DISCLOSURES TO OWNER.

~~**01. Disclosure to Owner Upon Application.** A broker or provider will not provide an owner with an application for a life settlement contract unless the owner has also been provided a disclosure form containing all the information requisite by Idaho Code, 41-1956 and in substantially the same form as the sample form found on the Department website. The disclosures are provided in a separate document in at least twelve (12) point font. Each page of the disclosure document is initialed by the owner indicating that it has been received and read by the owner, and the final page is dated and signed by the owner and the broker or provider that delivered the disclosure document to the owner.~~ (3-31-22)

~~**02. Disclosures to Owner by Provider Upon Settlement.** Prior to the time an owner signs a life settlement contract, the provider will provide the owner a disclosure form containing all the information prescribed by Idaho Code 41-1957 and in substantially the same form as the sample form found on the Department website. The disclosures may be made by a separate document or included as a part of the life settlement contract. If the disclosures are included in the life settlement contract, they are conspicuously displayed in the contract by segregating the disclosures from the rest of the contract on a separate page or as a separate section using at least twelve (12) point font and with a heading in bold font stating: "Important Disclosures Required by Law." Each disclosure page of the life settlement contract is initialed by the owner indicating that the owner has read the page. If the disclosures are provided in a separate document, each page of the document will be initialed by the owner and the~~

~~final page needs to be dated and signed by the owner and the provider. (3-31-22)~~

~~**03. Disclosure to Owner by Broker Upon Settlement.** Prior to the time an owner signs a life settlement contract, the broker will provide the owner a disclosure form containing all the information prescribed in Idaho Code 41-1958 and in substantially the same form as the sample form found on the Department website. The disclosures may be made by a separate document or included as a part of the life settlement contract. If the disclosures are included in the life settlement contract, they are conspicuously displayed in the contract by segregating the disclosures from the rest of the contract on a separate page or as a separate section using at least twelve (12) point font, and a heading in bold font stating: "Important Disclosures Required by Law." Each disclosure page of the life settlement contract is initialed by the owner indicating that the owner has read the page. If the disclosures are provided in a separate document, each page of the document needs to be initialed by the owner and the final page dated and signed by the owner and the broker. (3-31-22)~~

~~**04. Affiliations Disclosed.** As a part of the disclosures in this Section any disclosure pursuant to Section 41-1956, 41-1957, or 41-1958, Idaho Code, a provider discloses in writing to the owner any affiliation between the provider and the issuer of the insurance policy to be settled, and a broker discloses in writing any affiliation or contractual arrangement between the broker and any person making an offer in connection with a proposed life settlement contract. (3-31-22)()~~

016. ADDITIONAL REQUIREMENTS.

01. Owner's Statement. (3-31-22)

a. Prior to entering into a life settlement contract, the provider obtains from each owner a written statement in substantially the following form: "I, [owners name], have freely and voluntarily consented to the life settlement contract that accompanies this statement. I have carefully read my insurance policy that is the subject of the life settlement contract and I understand the benefits that are available under the policy. I further understand that by entering into the life settlement contract, the right to benefits under the insurance policy will be sold to another party and I, my heirs or former beneficiaries will no longer have any right to receive those policy benefits." (3-31-22)

b. If the owner has a terminal or chronic illness, the following wording is also to be included in the owner's statement: "I am currently suffering from a terminal or chronic illness that was not diagnosed until after the policy that is the subject of the life settlement contract was issued." (3-31-22)

c. The statement of the owner needs to also be acknowledged by a notary public. (3-31-22)

02. Owner's Right to Rescind Life Settlement Contract. (3-31-22)

a. The life settlement contract is to conspicuously inform the owner in bold type of at least twelve (12) point font that the owner has an absolute right to rescind a life settlement contract within twenty (20) calendar days of the date the contract is executed and sets forth the manner in which notice is given. (3-31-22)

b. Upon being informed of the owner's intention or desire to rescind a life settlement contract, the provider immediately provides the owner with a full accounting of the amount that will be repaid by the owner ~~in~~ to rescind the policy. The amount due includes only amounts actually paid to and received by the owner pursuant to the terms of the life settlement contract along with any premiums, loans and loan interest paid by or on behalf of the provider in connection with or as a direct consequence of the life settlement contract. An owner is not obligated to pay any financial penalties, liquidated damages or other punitive fees or charges in connection with rescission of a life settlement contract. (3-31-22)()

c. Until the owner receives from the provider an accounting of the full and correct repayment amount needed to rescind the life settlement contract, a tender of payment by the owner of amounts actually received and reasonably believed to be due upon rescission will be deemed in substantial compliance with the requirement of notice and repayment of proceeds within the twenty (20) day rescission period. (3-31-22)

03. Life Settlements Occurring Within Two Years of Policy Origination. (3-31-22)

a. ~~No broker or provider may solicit, arrange for, or enter into a life settlement contract within two (2) years of the date of issuance of the life insurance policy or certificate being settled unless one (1) or more of the conditions identified in Section 41-1961, Idaho Code, applies.~~ If one (1) or more of the conditions in Section 41-1961, Idaho Code, is present, the provider obtains from the owner a written statement sworn before a notary public setting forth in detail the circumstances permitting the early settlement of the contract. The sworn statement also includes the following or substantially similar wording: “I hereby affirm that there was no plan or arrangement in place or under discussion, or any promises made, regarding the settlement of this life insurance policy at the time the policy was purchased.” (3-31-22)()

b. In addition to the sworn statement, the provider will obtain and retain as a part of its records independent documentation of the circumstances permitting early settlement of the life insurance policy along with all documentation relating to any premium financing arrangements made in connection with the policy being settled. (3-31-22)

c. The sworn statement and copies of all supporting documentation will be provided to the insurer at the time a request for verification of coverage is submitted to the insurer. A request for verification of coverage relating to a policy or certificate that has been in effect for two (2) years or less will be considered incomplete if it is not accompanied by the owner’s sworn statement and supporting documentation. An insurer that determines a request for verification of coverage is incomplete will immediately inform the broker or provider in writing that the verification is incomplete and identify all items needed to complete the request. (3-31-22)

017. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE
18.05.01 – RULES FOR TITLE INSURANCE REGULATION
DOCKET NO. 18-0501-2401 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-2705, 41-211, and 41-1314, Idaho Code.

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

The purpose of this rule defines certain fair-trade practice standards for title insurance, defines and clarify Section 41-2702, Idaho Code, provides procedural rules for title insurers, agents; and escrow officers in order to protect consumers and preserve the financial stability of title insurers and agents. 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, 2024, Idaho Administrative Bulletin, [Volume 24-9, pages 475-488](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

No fee or charge imposed or increased.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

DATED this 3rd day of October, 2024.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
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Phone: (208) 334-4250
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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 41-2705, 41-211 and 41-1314, Idaho Code.

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

<p>Monday, September 23, 2024 2:00 p.m. - 3:30 p.m.(MT)</p>
<p>In-person participation is available at: Idaho Department of Insurance 700 W. State St., 3rd Floor Boise, ID 83702</p> <p>Web Meeting Link: Click here to join the meeting Meeting ID: 259 030 737 919 Passcode: PWSpjG Download Teams Join on the web</p>

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

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

The purpose of this rule defines certain fair-trade practice standards for title insurance, defines and clarifies Section 41-2702, Idaho Code, provides procedural rules for title insurers, agents; and escrow officers in order to protect consumers and preserve the financial stability of title insurers and agents.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee or charge imposed or increased.

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

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, 2024 Idaho [Administrative Bulletin, Volume 24-7, pages 114-115](#) under docket number 18-ZBRR-2401.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2024.

DATED this 2nd day of August, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 18-0501-2401

18.05.01 – RULES FOR TITLE INSURANCE REGULATION

000. LEGAL AUTHORITY.

Title 41, Sections 41-211 and 41-1314, Idaho Code, to aid in the effectuation of Title 41, Chapter 27 and Section 41-1314, Idaho Code. (3-31-22)()

001. TITLE AND SCOPE.

01. Title. IDAPA 18.05.01, “Rules for Title Insurance Regulation.” (3-31-22)

02. Purpose. This rule applies to all title insurers and title insurance agents. and: (3-31-22)

a. Defines and clarifies the meaning of “a complete set of tract indexes or abstract records” as used in Section 41-2702, Idaho Code. (3-31-22)

b. Provides procedural rules as to the way title insurers, title insurance agents and escrow officers are to perform certain actions, charge rates for various services, and provide insurability on certain matters. (3-31-22)

c. Clarifies consumer protection on title insurance products. (3-31-22)

d. Preserves the financial stability of title insurers and title insurance agents. (3-31-22)

e. Defines certain fair trade practice standards for title insurance, the violation of which will constitute rebates and/or illegal inducements by Sections 41-2708(3) and 41-1314, Idaho Code. This rule does not limit the Director's authority to determine that other title insurance trade practices constitute violations of Title 41, Chapter 27 and 41-1314, Idaho Code. (3-31-22)()

002. -- 009. (RESERVED)

010. DEFINITIONS.

All terms defined in Title 41, Chapters 1, 13, and 27, Idaho Code, which are used in this rule will have the same meaning as used in those chapters. (3-31-22)

01. Applicant. A party to a real estate transaction who may be the buyer, seller and/or a proposed or named insured on a title commitment, policy, guaranty or other title insurance product. (3-31-22)

02. Financial Interest. Any interest that entitles the holder in any manner to two and one-half percent (2.5%) or more of the profits or net worth of the title entity in which the interest is held. (3-31-22)

03. Policy. Any contract or form of title insurance which prior to its issuance has been filed with the Director of Insurance. (3-31-22)

04. Preliminary Report. A binder of insurance, a commitment to insure, a preliminary report of title, and litigation reports including quiet title action, foreclosure actions of contracts of sale, deeds of trust or mortgages

where a policy of title insurance will be issued on the successful completion thereof. Excluded are miscellaneous reports which do not insure title, such as judgment reports, lot book reports or property search reports which are governed by Subsection 012.01. (3-31-22)

05. Producer of Title Business. Includes any person engaged in this state in the trade, business, occupation or profession of: (3-31-22)

a. Buying or selling interest in real property; or (3-31-22)

b. Making loans secured by interest in real property; and (3-31-22)

c. May include but not ~~be~~ limited to real estate agents, real estate brokers, mortgage brokers, lending or financial institutions, builders, attorneys, developers, sub-dividers, auctioneers engaged in the sale of real property, consumers, and the employees, agents, representatives, or solicitors of any of the foregoing; and ~~(3-31-22)~~()

d. Will include any legal entity whose ownership is, directly or indirectly, comprised fifty-one percent (51%) or more by entities or individuals described in Paragraph 010.05.c of this rule. (3-31-22)

06. Title Examination. A search and examination of the title and a determination of insurability of the title in accordance with sound title underwriting practices. Such examination of the public records will be made only for the purpose of determining insurability of the described property and not ~~be~~ as a report on the condition of the record. ~~(3-31-22)~~()

07. Issuance of a Policy. The preparation, execution and delivery of a title insurance policy which is deemed to be only a contract of insurance up to the face amount of such policy and will in no way create a tort liability as to the condition of the record insured from. The same will include any necessary investigation just prior to actual issuance of a policy to determine if there has been proper execution, acknowledgment and delivery of any conveyances, mortgage papers, and other title instruments which may be necessary for the issuance of a policy. It will also include determination of the status of taxes based on the latest available information and a final search of the title and that all necessary papers have been filed for record. Issuance of the policy ~~will~~ may not include services which are essentially escrow or closing services, such as receiving and disbursing money, prorating insurance and taxes, etc., for which an escrow fee will be charged. The issuer of the policy may specify requirements necessary for the issuance of the title insurance, but it is the responsibility of the applicant to meet such requirements and the title insurance agent ~~will~~ may not act for the applicant to satisfy the same. It is not the responsibility of the policy issuer to cure defects of title or remove liens or encumbrances. Title insurers and title insurance agents issuing title insurance policies ~~will~~ may not do any acts which constitute the practice of law and the premium will not include the cost of legal services to be performed for the benefit of anyone other than the company. A title insurance agent who is also a licensed lawyer rendering any legal services in the transaction insured will render a separate legal billing and the escrow fees ~~will~~ may not include such legal services. ~~(3-31-22)~~()

08. Self-Promotional. A promotional function conducted by a single entity or a promotional item intended for distribution by a single entity. All benefits from the promotional function or item will accrue to the entity promoting itself. (3-31-22)

09. Items of Value. Anything that has a monetary value and includes, but is not limited to, tangible objects, services, use of facilities, monetary advances, extension of lines of credit, creation of compensating balances, and all other forms of consideration. (3-31-22)

10. Trade Association. An association of persons, a majority of whom are producers of title business, or persons whose primary activity involves real property. (3-31-22)

12. Title Entity. Includes ~~both~~ title insurance agents, ~~and~~ title insurers and their employees, agents, or representatives. ~~(3-31-22)~~()

13. Definitions Pertaining ~~To~~ Collected Funds: ~~(3-31-22)~~()

~~a-~~ ~~Business Day means a calendar day other than Saturday or Sunday, and also excluding most major~~

holidays. If January 1, July 4, November 11, or December 25 fall on a Sunday, the next Monday is also excluded from the definition of a business day. (3-31-22)

ba. Collected Funds means (i) ~~cash (currency)~~ United States Currency; (ii) ~~wired funds when unconditionally received by the escrow agent~~ deposit made via: (1) the Federal Reserve Bank through the Federal Reserve's funds transfer system; or (2) a funds transfer system provided by an association of banks; (iii) ~~when identified as such, (1) cashier's check; (2) certified check; or (3) teller's check (official check) when any of the above are unconditionally received by the escrow agent~~ interbank electronic transfer such that the funds are unconditionally received; (iv) ~~U.S. Treasury checks, postal money orders, federal reserve bank checks, federal home loan bank checks, State of Idaho and local government checks, local or Idaho on-us checks, or local third party checks on the next business day after deposit~~ checks, negotiable orders of withdrawal, money orders, and any other item that has been finally paid as described in I.C. 28-4-213; (v) ~~local personal or corporate checks on the second business day after deposit~~ any depository check, including cashier's check, certified check, or teller's check, which is governed by the provisions of the federal expedited funds availability act, 12 U.S.C. Sec. 4001 et seq.; and (vi) ~~non-local State and government checks, non-local on-us checks, non-local personal or corporate checks or non-local third party checks on the fifth business day after deposit. For purposes of this section a deposit is considered made on (1) the same day the item is delivered in person to an employee of a federally insured financial institution, or (2) the first business day following an after business hours deposit of an item to a federally insured financial institution~~ any other credited funds that the depository bank has confirmed are finally settled or that there has been final settlement of the funds; and (vii) any check drawn on a title insurance agent or title insurer licensed by the Idaho Department of Insurance. (3-31-22)()

c. ~~Cashier's Check, Certified Check and Teller's Check (Official Check) as identified above in Subsection 010.13.b. means checks issued by a federally insured financial institution.~~ (3-31-22)

d. ~~Local Checks: Checks drawn against a federally insured financial institution located in the same check processing region as the title agent's depository federally insured financial institution.~~ (3-31-22)

e. ~~On us checks: Checks drawn against the same federally insured financial institution or branch as the title agent's own depository federally insured financial institution.~~ (3-31-22)

fb. Collection or Long-Term Escrow means an escrow established for the purpose of receiving two (2) or more periodic payments over a total period of time after establishment in excess of thirty (30) days. (3-31-22)

gc. Escrow includes any agreement (express, implied in fact or at law) pursuant to which funds or documents are delivered to an escrow agent for holding until the happening of a contingency or until the performance of a condition, and then delivered by the escrow agent to another or recorded by the escrow agent. (3-31-22)

hd. Escrow Agent includes any person or entity described in Section 41-2704, Idaho Code, (and the rules promulgated thereunder), which accepts funds or documents for the purpose described in Subsection 010.13.g. (3-31-22)

ie. Incidental Expenses: Direct expenses that are the obligation of one or more of the parties to an escrow transaction but are not the purchaser's principal obligation. Incidental expenses would include, but not be limited to, advances to cover unexpected recording fees and additional interest caused by delays in closings or miscalculations. (3-31-22)()

011. TRACT INDEXES OR ABSTRACT RECORDS.

~~For clarification and guidance, the following is considered to be the correct definition or meaning of~~ As used in Section 41-2702, Idaho Code, "a complete set of tract indexes or abstract records" as used in Section 41-2702, Idaho Code means: A set of indexes from which the record ownership and condition of title to all land within a particular county can be traced and ascertained. Tract indexes and abstract records will be maintained and posted to current date and will include adequate maps that will enable a person working the title plant to locate a tract of land that is the subject of the title examination. ~~The basic component parts of such a set of indexes are:~~ (3-31-22)()

01. Basic Component Parts. An index or indexes, to be complete from the inception of title from the United States of America, in which the reference is to geographic subdivisions of land, classified according to legal

description, (as distinguished from an index or indexes in which the reference is to the name of the title holder, commonly called a grantor-grantee index) wherein notations of or references to: (3-31-22)

a. All filed or recorded instruments legally affecting title to particularly described parcels of real property and which impart constructive notice under the recording laws; and (3-31-22)

b. All judicial proceedings in the particular county legally affecting title to particularly described parcels of real property are posted, filed, entered or otherwise included in that part of the indexing system which designates the particular parcel of real property; provided, no reference need be made in such index to any judicial proceeding which is referred to or noted in the name index defined in Subsection 011.02 of these rules. (3-31-22)

c. No requirement is made for taxes and assessments, water or otherwise, or for water and mineral rights, land use regulations, and zoning ordinances to be made a part of the plant records. (3-31-22)

02. Name Index or Indexes. A name index or indexes ~~wherein notations of or references to~~ showing all instruments, proceedings and other matters of record in the particular county which legally affects or may legally affect title to all real property (as distinguished from particularly described parcels of real property) of the person, partnership, corporation or other entity named and affected, including guardianships, absentee, bankruptcies, receiverships, divorces and mental illness matters, if available, are posted, filed, entered or otherwise included in that part of the indexing system which designates the same. (3-31-22)()

03. Index Maintenance. The indexes prescribed in Subsection 011.01 may be maintained in bound books, looseleaf books, jackets or folders, on card files, or in any other form or system, whether manual, mechanical, electronic or otherwise; or in any combination of such forms or systems. (3-31-22)

04. Subdivision or Refinement. The extent to which the prescribed indexes are subdivided or refined is dependent upon all relevant circumstances. The population of the particular county, the extent to which land within the particular county has been subdivided and passed into separate ownerships, and all other factors which are reasonably related to the purpose of the statutory requirements are entitled to consideration in such determination. (3-31-22)

05. Discarding or Destroying. Any requirement established in this rule to the contrary notwithstanding, it is permissible to discard and destroy prior index books, jackets, folders, cards, photoprints or files pertaining to recorded instruments affecting title to particularly described parcels of real property once the titles to such particularly described parcels have been searched, examined and a policy of owner's title insurance issued thereon. The discarding and destruction of prescribed index components is applicable only when a permanent copy of the search notes, examiner's opinion and issued policy is retained in lieu of the discarded and destroyed index components. (3-31-22)

012. PROCEDURAL RULES.

01. Miscellaneous Reports. Where an insurer or its agent issues judgment reports, lot book reports or property search reports, each such report will specifically contain the following statement: "This report is based on a search of our tract indexes of the county records. This is not a title or ownership report and no examination of the title to the property described has been made. For this reason, no liability beyond the amount paid for this report is assumed hereunder, and the company is not responsible beyond the amount paid for any errors and omissions contained herein." (3-31-22)

02. Special Exceptions. An insurer may insert such special exception(s) as may develop from an examination of the title. A special exception will specifically describe the item excepted to and ~~will~~ may not be general in terms. The printed provisions of a filed policy form, including exclusions from coverage, exceptions not insured against and stipulations and conditions will not be deemed special exceptions. (3-31-22)()

03. Liens and Encumbrances, Standards of Insurability and Insuring Around. The determination of insurability as to liens and encumbrances under Sections 41-2708(1) and the risk disallowed under 41-2708(2), Idaho Code, intentionally omitting an outstanding enforceable recorded lien or encumbrance, ~~are interpreted by the insurance director to mean~~ is defined as follows: (3-31-22)()

a. “Intentionally” omitting ~~“an outstanding enforceable recorded lien or encumbrance is~~ means the issuance of the policy with the intent to conceal information from any person by suppressing or withholding title information, the consequence of which could result in a monetary loss either to the title insurance company or to the insured under the policy or binder. (3-31-22)()

b. “Outstanding enforceable recorded lien or encumbrance” and/or “determination of insurability” means as to possible liens and encumbrances will not be construed as preventing an insurer from issuing a policy without taking exception to a specific recorded, inchoate, or death tax item when sound underwriting standards and practices allow insurance against the item. Defects of title are not regulated by this provision. Specifically, a policy may be issued without taking exception to the following items on the conditions set out: (3-31-22)()

i. Where a lien securing an obligation, though not released of record, to the satisfaction of the insurer has been discharged and the insurer or its agent has documentary evidence in its file that the obligation has been paid in full. (3-31-22)

ii. Where funds are in escrow to pay said item and a recordable release in form for filing is available for recording in the ordinary course of business. (3-31-22)

iii. Where liens, in the opinion of counsel, are barred by the statute of limitations. (3-31-22)

iv. Where inchoate liens may arise from improvements to the described property and may have priority over a mortgage being insured and a sufficient indemnity defined has been delivered to and accepted by the insurer, or sufficient funds, including short term treasury bills and notes, have been deposited with the insurer or its agent to assure ultimate payment and release of such liens; provided, an exception as to such inchoate liens will be shown on the policy with a provision insuring against enforcement. Sufficient indemnity as used herein will mean a direct obligation to pay such liens in an amount judged adequate by the insurer executed by a financial institution regulated by the state or federal government or executed by a responsible person as hereinafter defined. This subsection will also apply to recorded liens being contested if the indemnity is one hundred and fifty percent (150%) of the claim and is by such financial institution or in said funds. (3-31-22)

v. Where the insurer has previously issued a policy without taking exception to the specific item and is called upon to issue an additional policy where it is already obligated under such prior policy and where the new policy will not increase its liability or exposure; provided, an exception as to such item will be shown on the policy with a provision insuring against the enforcement thereof. (3-31-22)

vi. When the mortgage policy issued insures validity and priority of a lien, the insurer need not itemize liens which are subordinate to the lien insured, whether by express subordination or operation of law, unless such subordinated matters are shown to comply with a policy provision, or unless requested by the insured to do so; provided, when issuing a preliminary report, commitment or a binder for a mortgagee's policy all subordinate liens will be shown but a statement may be made that they are subordinate. (3-31-22)

vii. With reference to federal estate taxes and state inheritance taxes which have not been paid, where the insurer has examined a balance sheet of the estate and determined more than adequate funds are on hand to pay such taxes, and the insurer has taken an indemnity from a responsible person protecting itself against such unpaid taxes, or where sufficient moneys or other securities to pay such taxes have been placed in escrow pending the payment thereof or pending receipt of waiver of lien from the taxing authority. (3-31-22)

viii. “Responsible person” is one (1), or more than one (1) if they are jointly and severally liable, each of whose current verified balance sheet upon examination is determined by the insurer to be sufficient for the purpose of the indemnity given. Verified copies of all statements will be retained by the insurer or its agent. (3-31-22)

04. Mechanics' Liens, Disallowed Risk. Under the provisions of Section 41-2708, Idaho Code, ~~the Insurance Director has determined under standards of insurability, disallowed risks and rebates, that under~~ all forms of mortgage policies the risk insured will not include unrecorded liens and encumbrances, including contractors', subcontractors' professional services, materialmen's and mechanics' liens, unless: (3-31-22)()

a. The mortgage will have been placed of record prior to commencement of any improvement on the premises and the insurer is satisfied that the mortgage and related documents with reference to such priority; or (3-31-22)

b. Unless the provisions of Subsections 012.03.b.ii., 012.03.b.iii. or 012.03.b.iv., and 012.03.b.viii. as applicable have been complied with; or (3-31-22)

c. Unless the insurer has satisfied itself and documented its file that construction has been completed and the time for filing liens has expired. (3-31-22)

05. Usury, Truth in Lending Disclosures. Protection against usury, or disclosures prescribed in consumer credit protection acts, truth in lending acts, or similar acts imposing duties on lenders, do not constitute a part of the issuance of title insurance policies. Title insurers and their agents will not prepare or pass judgment on documents as to usury nor on disclosure documents and notice of right of rescission documents demanded by any such acts or make any computations as essential therein, in the issuance of title insurance policies; provided, an endorsement to a mortgage policy insuring that the loan is one by definition of the Truth in Lending Act exempt from rescission is permissible. Nothing herein will prevent such title insurers or their agents from performing closing or escrow services involving such matters when a proper fee is obtained therefor. (3-31-22)

06. Filing, Approval, Unique Contract or Rate. Whenever a title insurer is requested to insure a unique kind or class of risk for which a premium rate or form of policy or endorsement has not been filed, neither of which lends itself to an advance filing and determination of said rate or form, pursuant to Section 41-2706(4), such title insurer may make a written application to the Director of Insurance for approval of said special rate or form without complying with the filing notice and thirty (30) day waiting provisions of Section 41-2707 upon complying with the following requirements: (3-31-22)

a. The insurer has not agreed to the special rates, nor agreed to issue the special policy or endorsement, prior to making an application to the Director of Insurance. (3-31-22)

b. The insurer will make a written application to the Director of Insurance, requesting approval of the applicable special rate or special insurance policy or endorsement, wherein the insurer will set forth why the particular rate or policy or endorsement is unique as to the risk or form, that such item has or has not ever arisen in the past five (5) years to the knowledge of said insurer, and the circumstances if it has previously arisen in said period, and the circumstances which now arise which necessitate said rate, policy or endorsement and an analysis comparing said unique rate, policy or endorsement to the nearest comparable filed rate, policy or endorsement and justifying the difference on the basis of Sections 41-2706(1) and (2), Idaho Code. Such application will have attached to it the proposed policy or endorsement form. The Director of Insurance will have ten (10) working days after the date of receipt of such application to disapprove the same, and the filing will be deemed effective if the same is not disapproved within such time. The burden is upon the insurer to make inquiry after the expiration after said ten (10) days to determine whether a disapproval has been made, whether or not mailed notice of such disapproval has not yet been received by said insurer. (3-31-22)

c. These provisions are only applicable to rates, policies and endorsements, which by reason of the rarity of the event, or the peculiarity of the circumstances, do not lend themselves to a general advance determination and filing of said item. Applications under this rule and the applicable statute will not be approved if it appears either that said application does not meet the standards of the statute or is such a deviation from the usual policy form or rate most nearly applicable thereto as to be an unsound underwriting practice or an inadequate premium. (3-31-22)

013. PREMIUM RATES AND THEIR APPLICATION.

01. Schedule of Premium Rates. Each title insurer will file its schedule of premium rates (including both the taxable risk portion and the service portion) for title insurance charged the public for all policies, which premium rates commence with the lowest rate and advance by one thousand dollars (\$1,000) increments. The rate schedule will include owner's, standard mortgagee and extended coverage mortgagee policies, and may include other rates. In addition, any charges made for special endorsements will be listed and the type of policy to which applicable. Filed rates will provide that where a preliminary report is issued, the order for the policy may be canceled prior to closing. The applicant may be requested to pay a cancellation fee. The premium rates for policies will only

include title examination and issuance of title insurance which will be deemed to include any preliminary report, commitment to insure, binder or similar report (herein collectively called preliminary report) and the policy subsequently issued thereon. If more than one (1) chain of title is involved, an additional charge will be made for each additional chain. An additional chain is one involving property in a different block or section or under ~~a~~ different ownership within the last five (5) years. (3-31-22)()

02. Issuing Binders, Commitments or Preliminary Reports. No title insurer or title insurance agent ~~will~~ may issue a title insurance binder, commitment or preliminary report without an order. (3-31-22)()

03. Amount of Owner's Policy. An owner's policy will be issued for not less than (a) the amount of the current sales price of the land and any existing improvements appurtenant thereto, or (b) if no sale is being made, the amount equal to the value of the land and any existing improvements at the time of the issuance of the policy. If improvements are contemplated, the amount may include the cost of such improvements immediately contemplated to be erected thereon with a following pending improvement clause set forth in Schedule B of said policy and the full premium collected, which clause reduces the policy amount to the extent the improvements are not completed. The amount of policies covering leasehold estates for a term of fifty years or more will be for the full value of the land and existing improvements, and for less than fifty years will be for an amount at the option of the insured based on either the total amount of the rentals payable for the primary term but not less than five (5) years, or the full value of the land and existing improvements together with any improvements immediately contemplated to be erected thereon. The amount of policies insuring contract purchasers will be for the full value of the principal payments. Insurance of lesser estates will be written for the amount of the value of the estate at the time the policy is issued. (3-31-22)

04. Amount of Mortgagee Policies. A mortgagee's policy will be for not less than the full principal debt of the loan insured and at insured's request may include up to twenty percent (20%) in excess of the principal debt to cover interest, foreclosure costs, etc. Where the land covered represents only part of the security for the loan, the policy will be written for the amount of the unencumbered value of the land or the amount of the loan, whichever is the lesser. (3-31-22)

05. Simultaneous Issuance of Owner's and Mortgagee's Policy. When an owner's policy and a mortgage policy covering identical land are simultaneously issued, the owner's policy will bear the regular owner's rate. Premium for the mortgagee policy simultaneously issued may be for an amount less than the full mortgagee rate for the amount of insurance not in excess of the owner's policy. (3-31-22)

06. Double Sale and Reissue. No order ~~will~~ may be held open to cover a double sale and the premium will be charged and the policy issued on each sale, unless the conveyance on resale is recorded at the same time as the original transaction. A title insurer may file an owner's reissue rate of not less than fifty percent (50%) of the basic rate which will be applicable to any policy ordered within two (2) years of the effective date of a prior owner's or purchaser's policy naming applicant as the insured provided that the following conditions are met: (3-31-22)()

a. The prior policy or a copy thereof is presented to the issuing company and will be retained in the issuing company's file, or in the absence thereof, reasonable proof of issuance is provided the issuing company. (3-31-22)

b. The reissue premium will be based on the schedule of fees in effect at the time of reissue. (3-31-22)

c. Increased liability is to be computed in accordance with the basic schedule of fees in the applicable brackets. (3-31-22)

07. Amount on Litigation and Foreclosure Reports. Where a preliminary report is made for an owner's policy to be issued after a quiet title action or after a foreclosure of contracts of sale, deeds of trust or mortgages, the premium charge will be that on an owner's policy and the policy will be issued following the successful completion of the litigation or the foreclosure. A cancellation fee may be charged if the action is unsuccessful. Each such preliminary report will bear on its face as the limit of liability of the insurer, the value upon which the premium charge is based. (3-31-22)

014. DISCLOSURE BY PRODUCER OF TITLE BUSINESS.

01. Disclosure of Financial Interest. No title entity may accept any order to issue a title commitment, guarantee, title insurance policy for, or provide services including, but not limited to, escrow closing and foreclosure services, to an applicant if it knows or has reason to believe that the applicant was referred by a producer of title business, where the producer of title business has a financial interest in the title entity to which the business is referred unless the producer of title business has disclosed to the applicant the financial interest of the producer of title business. The disclosure will be made in writing and contain the items prescribed in Subsection 014.02 of this rule. (3-31-22)

02. Disclosure Provided to Applicant. The disclosure will be provided to the applicant at the time the sale and/or purchase contract is entered into. A signed copy of the disclosure will be maintained by the producer of title business and provided to the title entity prior to, or simultaneously with, the placing or the order for a title insurance commitment or guarantee or escrow closing services. The title entity will maintain a copy of said disclosure for a minimum period of five (5) years. The disclosure will contain the following: (3-31-22)

a. A heading, in bold face, all caps, type font 14 or higher that states: “NOTICE OF FINANCIAL INTEREST IN TITLE ENTITY BY PRODUCER OF TITLE BUSINESS.” (3-31-22)

b. A statement in type 12 font or higher: “We call this interest to your attention for disclosure purposes. (Provide name of Producer of Title Business) has a financial interest in this title entity (provide title entity name). This financial interest may result in a conflict of interest in our representation of you. Accordingly, you are free to choose any other title entity which is licensed by the Idaho Department of Insurance in the county in which the property is located. A list of title insurers and title agents licensed in the county in which the property is located may be found by contacting the Idaho Department of Insurance.” (3-31-22)

c. A statement that the Applicant has read the aforementioned disclosure and chooses to have their transaction served by the Title Entity referred by the Producer of Title Business. The disclosure will contain the signature of all applicants along with the date the signature(s) was accomplished. (3-31-22)

015. FINANCIAL INTEREST NOTICE.

01. Financial Interest Notice to Director. A title entity will notify the Director of the Department the names and addresses of all producers of title business that have a financial interest in the title entity, including the financial interest held by the producer of title business and the date the financial interest was acquired. (3-31-22)

02. Notice Filing. The title entity will provide the financial interest notice to the Director of the Department prior to the granting of a title agent license and upon request for renewal of a title agent license. (3-31-22)

016. – 020. (RESERVED)

021. TITLE INSURANCE AGENTS AND EMPLOYEES ACTING AS ESCROW AGENTS.

01. Written Instructions. An escrow agent ~~will~~ may not accept funds or papers into escrow without dated written instructions signed by the parties or their authorized representatives adequate to administer the escrow account and without receiving, at the time provided with the escrow instructions, sufficient funds and documents to carry out terms of the escrow instructions. Funds and documents deposited ~~will~~ may be used only in accordance with such written instructions. If additional instructions are needed, the agent will obtain the consent of both parties, their representatives to the escrow or an order of a court of competent jurisdiction at the expense of the escrow parties. (3-31-22)()

02. Notice of Conflict of Interest. An escrow agent will act without partiality to any of the parties to the escrow. An escrow agent cannot close a transaction where he has, directly or indirectly, a monetary interest in the subject property either as buyer or seller. If an escrow agent has a business interest in the escrow transaction other than as escrow agent, the relationship or interest will be disclosed in the written escrow instructions. After noting such interest, an additional statement will appear as follows: “We call this interest to your attention for disclosure purposes. This interest will not, in our opinion, prevent us from being a fair and impartial escrow agent in this

transaction, but you are, nevertheless, free to request the transaction be closed by some other escrow agent.” (3-31-22)

03. Closing Statement. On completion of an escrow transaction, the agent will deliver to each principal a written closing statement signed by the agent of each principal's account. The same will show all receipts and disbursements. Any charge made by and disbursements to the escrow agent will be clearly noted. A copy will be retained. (3-31-22)

04. Control of Funds. An escrow agent will maintain one or more trust accounts in a federally insured financial institution into which all escrow funds received will be deposited and from which there will be drawn escrow payments. No other funds ~~will~~ may be commingled with such trust account. Escrow fees ~~will~~ may not be drawn until the escrow is completely ready to close in accordance with the escrow instructions and will be withdrawn not later than the day on which the final disbursements are made for the escrow closing. (3-31-22)()

05. Escrow Accounting Procedures. An escrow agent will maintain on a current basis (a) an escrow ledger with a separate numbered sheet for each escrow agreement and (b) an escrow liability control account. Disbursements will be posted from checks or other vouchers and each item, not the total of items, will be entered. Escrow liability control account will always balance with the escrow ledger ~~at all times~~ and will equal the balance of funds in the trust accounts for escrows at the bank. Checks cannot be drawn against an escrow account without sufficient credit balance for the particular escrow existing at the time. Funds ~~will~~ may not be transferred between escrow agents except by writing checks and receipts which are charged and credited respectively to accounts with the reason noted and the authority therefor. All services will be performed and the escrow account ready to close before any service or escrow fees may be charged and drawn from an escrow account (unless an escrow is a long term collection, and fees are payable monthly or annually). The escrow funds will be placed in the trust accounts for escrows and no other funds commingled therewith. All entries in any escrow account will be posted the date of the entry without regard of the date of posting, but all entries will be posted daily. (3-31-22)()

06. Escrow Records. Each escrow agent will maintain in each escrow transaction: (3-31-22)

a. Evidence of all funds received including copies of all instruments, which will include pre-numbered cash receipts, copies of cashier's checks, wire transfer confirmations or evidence of unconditional payment of checks, as applicable; (3-31-22)

b. Complete evidence of all funds disbursed which will include check stubs or check copies, and wire instructions for all disbursements as applicable; and (3-31-22)

c. A final ledger sheet for each escrow transaction listing all items received and disbursed. All records will be available for audit, inspection and examination by the Director upon demand, and all records will be preserved for not less than six (6) years from the closing date of the escrow. (3-31-22)

07. Bond. Before a license will be issued to a title insurance agent, such agent will comply with the requirements for a bond pursuant to Section 41-2711. Such bond may be in the form that continues from year to year until canceled. ~~In lieu of a bond, cash or securities as herein defined may be deposited with the Director of Insurance.~~ The Director of Insurance approves the following securities which are eligible for deposit in place of the bond: Cash in the form of a cashier's check, any public obligation as defined in Sections 41-707 and 41-708, Idaho Code, and the assignment of any savings deposits or certificates of deposit as defined in Section 41-720, Idaho Code. In each case, such deposit will be accompanied by a statement that such deposit is made to meet the compliance of Section 41-2710, Idaho Code, and may be liquidated to meet the obligations of said section. Said cash or security in lieu of the bond will be deposited with the director pursuant to Section 41-804, Idaho Code, except that the cash will be deposited with the state treasurer for the account of the bond of said depositing agent. (3-31-22)()

08. Cancellation of Bond. A title insurance agent's bond may provide for cancellation thereof upon notice of not less than thirty days to the Insurance Director and to the licensed agent. Upon such notice being received, the licensed title insurance agent will provide a new bond in place thereof before the cancellation of the current bond, and in the event of failure to do so, the license of the title insurance agent will be deemed suspended on the date of the expiration of such bond, and until a replacement bond has been issued and delivered to the Director of Insurance. (3-31-22)

09. Disbursement of Funds or Documents ~~F~~from Escrow -- Requirement for Collected Funds.

(3-31-22)()

a. Notwithstanding any agreement to the contrary, no disbursement of funds or delivery of documents from an escrow for recording or otherwise may be made unless the escrow contains a credit balance consisting of collected funds, other than funds of the escrow agent or its affiliates, sufficient to discharge all monetary conditions of the escrow. The requirement of collected funds does not apply to collection or long term escrows. (3-31-22)

b. Notwithstanding any other provision of Section 021, an escrow agent may advance its own funds in an aggregate amount not to exceed one thousand dollars (\$1000) to pay incidental expenses incurred with respect to the escrow. (3-31-22)

022. ESCROW FEES.

Title insurers and title insurance agents ~~will~~ may not charge less than the fees filed with the Department of Insurance for a specified escrow service, as such service is defined in the title insurer's or title insurance agent's filed schedule of fees. Each title insurer and title insurance agent will file its schedule of escrow fees charged for all escrow and closing services rendered on a yearly basis due March 15 reflecting experience from the previous calendar year. Fees should include a title entity's basic rate, minimum rate and negotiable rate with respect to different types of closings and should not reflect credits of any kind with regard to different classifications of customers. The fee will be based upon the full sales price in the event of a sale, or the amount of the loan in the event of a mortgage and ~~will~~ may not be less than the title entity's cost for providing that service. Fees for escrow and closing services will not include preparation of instruments. Property in different ownerships always, and noncontiguous properties generally, are rated separately. Additional fees will be charged where the minimum fee is inadequate because of the unusual complications of the transactions. Fees may also be filed throughout the year as often as necessary as determined by the title entity. Fee filings in these instances will be filed at least thirty (30) days prior to implementation of the fees. (3-31-22)()

023. -- 030. (RESERVED)

031. REBATES AND ILLEGAL INDUCEMENTS.

01. Items of Value. A title entity ~~will~~ may not provide items of value to a producer of title business, consumer or member of the general public except as permitted in Sections 031.02, 031.03, 031.04 and 031.05 of this chapter. If a providing of things of value does not clearly fit into the rules in Sections 031.02, 031.03, 031.04, and 031.05, then it is not allowed. Exhibit 1, located on our website at <https://doi.idaho.gov/>, is a partial, but not all-inclusive, list of acts and practices that are considered illegal inducements disallowed by Title 41, Idaho Code. (3-31-22)()

02. Permitted Consumer Information. To facilitate the listing and sale of Idaho property, certain consumer information may be provided without charge to licensed real estate agents and brokers or to a person who owns the property for which the request is made, but is limited to the following information: (3-31-22)

a. Listing Package is a single copy of a listing package, property profile, or similarly named packet of information and will consist of information relating to the ownership and status of title to real property, and may include a single copy of only the following seven (7) items: (3-31-22)

- i. The last deed appearing of record; (3-31-22)
- ii. Deeds of trust or mortgages which appear to be in full force and effect; (3-31-22)
- iii. A plat map reproduction and/or a locator map; (3-31-22)
- iv. A copy of applicable restrictive covenants; (3-31-22)
- v. Tax information; (3-31-22)
- vi. Property characteristics such as number of rooms, square footage and year built; and (3-31-22)

vii. Photographs, including aerial, of the property. (3-31-22)

b. A listing package may include no more than the seven (7) above described items of information and ~~will~~ may not include market value information, demographics, or additions, addenda, or attachments which may be construed as conclusions reached by the title entity regarding matters of marketable ownership or encumbrances. Photographs may be provided, but only if the title entity does not pay a separate fee or provide any other consideration to a person for that product or service. The title entity may provide any photographs that are acquired through normal subscriptions or licensing fees associated with obtaining access to county records for tax information, property characteristics, or plat maps, as long as there is no additional charge to the title entity for the production, reproduction or delivery of the photographs. A generic cover letter with the printed standard letterhead of the title entity may be attached to the listing package. The cover letter may include a brief statement identifying by name only, which of the seven (7) permitted items of information are attached thereto. The cover letter may also contain a disclaimer as to conclusions of marketable ownership or encumbrances. The content of the cover letter or listing package is strictly limited to the foregoing and ~~will specifically~~ may not include any advertising or marketing for the benefit of the recipient. (3-31-22)()

c. Market value information, demographics, additions, addenda, photographs (other than as described in Paragraph 031.02.b) or other attachments, which attachments may be construed as conclusions reached by the title entity regarding matters of marketable ownership or encumbrances, may be provided, but only upon receipt of a charge commensurate with the actual cost of the work performed and the material furnished. (3-31-22)

d. A title entity may provide to licensed attorneys and licensed appraisers only the following documents without charge; (3-31-22)

i. A plat map reproduction; (3-31-22)

ii. A copy of applicable restrictive covenants; (3-31-22)

iii. The last deed appearing of record; and (3-31-22)

iv. A cover letter as described in Paragraph 031.02.b. (3-31-22)

03. Advertising With Trade Associations. (3-31-22)

a. No advertisement may be placed in a publication that is published or distributed by, or on behalf of, a producer of title business. Advertising in a trade association publication is only permitted if the publication is an official publication, published or distributed by, or on behalf of the trade association with at least regular annual publications. The publications should be nonexclusive (any title entity will have an equal opportunity to advertise in the publication and at a standard rate). The title entity's ad will be purely self-promotional. (3-31-22)

b. A title entity is permitted to donate time to serve on a trade association committee and may also serve as an officer or director for the trade association. A title entity may also donate, contribute or otherwise sponsor a trade association event if the event is a recognized association event that generally benefits all members and affiliated members in an equal manner. The donation cannot benefit selected producer of title business members of the association unless through random process. Solicitation for the donation should be made of all members and affiliated members in an equal manner. Donations are per agent license or insurer and are limited to a cumulative donation value of two thousand dollars (\$2,000) or equivalent things of value collectively to all trade associations per year. In addition, a title entity is allowed to participate in or attend trade association events as long as the title entity pays a fee commensurate with fees paid by other participants in the events. These events include, but are not limited to, conventions, award banquets, symposiums, breakfasts, lunches, dinners, open houses, sporting activities and all other similar activities. (3-31-22)

04. Self-Promotional Advertising. (3-31-22)

a. A title entity may distribute self-promotional items having an acquisition value of less than twenty-five dollars (\$25) to producers of title business, consumers, and members of the general public. These self-

promotional items are limited to novelty gifts, advertising novelties, and generic business forms and specifically do not include food, beverages, gift certificates, gift cards, or other items that have a specific monetary value on their face or that may be exchanged for any other item having a specific monetary value. Self-promotional items ~~will~~ may not contain the name, logo or any reference to a producer of title business, trade association or done. (3-31-22)()

b. Self-promotional functions are limited to the following two (2) types of functions: (3-31-22)

i. A title entity is permitted to conduct educational programs. The education programs ~~will~~ may only address title insurance and escrow and other topics related thereto. A title entity is permitted to expend no more than twenty dollars (\$20) per person at an educational program. For purposes of determining the maximum permitted expenditure, all costs associated with the delivery of the educational program is considered, including but not limited to, costs paid by the entity for travel, refreshments, instructor or speaking fees and facility rental. A title entity may participate in or make presentations at educational programs which are conducted or presented by other entities. The title entity is not permitted to expend any money to sponsor or cosponsor these programs, unless the educational program is a trade association event in which case Subsection 031.03.b of this chapter will apply. (3-31-22)()

ii. A title entity is permitted to have two (2) open houses per year. An open house is a self-promotional function at the title entity's owned or occupied facility (i.e., a Christmas party or any party, an open house for remodeling of its facility, an open house for a new building to become the title entity's facility). It is nonexclusive (all producers of title business are invited). A title entity will not expend more than fifteen dollars (\$15) per guest per open house. A title entity ~~cannot~~ may not combine permitted expenditures for two (2) open houses to be used for one (1) open house. ~~A title entity also cannot~~ In addition, no accumulate ~~on left over~~ or unused expenditures from one (1) open house ~~and may be used those expenditures~~ for a second open house. (3-31-22)()

05. Permitted Business Entertainment. A title entity ~~will~~ may not expend more than one hundred dollars (\$100) per person per day for all meals and/or events. Meals and events ~~will~~ include, but are not ~~be~~ limited to, breakfast, brunch, lunch, dinner, cocktails, sporting events, sporting activities, trips and music and art events. These meals or events may occur on or off the title entity's premises. In addition, a title entity may entertain no more than four (4) persons who are employed by or agents of any single producer of title business in a single day. Spouses and/or guests of the producers of title business or employees or agents are included in the count for purposes of determining the four (4) person maximum. In addition, a person ~~cannot~~ may not be entertained ~~by a title entity~~ more than three (3) days during any ten (10) day period of time. For purposes of determining the maximum permitted expenditure, all costs associated with any meals or events will be considered. This ~~will~~ include s, but is not ~~be~~ limited to, costs paid by the title entity for travel, transportation, hotel, equipment or facility rental, meals, cocktails, refreshments, registration or entry fees and event tickets. Entertainment permitted under this rule ~~cannot~~ may not be conditional upon or compensation for forwarding or directing title business to the title entity. (3-31-22)()

06. Locale of the Title Insurer or Title Insurance Agent Employees. A title entity ~~will~~ may not have any of its employees working in a work space location owned or leased by a producer of title business unless: (3-31-22)()

a. The space is secured by a bona fide written lease or rental agreement. (3-31-22)

b. The space is separate from and can be secured against access by other occupants of the premises. (3-31-22)

c. The rental paid for the workspace is consistent with prevailing rental payments for similar space in the market area of the location of the work space. (3-31-22)

d. The rental is not dependent on volume of business and is paid only in cash (~~rental cannot be paid~~ not by trade or barter). (3-31-22)()

e. The space is open to the conduct of business with any producer of title business or consumer. (3-31-22)

- f. There is no sharing of employees. (3-31-22)
- g. There is no common usage of space or equipment between the title entity and the producer of title business without a proportionate share of cost, rent, or expense paid by each party. (3-31-22)
- ~~07. **Penalty.** This Section emphasizes and restates the general penalties authorized pursuant to Title 41, Idaho Code, for violations of the anti-rebate and anti-illegal inducement laws. (3-31-22)~~
- ~~a. Section 41-2708(3), Idaho Code, provides that each person and entity giving or receiving a rebate, illegal inducement, or a reduction in rate is liable for three (3) times the amount of such rebate, illegal inducement, or reduced rate. In addition to this penalty, a title entity may also be subject to an administrative penalty as outlined below. (3-31-22)~~
- ~~b. Section 41-327, Idaho Code, provides that the Director may impose an administrative penalty not to exceed five thousand dollars (\$5,000) and/or suspend or revoke an insurer's certificate of authority if the Director finds, after a hearing thereon, that the insurer has either violated or failed to comply with the Insurance Code. (3-31-22)~~
- ~~c. Section 41-1016, Idaho Code, provides that the Director may impose an administrative penalty not to exceed one thousand dollars (\$1,000) and/or suspend or revoke an agent's license if the Director finds, after a hearing thereon, that the agent has either violated or failed to comply with the Insurance Code. (3-31-22)~~
- 032. DISSEMINATION.**
All title entities are instructed to distribute a copy of this rule to every employee that may be engaged in activities requiring knowledge of its contents, and to instruct all employees in its scope and operation. (3-31-22)
- 033. -- 999. (RESERVED)**

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.06.06 – SURPLUS LINE RULES

DOCKET NO. 18-0606-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-12, Idaho Code.

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

This rule provides procedures for the placement of surplus line insurance. 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, 2024, Idaho Administrative Bulletin, [Volume 24-9, page 489-492](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

No fee or charge imposed or increased.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

DATED this 3rd day of October, 2024.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

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 41-1232, Idaho Code.

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

<p>Monday, September 23, 2024 2:00 p.m. - 3:30 p.m.(MT)</p>
<p>In-person participation is available at: Idaho Department of Insurance 700 W. State St., 3rd Floor Boise, ID 83702</p> <p>Web Meeting Link: Click here to join the meeting Meeting ID: 259 030 737 919 Passcode: PWSpjG Download Teams Join on the web</p>

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

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

This rule provides procedures for the placement of surplus line insurance.

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

No fee or charge imposed or increased.

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

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, 2024 Idaho [Administrative Bulletin, Volume 24-7, pages 114-115](#) under docket number 18-ZBRR-2401.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2024.

DATED this 2nd day of August, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 18-0606-2401

18.06.06 – SURPLUS LINE RULES

000. LEGAL AUTHORITY.

~~Title 41, Chapter 12~~ Section 41-1232, Idaho Code. (3-31-22)()

001. ~~TITLE AND SCOPE.~~

~~01. Title.~~ IDAPA 18.06.06, “Surplus Line Rules.” (3-31-22)

~~02. Scope.~~ Provide procedures for the placement of surplus line insurance. (3-31-22)()

002. – 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions set forth in Section 41-1213, Idaho Code, the following definitions also apply: (3-31-22)

~~01. Open Lines for Export.~~ “Open Lines for Export” is defined as the class or classes of business which the Director has declared eligible for export in accordance with Section 41-1216, Idaho Code. (3-31-22)

~~02. Lines Other Than Open Lines for Export.~~ “Lines Other Than Open Lines for Export” is defined as the class or classes of business not on the list of open lines for export which are to be offered to eligible surplus lines insurers in accordance with Title 41, Chapter 12, Idaho Code. (3-31-22)

~~03. Diligent Search.~~ A Broker has exercised their obligations under Section 41-1214(2), Idaho Code, if the Broker or the referring insurance producer submits a risk to at least one (1) authorized company engaged in writing in Idaho the type of coverage sought, or if there are no companies engaged in writing such coverage, the risk is submitted to at least one (1) company that, in the Broker’s or producer’s professional judgment, is the most likely to accept the risk. (3-31-22)

~~04. Delegated Contractor.~~ Any contractor to whom activities have been delegated by the Director under Section 41-1232, Idaho Code. (3-31-22)

011. BIENNIAL LICENSE.

The Idaho license of a resident or non-resident Broker is to be renewed every two (2) years. ~~The original license fee and the renewal fee are prescribed in IDAPA 18.01.02.~~ A broker will not solicit surplus line business before being licensed as a Broker. A broker will notify the Licensing Division of the Department if not renewing the license prior to the license renewal date to settle any taxes or filing requirements. ~~The Director may allow the continuation of a non-renewed license if, within one (1) year after the renewal date, the licensee submits a renewal request and a continuation fee twice the amount prescribed by Section 41-1008(3), Idaho Code.~~ (3-31-22)()

012. ANNUAL REPORT.

~~Each Broker will file an annual report with the Director by March 1st of each year, of Surplus Line business transacted during the previous calendar year on an approved form.~~ The information required in each Broker’s annual report is incorporated into and will be filed with the Annual Statement of Premium Taxes, both due March 1 of each year. (3-31-22)()

013. PAYMENT OF STATE TAX.

~~01. **Tax Due March 1.** On or before March 1st of each year, each licensed Broker will pay premium tax to the Department on business written during the preceding calendar year, which tax will be collected from the insured, in addition to the stamping fee. (3-31-22)~~

~~02. **Tax Summary.** By February 1st of each year, the delegated contractor will provide to each Broker a summary of records showing the state tax due to the Department for the preceding year and this amount will be paid to the Department owed by the Broker. A flat percentage of the gross premium written during the year is not acceptable since tax was collected on each individual policy and that full amount will be paid to the Department. (3-31-22)()~~

014. PAYMENT OF STAMPING FEES.

01. Application. A stamping fee is charged on all premiums and policy fees written on Idaho business at a rate established by the delegated contractor and approved by the Department. This rate may be adjusted to obtain the objectives of the delegated contractor. The stamping fee cannot be refunded except in the case of extenuating circumstances approved by the delegated contractor. (3-31-22)

02. Summary. Within ten (10) days following the month during which the surplus line insurance was handled through the delegated contractor, the delegated contractor will submit an invoice summarizing the premium, Idaho tax, and Stamping Fee for each submission processed to each Broker. (3-31-22)

03. Payable on Receipt. The Stamping Fee is payable upon receipt of billing. It is delinquent if not paid within thirty (30) days after the last day of the month in which the business was reported. (3-31-22)

015. COLLECTION OF TAXES.

01. Idaho Premium Taxes. Idaho Premium Tax will be collected from the insured. Policy fees, service fees, and other like fees are considered part of the premium and subject to premium tax. State premium taxes will be refunded to the taxpayer upon cancellation of the policy or return of premium for any reason. (3-31-22)

02. Purchasing Groups. Purchasing groups that obtain insurance from any ~~unauthorized or authorized~~ surplus lines insurer will use an Idaho-licensed Broker. The Broker is responsible to collect and submit all taxes and fees as prescribed by this chapter. (3-31-22)()

016. REPORTING TAXES AND STAMPING FEES.

Brokers are to report premium taxes and stamping fees in increments of not less than one year. A Broker who collects quarterly or monthly payments of premiums from the insured will provide reports of the premium tax and stamping fee in the initial submission or renewal for a full year. (3-31-22)

017. PLACEMENT AND COMMISSIONS.

~~01. **Basic Requirement.** All surplus line business is to be placed through a licensed Broker. Each producer of surplus line business will hold an Idaho resident or non resident producer license. (3-31-22)~~

~~02. **Idaho Producer.** When a producer requests placement by a licensed Broker, the commission received and paid will be based on the mutual written agreement of the parties. (3-31-22)()~~

018. SUBMISSION TIME PERIODS.

All ~~affidavits, submissions, certificates, endorsements and other documents~~ filings for insurance written ~~for Open Lines for Export and Other Than Open Lines for Export~~ pursuant to Chapter 12, Title 41, Idaho Code, are to be received by the delegated contractor within thirty (30) days of receipt by the broker of the certificate, endorsement or other policy document. If the complete submission cannot be made within this time period, the information with submission form and affidavit, if applicable, will be forwarded. The Broker is responsible for meeting this requirement. (3-31-22)()

019. COMPLIANCE FOR RISKS NOT ON OPEN LINES FOR EXPORT.

~~Pursuant to Section 41-1216, the Director will publish a list of approved classes of insurance coverage or risks. If a risk does not appear on the~~ is Open Lines for Export ~~list, then the Broker will file all the normal submission forms and documents and execute the broker's affidavit~~ same filings for insurance written to Chapter 12, Title 41, Idaho Code.
(3-31-22)()

020. BROKER RECORDS.

~~A full and true record of each surplus line coverage procured by each Broker is to be maintained by the Broker. Reports of all documents processed by the delegated contractor will be provided on a monthly basis to the Broker. These reports, in addition to the broker's copy of policies and endorsements,~~ full and true records are to be kept for a period of five (5) years and are subject to examination by the Director.
(3-31-22)()

021. APPROVED LIST OF INSURERS.

~~Pursuant to Section 41-1217, Idaho Code, the Director compiles or approves a list of unauthorized insurers, whether foreign or alien, eligible to write surplus line business in Idaho. Brokers may only place surplus line business with companies on the current list. The delegated contractor will inform Brokers of additions and~~ any ~~changes to the list of eligible surplus lines insurers.~~
(3-31-22)()

022. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.08.01 – ADOPTION OF THE INTERNATIONAL FIRE CODE

DOCKET NO. 18-0801-2401

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-253, Idaho Code.

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

This pending rule adds clarifying language to Section 017, regarding licensed sprinkler contractors. 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, 2024, Idaho Administrative Bulletin, [Vol. 24-9, pages 493-494](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

No fee or charge imposed or increased.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

DATED this 4th day of November, 2024.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 41-211 and 41-253, Idaho Code.

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

Monday, September 23, 2024
2:00 p.m. - 3:30 p.m.(MT)

In-person participation is available at:
Idaho Department of Insurance
700 W. State St., 3rd Floor
Boise, ID 83702

Web Meeting Link:
[Click here to join the meeting](#)
Meeting ID: 259 030 737 919 Passcode: PWSpjG
[Download Teams](#) | [Join on the web](#)

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

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

This rule adopts the International Fire Code and edits by the State Fire Marshal, as the minimum standard for the protection of life and property from fire and explosion in the State of Idaho. The primary purpose of the proposed rulemaking is to make negotiated amendments to Section 017, Violation Penalties, IFC Section 110.4.

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

No fee or charge imposed or increased.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024, Idaho [Administrative Bulletin, Volume 24-7, under pages 112-113](#), under docket number 18-0801-2401.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2024.

DATED this 2nd day of August, 2024.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0801-2401

Italicized red text that is double underscored indicates amendments to the proposed text as adopted in the pending rule.

18.08.01 – ADOPTION OF THE INTERNATIONAL FIRE CODE

017. VIOLATION PENALTIES, IFC SECTION 110.4.

In Section 110.4, replace “shall be guilty of a [SPECIFY OFFENCE], punishable by a fine of not more than [AMOUNT] dollars, or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment” with “may be charged with a misdemeanor by prosecuting authorities if the violation is not resolved after written notice by the fire code official”. *This section does not apply to the actions of a licensed fire protection sprinkler contractor when acting within the scope of that license. Any such violations are governed by the provisions of IDAPA 18.08.02.* (7-1-24)()

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.04.01 – RULES OF THE BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS

DOCKET NO. 24-0401-2401 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, as well as Sections 67-9404, 67-9405, 67-9406, 67-9409, 67-9413, and 54-2801 through 54-2822, 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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Board of Registration for Professional Geologists is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. There are no changes to the pending rule, and it is being adopted as originally proposed.

The complete text of the proposed rule was published in the October 2, 2024, Idaho Administrative Bulletin, [Vol. 24-10, pages 252-258](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

As authorized in Section 54-2808, Idaho Code, the fee(s) in this rulemaking are established in Rule 400. The pending rules increase the annual renewal fee from \$60 to \$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 negative fiscal impact on the state General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the pending rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

DATED this 8th day of November, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.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. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67- 9406, 67-9409, and 67-9413, Idaho Code, and 54-2801 through 54-2822, Idaho Code.

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

24.04.01 – Rules of the Board of Registration for Professional Geologists

Thursday, October 17, 2024 – 9 a.m. (MT)
Division of Occupational and Professional Licenses
EagleRock Room, Chinden Campus Building 4
11341 W. Chinden Blvd.
Boise, ID 83714

[Virtual Meeting Link](#)

Telephone and web conferencing information will be posted on <https://dopl.idaho.gov/calendar/> and <https://townhall.idaho.gov/>.

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Board of Professional Geologists is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

This proposed rulemaking increases the annual renewal fee from \$60 to \$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 as a result of this rulemaking:

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-0401-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 5, 2024, Idaho Administrative Bulletin, [Vol. 24-6, p.70-71](#).

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. No materials have been incorporated by reference into the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 30th day of August, 2024.

THE FOLLOWING IS THE TEXT OF ZBR FEE DOCKET NO. 24-0401-2401

24.04.01 – RULES OF THE BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Sections 54-2808, 67-2604, 67-2614, 67-9409, and 67-9406, Idaho Code. (3-28-23)(____)

001. SCOPE.

These rules govern the practice of geology in Idaho. (3-28-23)

~~002.—009.~~ **(RESERVED)**

~~010~~**02. DEFINITIONS.**

~~For the purposes of these rules, the following definitions apply:~~ (3-28-23)

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.~~ An individual who has met the academic qualifications established by the Board, who has successfully passed a written examination demonstrating knowledge of the Fundamentals of Geology, and who has been enrolled as a Geologist-in-Training by the Board. (3-28-23)(____)

~~02. Registrant.~~ Any person currently registered as a professional geologist. (3-28-23)

03. Responsible Position. A position ~~wherein in which~~ a person, ~~having has~~ independent control, direction, or supervision of a geological project, and who investigates and interprets geologic features. (3-28-23)(____)

04. Responsible Charge. ~~Means the e~~ Control and direction of geology work, requiring initiative, professional skill, independent judgment, and professional knowledge of the content of relevant documents during their preparation. (3-28-23)(____)

~~044~~**03.** -- 099. (RESERVED)

100. LICENSURE.

01. Examination. Except as otherwise provided in statute, every Applicant for registration as a professional geologist shall take and pass the ASBOG Fundamentals of Geology and Practice of Geology Examinations. Applicants who have completed the educational requirements of Section 54-2812, Idaho Code, may be eligible to take the Fundamentals of Geology examination prior to graduation. ()

a. Authorization. ()

i. Not less than ninety (90) days prior to the examination date, the Applicant shall give written notice to the Board of the applicant's intent to take the examination. Not less than thirty (30) days prior to the examination date, the Board shall notify each Applicant in writing of the acceptance or rejection of the application, and, if rejected by the Board, the reason for the rejection. ()

b. 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. ()

c. Scores. An Applicant for registration by examination must successfully pass both the Fundamentals of Geology examination and the Practice of Geology examination. The passing score is determined by ASBOG. An Applicant who has passed only the Fundamentals of Geology examination is eligible to receive a certificate as a Geologist-in-Training. An Applicant who has passed the Practice of Geology examination is eligible to apply for registration as a professional geologist. ()

02. Geologist-In-Training. An Applicant who has passed the Fundamentals of Geology examination will receive a certificate of completion designating the Applicant as a Geologist-in-Training. A Geologist-in-Training shall not practice without supervision. Certification as a Geologist-in-Training is limited to ten (10) years. ()

~~101.~~ -- 199. (RESERVED)

~~100~~**200. GENERAL PROVISIONS PRACTICE STANDARDS.**

01. Certificates. Certificates of registration are issued to each Registrant on forms adopted by the Board. ~~Certificates must be displayed by Registrants in their place of business~~ (3-28-23)()

02. 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, t~~ The Registrant's signature and date are also included. A signature may be a handwritten or digital signature. If the signature is handwritten, it will be adjacent to or across the seal. No further words or wording are required. ~~A facsimile signature generated by any method will not be acceptable unless accompanied by a digital signature.~~ (See "Appendix A" at end of this Chapter.) (3-28-23)()

a. The seal, signature, and date must be placed on all final specifications, reports, information, and calculations, ~~whenever presented.~~ Any such A document that is not final and does not contain a seal, signature, and date will be ~~clearly~~ marked as "Preliminary," "Draft," or "Not for Construction," ~~or with similar words to distinguish the document from a final document.~~ (3-28-23)()

b. The seal, signature, and date must be placed on all original documents. The application of the Registrant's seal, signature, and date constitutes certification that the work ~~thereon~~ was done by the Registrant or under the Registrant's supervision. Each plan or drawing sheet is sealed and signed by the Registrant or Registrants responsible for each sheet. In the case of a business entity, each plan or drawing sheet is sealed and signed by the Registrant or Registrants involved. The supervising professional geologist signs and seals 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:" are placed adjacent to or across the seal on the electronic original. The storage location~~

~~of the original document must also be provided.~~ Only the title page of reports, specifications, and like documents need bear the seal, signature, and date ~~of the Registrant.~~ (3-28-23)()

~~e. The seal and signature may 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.~~ (3-28-23)

~~dc. In the event a Registrant in responsible charge of a project leaves employment, is transferred, is promoted, becomes incapacitated, dies, or is otherwise is not available to seal, sign, and date final documents, the duty of responsible charge for the project is 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 must seal, sign, and date all work product in conformance with Section 54-2815, Idaho Code.~~ (3-28-23)()

03. Address Change. Each Applicant and Registrant must notify the Board within sixty (60) days of any and all changes of address, giving both old and new address. (3-28-23)

~~101-201.~~ -- ~~149-399.~~ (RESERVED)

~~150-400.~~ FEES.

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$100
Initial Certificate	\$20
Annual Renewal	\$60 100
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 \$200, pursuant to Section 54-2816, Idaho Code
Duplicate Certificate	\$20
Examination-	Set by ASBOG

(3-28-23)()

~~151-199.~~ (RESERVED)

200. APPLICATION PROCEDURES.

01. Applications. Applications for registration must be: (3-28-23)

a. On forms prescribed by the Board and accompanied by official transcripts, reference statements, and a signed code of ethics; (3-28-23)

b. Received by the Board, if for registration by examination, not less than ninety (90) days prior to the date of examination; (3-28-23)

e. Subscribed and certified to by the Applicant under penalty of perjury as provided for by state law; and (3-28-23)

~~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. (3-28-23)~~

~~02. **Dates.** The date of application is 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, is computed from the date of application as described above. (3-28-23)~~

~~03. **References.** Statements from personal references in Responsible Positions concerning the Applicant's technical ability and personal character, will 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. (3-28-23)~~

~~04. **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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~03. **Authorization.** (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~e. 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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~06. Scores. An Applicant for registration by examination must successfully pass both the Fundamentals of Geology examination and the Practice of Geology examination. (3-28-23)~~

~~a. Every Applicant receiving a sealed 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. (3-28-23)~~

~~b. Every Applicant receiving a sealed 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. (3-28-23)~~

~~e. Every Applicant receiving a sealed score of less than seventy (70), as determined by ASBOG, on either the Fundamentals of Geology examination or the Practice of Geology examination, is deemed to have failed such examination. Every Applicant having failed will have his Application denied without prejudice, but will be allowed to retake the failed examination in accordance with Subsection 300.04 of these rules. (3-28-23)~~

~~07. Re Score or Review of Examination. (3-28-23)~~

~~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. (3-28-23)~~

~~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 will have access to such examination papers. (3-28-23)~~

~~301. -- 399. (RESERVED)~~

~~400. GEOLOGIST IN TRAINING.~~

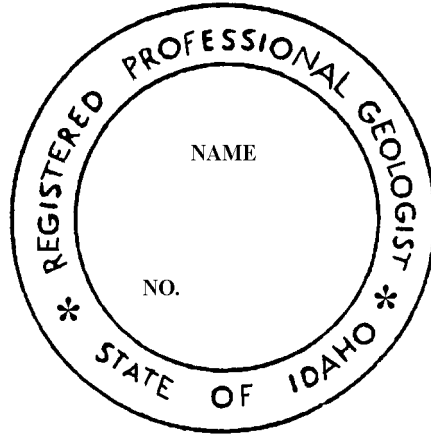
~~An Applicant who has passed the Fundamentals of Geology examination and satisfied the education requirements set forth in Subsection 300.01 of these rules, will receive a certificate of completion designating the Applicant as a Geologist in Training. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.08.01 – RULES OF THE STATE BOARD OF MORTICIANS

DOCKET NO. 24-0801-2401 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 54-1106 and 54-1107, Idaho Code.

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

The pending rule is being adopted under [Executive Order 2020-01, Zero Based Regulation](#). Text amended since these rules were published as proposed is as follows:

Rule 100.06.d.i was edited to include the word “including” to specify that the section does not apply to only alkaline hydrolysis, but simply includes alkaline hydrolysis among all other disposal methods.

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, 2024 Idaho Administrative Bulletin, [Vol. 24-9, pages 498-507](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

As authorized in Section 54-1115, Idaho Code, the fee(s) in this rulemaking are established in Rule 400. During the 2024 Legislative session, House Bill 505 was passed by the Legislature. This bill moves all boards to a biennial renewal cycle and updates all fees set through Idaho Code from an annual rate to a biennial rate. The Idaho Board of Morticians fees are established within their administrative rules, therefore the increase of fees found in these proposed rules updates all fees within the fee table from an annual rate to a biennial rate.

Additionally, during the 2023 Legislative session, the Joint Finance Appropriations Committee required the Division to report on year-end cash balances for all boards and to present a plan for all boards where the cash balances either exceed 125% or drops below 30% of the Division’s five-year rolling average of expenditures, pursuant to intent language found in Senate Bill 1201 passed by the Legislature. In response to the report and the plan, the board voted to address the board’s low cash balance by adjusting the fees upwards of 20% within these proposed rules.

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 negative fiscal impact on the state General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the pending rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

DATED this 4th day of October, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.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. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 54-1106 and 54-1107, Idaho Code.

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

<p>24.08.01 – Rules of the State Board of Morticians</p>
<p>Thursday, September 12, 2024 – 9 a.m. (MT) Division of Occupational and Professional Licenses Coolwater Room, Chinden Campus Building 4 11341 W. Chinden Blvd. Boise, ID 83714</p> <p>Virtual Meeting Link</p> <p>Telephone and web conferencing information will be posted on https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/.</p>

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Board of Morticians is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

During the 2024 Legislative session, House Bill 505 was passed by the Legislature. This bill moves all boards to a biennial renewal cycle and updates all fees set through Idaho Code from an annual rate to a biennial rate. The Idaho Board of Morticians fees are established within their administrative rules, therefore the increase of fees found in these proposed rules updates all fees within the fee table from an annual rate to a biennial rate.

Additionally, during the 2023 Legislative session, the Joint Finance Appropriations Committee required the Division to report on year-end cash balances for all boards and to present a plan for all boards where the cash balances either exceed 125% or drops below 30% of the Division's five-year rolling average of expenditures, pursuant to intent language found in Senate Bill 1201 passed by the Legislature. In response to the report and the plan, the board voted to address the board's low cash balance by adjusting the fees upwards of 20% within these proposed rules.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, Vol. 24-4, pg. 41.

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

N/A. No materials have been incorporated by reference into the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

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, 2024.

DATED this 2nd day of August, 2024.

THE FOLLOWING IS THE TEXT OF ZBR FEE DOCKET NO. 24-0801-2401

Italicized red text that is double underscored indicates amendments to the proposed text as adopted in the pending rule.

24.08.01 – RULES OF THE STATE BOARD OF MORTICIANS

000. LEGAL AUTHORITY.

The following rules are promulgated pursuant to Section 54-1106 and 54-1107, Idaho Code. (3-28-23)

001. SCOPE.

These rules govern the practice of morticians, funeral directors, and funeral establishments in Idaho. (3-28-23)

002. -- ~~24099.~~ (RESERVED)

~~250~~100. RESIDENT TRAINEE LICENSURE.

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. (3-28-23)

01. ~~Training Requirements~~ Resident Trainee. To be licensed as a Resident Trainee, as defined in Section 54-1112, Idaho Code, an applicant must meet the following requirements. (3-28-23)()

a. ~~Full time employment requires that the~~ To meet the twelve (12) month requirement set forth in Idaho Code 54-1109(2)(b), **a** Resident Trainee be employed for at least thirty-six (36) hours per week ~~for fifty (50) weeks per year~~ within ~~the~~ **an** Idaho mortuary where the Resident Trainee's sponsoring mortician is practicing **for the entirety of any twelve (12) months within the three-year trainee period set forth in Idaho Code 54-1112(4).** (3-28-23)()

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. (3-28-23)

ii.b. ~~For the balance of the required hours,~~ **Personal supervision as required in Chapter 11, Title 54, Idaho Code, shall be defined as** the sponsoring mortician, or ~~his~~ **a** licensed appointee, ~~must be~~ **being immediately** available **in person or remotely** to consult with the Resident Trainee. (3-28-23)()

bc. All training must occur within Idaho. (3-28-23)

ed. A Resident Trainee shall not sign a death certificate. (3-28-23)

02. Sponsoring Mortician. A sponsoring mortician must: (3-28-23)

a. Be an Idaho-licensed mortician who practices in Idaho. (3-28-23)

b. Not serve as the sponsoring mortician for more than two (2) "Resident Trainees at any given time." (3-28-23)()

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.~~ (3-28-23)()

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 **within thirty (30) days** after the period of time covered by the report ~~ends.~~ (3-28-23)()

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. (3-28-23)()

03. Eligibility to Be Licensed. For purposes of accounting for total cumulative training as a Resident Trainee, the sponsoring mortician must notify the Division 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.~~ (3-28-23)()

04. Inactive Licenses. Licensees may apply for inactive status by making written application and paying the established fee. ()

a. 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. ()

b. An inactive license holder may convert from inactive to active license status by: ()

i. 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 ()

ii. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. ()

05. Continuing Education. Each Idaho licensed mortician and funeral director must successfully complete a minimum of ten (10) hours of continuing education biennially for license renewal, such hours must be verified by a certificate of attendance which may be audited by the Board. A licensee shall not be required to complete continuing education in their first renewal period after initial licensure. The continuing education must be germane to the profession and approved by the Board. The Board has discretion to exempt a licensee from this requirement for reasons of individual hardship, including health, or other good cause. Applicants seeking reinstatement must provide proof of attendance of ten (10) hours of continuing education for the previous twenty-four (24) months. ()

06. Funeral Establishment and Crematory Establishment. Applicants shall submit a Board approved application form. A walk-through inspection of the establishment must be arranged and completed before the board will issue an establishment license. ()

a. 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. ()

b. Funeral Establishment. All funeral establishments shall be required to provide each of the following: ()

i. An operating room and necessary equipment for embalming; ()

ii. A selection room for caskets and merchandise which may include video, catalogs, and electronic depiction of caskets and merchandise; ()

iii. A chapel where funeral or other religious ceremonies may be held; and ()

iv. A room for viewing and visitation. ()

c. Crematory Establishment. All crematory establishments shall be required to provide each of the following: ()

i. 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, an appropriate purpose-built vessel with documented validation for sterilization; and ()

ii. One (1) set of plans approved by the local building department for the proposed new construction or remodeling where the retort is to be located. ()

d. Minimum Standards. ()

i. Reasonable Sanitation and Safety Required. No license will be issued 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, including when operating an alkaline hydrolysis retort. ()

ii. Delay Before Cremation. No dead human body, regardless of cause of death, is to be cremated, unless the county coroner in the county in which the death occurred gives written authorization to cremate the body.

- ()
- iii. 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. ()
- iv. Casket Not Necessary. While caskets may be used in cremation, a crematorium may develop internal requirements allowing other containers for aesthetic or sanitary reasons. ()
- v. Funeral Rule. Licensees are required to comply with Federal Funeral Industry Practices, 16 CFR Part 453, commonly known as the Funeral Rule. ()

~~251101.~~ -- ~~299149.~~ (RESERVED)

~~300. APPLICATIONS AND EXAMINATION.~~

~~In order to be admitted to the examination, the applicant must submit a completed application on forms provided by the Division 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. (3-28-23)~~

~~301.—324. (RESERVED)~~

~~325150. APPROVED EXAMINATION.~~

~~Applicants for licensure shall successfully pass the examinations set forth below. (3-28-23)~~

~~01. Mortician Examination.~~ The Mortician examination shall consist of: (3-28-23)

~~a. A all sections of the International Conference of Funeral Service Examining Board's National Board Examination; and. (3-28-23)()~~

~~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 the rules of the Department of Health and Welfare relating to infectious diseases and quarantine. (3-28-23)~~

~~02. Funeral Director.~~ The funeral director examination shall consist of: (3-28-23)

~~a. T the Arts section of the State Based Examination conducted by the International Conference of Funeral Service Examination Board; and. (3-28-23)()~~

~~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 the rules of the Department of Health and Welfare relating to infectious diseases and quarantine. (3-28-23)~~

~~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. (3-28-23)

~~326.—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. (3-28-23)

~~02. Inactive License Status. (3-28-23)~~

~~a. 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. (3-28-23)~~

~~b. 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. (3-28-23)~~

~~03. Return to Active License Status. An inactive license holder may convert from inactive to active license status by: (3-28-23)~~

~~a. 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 (3-28-23)~~

~~b. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. (3-28-23)~~

~~e. 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. (3-28-23)~~

~~381.—409. (RESERVED)~~

~~410. CONTINUING EDUCATION.~~

~~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. (3-28-23)~~

~~a. Each licensee certifies 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. (3-28-23)~~

~~b. A licensee is considered to have satisfied the CE requirements for the first renewal of the initial license. (3-28-23)~~

~~e. 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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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 will not be limited to, the~~

following subject areas: (3-28-23)

~~a. Public Health and Technical. This includes, but is not limited to, embalming, restorative art, after care, organ procurement, sanitation, and infection control. (3-28-23)~~

~~b. Business Management. This includes, but is not limited to, computer application, marketing, personnel management, accounting, or comparable subjects. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~06. **Special Exemption.** The Board has authority to make exceptions for reasons of individual hardship, including health 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. (3-28-23)~~

~~411~~151. -- ~~424~~199.(RESERVED)

~~425~~200. **MAINTENANCE OF PRE-NEED TRUST ACCOUNT FEES**PRACTICE STANDARDS.

~~01. **Maintenance or Pre-Need Trust Account Services.** Maintenance of pre-need trust accounts fee. Pursuant to Section 54-1134(4), 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. (3-28-23)()~~

~~02. **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. ()~~

~~426—449. (RESERVED)~~

~~450. **FUNERAL ESTABLISHMENT AND CREMATORY ESTABLISHMENT.**~~

~~Applicants shall submit a board approved application form. 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. (3-28-23)~~

~~01. **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. (3-28-23)~~

~~02. **Funeral Establishment.** All funeral establishments shall be required to provide each of the following: (3-28-23)~~

~~a. An operating room and necessary equipment for embalming; (3-28-23)~~

~~b. A selection room for caskets and merchandise which may include video, catalogs, and electronic~~

~~depiction of caskets and merchandise; (3-28-23)~~

~~e. A chapel where funeral or other religious ceremonies may be held; and (3-28-23)~~

~~d. A room for viewing and visitation. (3-28-23)~~

~~**03. 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: (3-28-23)~~

~~a. The price of the service that the person or persons have selected and what is included therein. (3-28-23)~~

~~b. The prices of each of the supplementary items of service and/or merchandise requested. (3-28-23)~~

~~c. The amount involved for each of the items for which the firm will advance monies as an accommodation for the family. (3-28-23)~~

~~d. The method of payment. (3-28-23)~~

~~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. (3-28-23)~~

~~**04. Crematory Establishment.** All crematory establishments shall be required to provide each of the following: (3-28-23)~~

~~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, an appropriate purpose-built vessel with documented validation for sterilization; and (3-28-23)~~

~~b. One (1) set of plans approved by the local building department for the proposed new construction or remodeling where the retort is to be located. (3-28-23)~~

451. (RESERVED)

452. MINIMUM STANDARDS.

~~**01. Reasonable Sanitation and Safety Required.** No license will be issued 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. (3-28-23)~~

~~**02. 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 written authorization to cremate the body. (3-28-23)~~

~~**03. 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. (3-28-23)~~

~~**04. Casket Not Necessary.** It is not necessary for the body to be in a casket for cremation to take place. (3-28-23)~~

~~a. This is not to be construed to mean that the crematory must cremate without a casket; and (3-28-23)~~

~~b. It will not prevent the operators from developing their own internal requirements for aesthetic or sanitary reasons. (3-28-23)~~

~~**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: (3-28-23)~~

~~**01a. 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. (3-28-23)()~~

~~**02b. Contents of Receipt.** The receipt must show: (3-28-23)()~~

~~**a.i.** The name of the decedent whose body was received; and (3-28-23)~~

~~**b.ii.** The date on which that body was received; and (3-28-23)~~

~~**e.iii.** The place where that body was received; and (3-28-23)~~

~~**d.iv.** The name and address of the funeral establishment from whom that body was received; and (3-28-23)~~

~~**e.v.** 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. (3-28-23)~~

~~**454. RECORDS OF BODIES.**~~

~~**013. Content of Record****Records of Bodies.** Each funeral establishment and crematory must maintain a record of each burial, cremation, or other disposition of human remains, disclosing: (3-28-23)()~~

~~**a.** The name of the decedent; ~~and~~ (3-28-23)()~~

~~**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~~ (3-28-23)()~~

~~**c.** ~~A statement as to whether or not the body was embalmed; and~~ An embalming report or refrigeration log which shows the date(s) and time(s) a body was placed into or removed from refrigeration. (3-28-23)()~~

~~**d.** The date of the burial, cremation, or other disposition of that body; and (3-28-23)~~

~~**e.** The ~~subsequent disposal~~ custodial transfer of any cremated remains, including the name and signature of the recipient and date of transfer. (3-28-23)()~~

~~**455. RESPONSIBILITY, INSPECTION, AND CONFIDENTIALITY OF RECORDS.**~~

~~**014. 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. (3-28-23)~~

~~**025. 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. (3-28-23)~~

~~**456201. -- 499299.(RESERVED)**~~

~~**300. DISCIPLINE.**~~

~~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.

()

301. -- 399. (RESERVED)

500400. FEES.

FEE TYPE	AMOUNT (Not to Exceed)
Funeral Director	\$ 85 200
Funeral Establishment	\$ 125 300
Crematory Establishment	\$ 200 480
Mortician	\$ 85 200
Inactive License	\$ 40 90
Resident Trainee	\$ 50 120
Application Fee	\$ 100 120
Certificate of Authority	\$ 50 120

(3-28-23)

501. DISCIPLINE.

~~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.~~

(3-28-23)

502401. -- 999. (RESERVED)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.21.01 – RULES OF THE IDAHO STATE CONTRACTORS BOARD

DOCKET NO. 24-2101-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, and 54-5201 through 54-5219, 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:

Under [Executive Order 2020-01, Zero Based Regulation](#), the Idaho State Contractors Board is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2024, Idaho Administrative Bulletin, [Vol. 24-10, pages 261-263](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

As authorized in Sections 54-5210, 54-5211, and 54-5213, Idaho Code, the fee(s) in this rulemaking are established in Rule 400. The pending rules do not make any changes to the 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 negative fiscal impact on the state General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the pending rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

DATED this 8th day of November, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.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. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67- 9406, 67-9409, and 67-9413, Idaho Code, and 54-5201 through 54-5219, Idaho Code.

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

<p>24.21.01 – Rules of the Idaho State Contractors Board</p> <p>Thursday, October 17, 2024 – 9:30 a.m. (MT) Division of Occupational and Professional Licenses EagleRock Room, Chinden Campus Building 4 11341 W. Chinden Blvd. Boise, ID 83714</p> <p>Virtual Meeting Link</p> <p>Telephone and web conferencing information will be posted on https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/.</p>
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The hearing site will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Board of Contractors is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

N/A. The proposed amendments to the rules do not impose any new or increased fees.

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

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-2101-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 5, 2024, Idaho Administrative Bulletin, [Vol. 24-6, p.72-73](#).

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.

No materials have been incorporated by reference into the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 30th day of August, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 24-2101-2401

24.21.01 – RULES OF THE IDAHO STATE CONTRACTORS BOARD

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Sections 54-5206, 67-2604, 67-2614, 67-9409, and 67-9406 Idaho Code. ~~(3-28-23)()~~

001. SCOPE.

These rules govern the practice and registration of construction and contractors in Idaho. (3-28-23)

002. -- ~~149~~099. (RESERVED)

~~150~~100. APPLICATION REGISTRATION.

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.~~ (3-28-23)()

~~151—164. (RESERVED)~~

~~165. ADDITIONAL QUALIFICATIONS FOR REGISTRATION.~~

~~01. 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. ~~(3-28-23)()~~

~~01a.~~ 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: (3-28-23)

~~02b.~~ 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. ~~During the review, the board considers the factors set~~

~~forth in Section 67-9411, Idaho Code~~ The applicant bears the burden of establishing suitability for registration. (3-28-23)()

~~b.~~ The applicant bears the burden of establishing his current suitability for registration. (3-28-23)

~~03. Fraud in Application Process.~~ The registration application and supporting documents are free from any fraud or material misrepresentations. (3-28-23)

~~16601. -- 174399.~~(RESERVED)

~~175400. FEES.~~
Fees are non-refundable:

FEE TYPE	AMOUNT (Not to Exceed)
Application (includes original registration)	\$50
Reciprocal	\$50
Renewal	\$50
Reinstatement	\$35
Inactive	\$0
Inactive to Active License	The difference between the inactive fee and active license renewal fee

(3-28-23)()

~~176401. -- 999.~~ (RESERVED)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.22.01 – RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD

DOCKET NO. 24-2201-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, as well as 54-5301 through 54-5318, Idaho Code.

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

The pending rule is being adopted under [Executive Order 2020-01, Zero Based Regulation](#). Text amended since these rules were published as proposed is as follows:

Rule 002 Incorporation by Reference: Updates the Liquefied Petroleum Gas Code from the 2017 edition to the 2024 edition.

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, 2024 Idaho Administrative Bulletin, [Vol. 24-9, pages 511-516](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

As authorized in Section 54-5313, Idaho Code, the fee(s) in this rulemaking are established in Rule 400. These pending rules do not make any adjustments to the 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 negative fiscal impact on the state General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the pending rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

DATED this 8th day of November, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.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. This rulemaking action pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, as well as 54-5301 through 54-5318, Idaho Code.

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

24.22.01 – Rules of the Idaho State Liquefied Petroleum Gas Safety Board

Tuesday, October 8, 2024 – 9 a.m. (MT)
Division of Occupational and Professional Licenses
Eaglerock Room, Chinden Campus Building 4
11341 W. Chinden Blvd.
Boise, ID 83714

Virtual Meeting Link

Telephone and web conferencing information will be posted on <https://dopl.idaho.gov/calendar/> and <https://townhall.idaho.gov/>.

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Liquefied Petroleum Gas Safety Board is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

N/A. The proposed amendments to the rules do not impose any new or increased fees.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-2201-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024, Idaho Administrative Bulletin, [Vol. 24-7, pg. 217-218](#).

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. No materials have been incorporated by reference into the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

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, 2024.

DATED this 2nd day of August, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 24-2201-2401

Italicized red text that is double underscored indicates amendments to the proposed text as adopted in the pending rule.

24.22.01 – RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Sections 67-2614, 67-9406, and 67-9409, 54-5310, Idaho Code.

(3-28-23)()

001. SCOPE.

These rules govern the Idaho Liquefied Petroleum Gas Public Safety Act.

(3-28-23)

~~002. — 003.~~ (RESERVED)

~~004.~~ **INCORPORATION BY REFERENCE.**

The document titled Liquefied Petroleum Gas Code, 2017 2024 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 2024 Liquefied Petroleum Gas Code are available for purchase from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322.

(3-28-23)()

~~005.~~ -- 174099. (RESERVED)

100. LICENSURE.

01. Education and Examination. Each applicant must provide proof that they have successfully completed the following: ()

a. The Fundamentals of Propane Training provided by the Propane Education and Research Council, or equivalent as approved by the Board; and ()

b. Receipt of a passing grade on the Fundamental of Propane Training examination provided by the propane Education and Research Council or the equivalent as determined by the Board within the thirty-six (36)

months immediately preceding application. ()

02. Supervised Practical Experience. Each applicant must provide certified proof that the applicant has obtained at least two thousand (2,000) hours of practical experience in a Liquefied Petroleum Gas (LPG) facility while the applicant was under supervision of a licensed dealer. ()

03. 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. ()

04. 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. ()

05. Facility Licensure and Operation Requirements. ()

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; ()

c. Each facility must meet all requirements of NFPA 58. ()

06. Facility Changes in Ownership or Location. ()

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. ()

b. Deletion of an owner from multiple ownership does not constitute a change in ownership. ()

c. Addition of an owner to multiple ownership does constitute a change in ownership. ()

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 Division. A new facility license will not be issued for any location that is currently licensed as a facility at the time of application. ()

07. 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. ()

101. -- 299. (RESERVED)

300. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) for each violation of Section 54-5315, Idaho Code. ()

~~301. -- 399.~~ **(RESERVED)**

~~175~~**400.** **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	

(3-28-23)

~~176. -- 224.~~ **(RESERVED)**

~~225.~~ **APPROVED EDUCATION AND EXAMINATIONS.**

Each applicant must provide certified proof that they have successfully completed the following: (3-28-23)

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~251. -- 349.~~ **(RESERVED)**

~~350.~~ **FACILITY LICENSURE.**

~~01. **Facility Licensure and Operation Requirements.** (3-28-23)~~

~~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; (3-28-23)~~

~~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; (3-28-23)~~

~~e. Each facility must meet all requirements of NFPA 58. (3-28-23)~~

~~**02. Facility Changes in Ownership or Location. (3-28-23)**~~

~~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. (3-28-23)~~

~~b. Deletion of an owner from multiple ownership does not constitute a change in ownership. (3-28-23)~~

~~e. Addition of an owner to multiple ownership does constitute a change in ownership. (3-28-23)~~

~~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 Division. A new facility license will not be issued for any location that is currently licensed as a facility at the time of application. (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**02. Renewal of Facility License.** All licenses being renewed must certify that the facility holds a current general liability insurance policy. (3-28-23)~~

~~**356401. -- 374499.(RESERVED)**~~

~~**375500. 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. (3-28-23)~~

~~**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.~~ (3-28-23)

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~451-501. -- 999. (RESERVED)~~

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.29.01 – RULES OF PROCEDURE OF THE IDAHO CERTIFIED SHORTHAND REPORTERS BOARD

DOCKET NO. 24-2901-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, as well as Sections 67-9404, 67-9405, 67-9406, 67-9409, 67-9413, and 54-3101 through 54-3118, 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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Certified Shorthand Reporters Board is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. 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 August 7, 2024, Idaho Administrative Bulletin, [Vol. 24-8, pages 108-112](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

As authorized in Section 54-3110, Idaho Code, the fee(s) in this rulemaking are established in Rule 400. None of these fees are being changed as a result of this rulemaking or since being previously reviewed by the Idaho Legislature.

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

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the pending rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

DATED this 4th day of October, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.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. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, as well as Sections 67-9404, 67-9405, 67-9406, 67-9409, 67-9413, and 54-3101 through 54-3118, Idaho Code.

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

24.29.01 – Rules of the Idaho Certified Shorthand Reporters Board

Tuesday, August 13, 2024 – 9 a.m. (MT)
Division of Occupational and Professional Licenses
Coolwater Room, Chinden Campus Building 4
11341 W. Chinden Blvd.
Boise, ID 83714

[Virtual Meeting Link](#)

Telephone and web conferencing information will be posted on <https://dopl.idaho.gov/calendar/> and <https://townhall.idaho.gov/>.

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Certified Shorthand Reporters Board is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

N/A. The proposed amendments to the rules do not impose any new or increased fees.

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

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2401. The Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, [Vol. 24-4, p.43](#).

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. No materials have been incorporated by reference into the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2024.

DATED this 5th day of July, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 24-2901-2401

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. (3-28-23)

001. SCOPE.

These rules govern the practice of shorthand reporting in Idaho. (3-28-23)

002. -- ~~124099~~. (RESERVED)

100. LICENSURE.

01. Written Statement of Suitability for Licensure or Permit. An applicant or licensee who has a conviction, finding of guilt, withheld judgement, 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. ()

02. Registered Professional Reporter. An endorsement applicant who holds a Registered Professional Reporter certificate from The Association for Court Reporters and Captioners will be deemed to have met the endorsement requirements set forth in Section 54-3109A(1), Idaho Code. ()

125. FEES.

All fees are non-refundable.

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$50
Examination	\$50
Renewal	\$75

FEE TYPE	AMOUNT (Not to Exceed)
Examination preparation materials	\$20

(3-28-23)

~~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.~~ (3-28-23)

~~01. Consideration of Factors and Evidence.~~ The Board shall consider the factors set forth in Section 67-9411, Idaho Code. (3-28-23)

~~03. Applicant Bears the Burden.~~ The applicant shall bear the burden of establishing his current suitability for licensure. (3-28-23)

~~202.—299. (RESERVED)~~

~~300. EXAMINATIONS.~~

~~01. Examination Process.~~ (3-28-23)

~~a. Late applicants shall not be admitted to the examination room.~~ (3-28-23)

~~b. Picture identification shall be shown by all applicants before taking an examination.~~ (3-28-23)

~~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.~~ (3-28-23)

~~d. Only scheduled examinees, Board members, and authorized personnel shall be admitted to the examination room.~~ (3-28-23)

~~02. Scope of Examination.~~ (3-28-23)

~~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:~~ (3-28-23)

~~i. Question and Answer—Five (5) minutes at two hundred twenty five (225) words per minute.~~ (3-28-23)

~~ii. Jury Charge—Five (5) minutes at two hundred (200) words per minute.~~ (3-28-23)

~~iii. Literary—Five (5) minutes at one hundred eighty (180) words per minute.~~ (3-28-23)

~~iv. Density of Exam—The syllabic content of the dictated exam shall be one point four (1.4).~~ (3-28-23)

~~b. The examination is the same for all applicants.~~ (3-28-23)

~~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. (3-28-23)~~

~~**d.** The written examination and the three (3) skills segments can be passed individually for the Idaho examination. (3-28-23)~~

~~**03. Grading.** (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**04. Inspection of Examination.** (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**05. Inspection Review.** (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**c.** The Board shall, upon receiving such petition for review, conduct a hearing at the next scheduled Board meeting. (3-28-23)~~

~~**06. Retention of Examinations.** The Board shall retain for at least six (6) months, all examination papers and notes submitted by applicants. (3-28-23)~~

~~**301.—399. (RESERVED)**~~

~~**400. TEMPORARY PERMIT.**~~

~~**01. Eligibility.** (3-28-23)~~

~~**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: (3-28-23)~~

~~**i.** Hold a Certificate of Merit Reporter (RMR) issued by the National Court Reporters Association~~

- ~~(NCRA); (3-28-23)~~
- ~~ii. Hold a Certificate of Registered Professional Reporter (RPR) issued by the National Court Reporters Association (NCRA); (3-28-23)~~
 - ~~iii. Hold a Certified Shorthand Reporter certificate, or its equivalent, in good standing from another state; (3-28-23)~~
 - ~~iv. Hold a diploma or certificate of completion of all requirements to graduate from a National Court Reporter Association (NCRA) approved school; (3-28-23)~~
 - ~~v. Has otherwise demonstrated his/her proficiency by a certificate from an agency from another state. (3-28-23)~~
- ~~**b.** The applicant must have a high school diploma or equivalent. (3-28-23)~~
- ~~**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: (3-28-23)~~
- ~~**a.** Submits a written renewal request to the Board; (3-28-23)~~
 - ~~**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 (3-28-23)~~
 - ~~**e.** Pays the required fees as set forth in this Chapter. (3-28-23)~~

~~401101. -- 499299. (RESERVED)~~

~~**500300. DISCIPLINARY PENALTYE.**~~

~~**01. 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. ~~(3-28-23)()~~~~

~~**301. -- 399. (RESERVED)**~~

~~**400. FEES.**
 All fees are non-refundable. ()~~

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$50
Renewal	\$75

~~501401. -- 999. (RESERVED)~~

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.30.01 – IDAHO ACCOUNTANCY RULES

DOCKET NO. 24-3001-2401

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Section 54-204, 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:

During the 2023 and 2024 Legislative sessions, the Joint Finance Appropriations Committee required the Division to report on year-end cash balances for all boards and to present a plan for all boards where the cash balances either exceed 125% or drops below 30% of the Division's five-year rolling average of expenditures, pursuant to intent language found in Senate Bill 1201 (2023) and Senate Bill 1442 (2024) passed by the Legislature.

In response to the report and the plan, the board voted to address the board's cash balance by decreasing the following fees in Rule 400:

- Initial exam fee from \$100 to \$50;
- Re-exam fee from \$50 to \$25;
- Inactive or Retired License fee from \$100 to \$25;
- Transfer of Grades fee from \$175 to \$100; and
- Removed the wall certificate fee.

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, 2024 Idaho Administrative Bulletin, [Vol. 24-9, pages 517-519](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

As authorized in Section 54-204, Idaho Code, the fee(s) in this rulemaking are established in Rule 400. In response to legislative intent language found in Senate Bill 1201 from 2023 and Senate Bill 1442 from 2024, fees were decreased to address the board's cash balance that exceeded 125% of the five-year rolling average of expenditures. No fees were increased during this rulemaking.

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

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the pending rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

DATED this 8th day of November, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.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. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Title 54, Chapter 2, Idaho Code.

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

<p>24.30.01 – Idaho Accountancy Rules</p>
<p>Thursday, September 12, 2024 – 9 a.m. (MT) Division of Occupational and Professional Licenses Coolwater Room, Chinden Campus Building 4 11341 W. Chinden Blvd. Boise, ID 83714</p> <p>Virtual Meeting Link</p> <p>Telephone and web conferencing information will be posted on https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/.</p>

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

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

An amendment to Rule 104.01 and Rule 104.02 to extend the timeframe to pass all four parts of the Certified Public Accountants (CPA) examination from 18 months to 30 months to allow candidates more time to prepare and complete the exam, as well as grant the board more flexibility to allow candidates to be granted an extension for good cause shown or circumstances outside of their control.

An amendment to Rule 002.02 Incorporation by Reference to update the Statement on Standards for CPE Requirements from the 2019 Edition to the 2024 Edition. These standards were approved by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy.

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

N/A. The proposed amendments to the rules do not impose any new or increased fees.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-3001-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 5, 2024, Idaho Administrative Bulletin, Vol. 24-6, pg. 74-75.

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 proposed rules update the Statement on Standards for CPE Requirements from the 2019 Edition to the 2024 Edition. These standards were approved by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

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, 2024.

DATED this 2nd day of August, 2024.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-3001-2401

Italicized red text that is double underscored indicates amendments to the proposed text as adopted in the pending rule.

24.30.01 – IDAHO ACCOUNTANCY RULES

002. INCORPORATION BY REFERENCE.

The following documents are hereby incorporated by reference into IDAPA 24.30.01 and can be obtained at the Board office. Licensees are required to comply with the following standards when applicable. (3-28-23)

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. (3-28-23)

02. CPE Standards. ~~2019-2024~~ Statements on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA. (~~3-28-23~~)()

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. (3-28-23)

(BREAK IN CONTINUITY OF SECTIONS)

104. TESTING PERIOD AND CREDIT.

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~~ thirty-month period which begins on the actual date of notification of a passing score result. Candidates who do not sit and ultimately receive a passing score on all four (4) sections of the CPA Examination within the ~~eighteen~~ thirty-month period lose credit for any test section(s) passed outside the ~~eighteen~~ thirty-month period and that test section(s) is to be retaken. (3-28-23)()

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 or other good cause shown. (3-28-23)()

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. (3-28-23)

(BREAK IN CONTINUITY OF SECTIONS)

400. FEES.

01. Examination and License.

Exam/License	Initial Fee
Initial Exam	\$ 400 <u>50</u>
Re-Exam	\$ 50 <u>25</u>
Active License	\$120 <u>(Biennial: \$240)</u>
Inactive or Retired License	\$ 400 <u>25</u> <u>(Biennial: \$50)</u>
Reciprocity	\$175 + license fee
International Reciprocity	\$175 + license fee
Transfer of Grades	\$ 175 <u>100</u> + 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 <u>(Biennial: \$40 firm plus \$10 per licensee up to \$400 maximum)</u>

(3-28-23)()

02. Administrative Services.

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

~~(3-28-23)~~ ()

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

(3-28-23)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.32.01 – RULES OF THE IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

DOCKET NO. 24-3201-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, and 54-1208(1), Idaho Code.

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

The pending rule is being adopted under [Executive Order 2020-01, Zero Based Regulation](#). Text amended since these rules were published as proposed is as follows:

- Technical, non-substantive edits throughout the docket.
- Defines the “Division” as the Division of Occupational and Professional Licenses in Rule 002.03.
- Removes reexamination for failed attempts language for land surveyor licensure from Rule 100.03.b.
- Adds language to clarify continuing education requirements for land surveyors and professional engineers separately in Rule 100.05.

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, 2024 Idaho Administrative Bulletin, [Vol. 24-9, pages 520-541](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

As authorized in Sections 54-1213, 54-1214, 54-1216, and 54-1219, Idaho Code, the fee(s) in this rulemaking are established in Rule 400. None of these fees are being changed as a result of this rulemaking or since being previously reviewed by the Idaho Legislature.

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

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the pending rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

DATED this 4th day of October, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.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. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, 54-1208(1), Idaho Code, and 55-1606, 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, 2024.

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Board of Professional Engineers and Professional Land Surveyors is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

Due to the volume of reformatting of the rule chapter, the redline version of the rules provided in the bulletin will show many sections of the current rules being struck and added back in as new text as they are moving to new sections for consistent formatting. A redlined document to show what changes were made can be found at [insert link here](#).

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

N/A. The proposed amendments to the rules do not impose any new or increased fees.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-3201-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 5, 2024, Idaho Administrative Bulletin, [Vol. 24-6, pg. 76-77](#).

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. No materials have been incorporated by reference into the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

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, 2024.

DATED this 2nd day of August, 2024.

THE FOLLOWING IS THE TEXT OF ZBR FEE DOCKET NO. 24-3201-2401

Italicized red text that is *double underscored* indicates amendments to the proposed text as adopted in the pending rule.

24.32.01 – RULES OF THE IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Sections 54-1208(1), 55-1702(1), ~~and 55-1606,~~ *67-2614, 67-9406, and 67-9409,* Idaho Code. (3-28-23)()

001. SCOPE.

These rules ~~include procedures of the Board, rules of professional responsibility, rules of continuing professional development, rules for coordinate system of land description, and rules for properly completing corner perpetuation and filing forms~~ *cover the procedures of the board and the practice of professional engineering and land surveying in the State of Idaho.* (3-28-23)()

~~002.—009.~~ **(RESERVED)**

~~010~~**02. DEFINITIONS.**

The following terms are used as defined below: (3-28-23)

01. ~~Certificate Holder~~*ANSAC.* ~~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~~ *Applied and Natural Science Accreditation Commission.* (3-28-23)()

02. **Deceit.** To intentionally misrepresent a material matter, or intentionally omit to disclose a known material matter. (3-28-23)

03. *Division. The Division of Occupational and Professional Licenses.* ()

04. EAC-ABET. Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology. ()

05. ETAC. Engineering Technology Accreditation Commission. ()

~~036.~~ **Incompetence.** Failure to meet the standard of care. (3-28-23)

~~04.~~ ~~Licensure. 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.~~ (3-28-23)

057. **Misconduct.** A violation or attempt to violate these rules or statutes applicable to the practice of engineering or surveying, or to knowingly assist or induce another to do so, or do so through the acts of another; a finding of guilt of commitment of a felony or a plea of guilty to a felony; commit fraud or deceit; failure to respond within twenty (20) days of an inquiry from the Board or its representative, unless such time is extended by the Board for justifiable cause; state or imply an ability to influence improperly a government agency or official. (3-28-23)

08. NCEES. National Council of Examiners for Engineering and Surveying. ()

003 – 099. (RESERVED)

100. LICENSURE.

01. Qualifications for Licensure. ()

a. Completion of Application. 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. ()

b. Submittal of Applications and Examination Cutoff Date. Submittal of applications for licensure or intern certification must occur after passing the required. NCEES examinations. ()

i. Only experience up to the date of submittal of the application for licensure will be considered as valid, unless otherwise approved by the Board. ()

ii. 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 required educational credentials. ()

c. Minimum Boundary Survey Experience. Two (2) years of the required four (4) years of experience must be boundary survey experience as a condition of professional land surveyor licensure. ()

02. Educational Requirements. The application for licensure as a professional engineer or professional land surveyor together with a passing score on the written ethics questionnaire is considered in the determination of the applicant's eligibility. Prescriptive education requirements are as follows: ()

a. In regard to educational requirements, the Board will unconditionally approve only those engineering programs that are accredited by the Engineering Accreditation Commission (EAC) of ABET, Inc., or the bachelor's degree programs accredited by the Canadian Engineering Accrediting Board, or those bachelor's degree programs that are accredited by official organizations recognized by the U.K. Engineering Council. ()

b. 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. An applicant must have completed the following: ()

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, and social responsibility. 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. The Board may waive these requirements at its discretion. ()

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. ()

c. In regard to educational requirements, the Board will unconditionally approve 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. Non-EAC-ETAC and non-ANSAC accredited surveying programs, related science programs, and surveying programs will be considered by the Board on their specific merits, but are not considered equal to surveying programs accredited by EAC-ETAC or ANSAC. An applicant must have completed the following: ()

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. The Board may waive these requirements at its discretion; ()

iii. Thirty (30) college semester credit hours of surveying science and surveying practice. Courses must be taught by qualified surveying faculty. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system, and global positioning systems. Examples of additional surveying courses include geographic information systems, land development design and planning,

photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. ()

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 017.03.b. ()

03. Examinations. ()

a. Two Examinations for Engineering Licensure. The examining procedure for licensure as a professional engineer consists of two (2) examinations: Fundamentals of Engineering examination; and the Principles and Practice of Engineering for professional engineer licensure. ()

b. Three Examinations for Land Surveying Licensure. The examining procedure for licensure as a professional land surveyor consists of three (3) written examinations: the Fundamentals of Surveying examination for land surveyor intern certification; the Principles and Practice of Surveying; and the Idaho specific professional land surveying examination. A passing score on the Idaho-specific professional land surveying examination will be set by the Board. ()

c. 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. ()

04. Interstate Licensure/Comity. ()

a. Interstate Licensure Evaluation. Each application for an Idaho professional engineer license or professional land surveyor license submitted by an applicant who is licensed 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's degree is required for licensure. Comity applicants must meet the education requirements and the following: ()

i. Graduates of bachelor of science engineering programs accredited by the Canadian Engineering Accrediting Board, or those university bachelor's of engineering programs that are accredited by official organizations recognized by the U.K. Engineering Council, will be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. ()

ii. 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's degree. Such evaluation must be performed by an organization approved by the Board and at the expense of the applicant to ensure they have completed the required coursework. ()

b. International Engineering Licensure Evaluation - Countries or Jurisdictions with Board Approved Licensure Process. The Board shall determine if the professional engineering licensure process in other countries or jurisdictions is substantially equivalent. The Board may waive prescriptive education and examination requirements if the applicant possesses a professional engineer in good standing, has a minimum of eight (8) years of experience after initial licensure, provided the applicant has no criminal or outstanding disciplinary. A licensing process in another country must include requirements of experience, education, testing, a code of professional responsibility, regulation of licensees including the ability to take disciplinary action and the willingness, availability, and capacity of a foreign licensing authority to release information to the Board in English. ()

c. International Engineering Licensure Evaluation - Countries or Jurisdictions Without a Board Approved Licensure Process. Each applicant who is licensed as a professional engineer in one (1) or more foreign countries or jurisdictions, will be considered by the Board on its merits. The applicant shall be evaluated for substantial compliance with the requirements of Idaho law with respect to experience, examination, and education. Two (2) years of the required four (4) years of experience must be in the United States, or experience working on

projects requiring the knowledge and use of codes and standards similar to those in the United States validated by a professional engineer licensed in the United States. Applicants must have passed a professional engineering examination administered by NCEES. Prescriptive education requirements are as follows: ()

i. Graduates of bachelor's of engineering programs accredited by the Canadian Engineering Accrediting Board, or those university bachelor's of engineering programs that are accredited by official organizations recognized by the U.K. Engineering Council, will be considered to have satisfied the education requirement for issuance of a license as a professional engineer. ()

ii. 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's degree. Such evaluation shall be performed by an organization approved by the Board and at the expense of the applicant to ensure they have completed the required coursework. ()

d. 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. Individuals must certify or indicate to the Board their willingness to assume responsible charge. ()

05. Continuing Education Requirements. The purpose of the continuing professional development requirement is to demonstrate a continuing level of competency of licensees. Every *land surveyor* licensee, including faculty license holders, shall meet thirty (30) PDH units per biennium of continuing professional development as a condition for licensure renewal. Every *professional engineer* licensee, including faculty holders, shall meet twenty-four (24) PDH units per biennium of continuing professional development as a condition for licensure renewal. A licensee may carry forward up to thirty (30) hours of excess continuing education per renewal period. Membership in a professional society will count as one (1) PDH per year, for a maximum of two (2) PDH per profession per year. A guidance document regarding PDH units shall be available on the Division's website. ()

06. Discontinued, Retired, And Expired Licenses and Certificates. ()

a. Reinstatement – Disciplinary. Licensees who choose to convert their license to retired status as part of a disciplinary action, 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. ()

b. 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. ()

c. Continuing Professional Development. Licensees requesting reinstatement must demonstrate compliance with the continuing professional development requirements described in these rules. ()

d. Eligibility. Unless otherwise approved by the Board, only active licensees are eligible to convert to retired status. ()

e. Discontinued Certificate of Authorization. Discontinued certificated are not eligible for reinstatement. ()

101. -- 199. (RESERVED)

200. PRACTICE STANDARDS.

01. Seals. ()

a. 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.” ()

b. Seals for Engineers and Land Surveyors. Seals prepared and approved prior to July 1, 2008, are valid for continued use. ()

c. Seal for Professional Engineer *or* Land Surveyor. Engineers obtaining licensure as land surveyors 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. ()

02. Responsibility to the Public. ()

a. Primary Obligation. All licensee 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. ()

b. 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. ()

c. Professional Judgment. If any licensee’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. ()

d. 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 the licensee’s 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 the licensee’s work raised by another licensee or certificate holder. In the event a response is not received within twenty (20) calendar days, the discoverer must notify the licensee or certificate holder in writing, who has another twenty (20) calendar 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) calendar 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. ()

e. Obligation to Affected Landowners. Land surveyors have a duty to set monuments at the corners of their client’s property boundaries. 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. ()

03. Competency For Assignments. ()

a. 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 the licensee’s own field of competence, but the licensee’s 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. ()

b. 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. ()

04. Conflict of Interest. ()

a. 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. ()

b. 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. ()

c. 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. ()

d. 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. ()

e. 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 the licensee's 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 certificate holder. ()

f. 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. ()

g. 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. ()

05. Solicitation of Work. ()

a. Commissions. A licensee or certificate holder may not pay or offer to pay, either directly or indirectly, any commission, gift or other valuable consideration to secure work, except to employees or established business enterprises retained by a licensee or certificate holder for the purpose of securing business or employment. ()

b. Representation of Qualifications. A licensee or certificate holder may not falsify or permit misrepresentation of the licensee or the licensee 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 the licensee or the licensee's 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. ()

c. 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. ()

d. 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 the licensee's 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. ()

e. Selection on the Basis of Qualifications. 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. ()

06. Form. The form to be used in filing corner perpetuations shall be available on the Division's website. ()

a. Completion of 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. ()

b. Contents on the Form. ()

i. 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. ()

ii. 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. ()

iii. 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. ()

iv. 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. ()

v. Seal, Signature, Date. Include professional land surveyor's seal, which is signed and dated by the surveyor. ()

vi. Marks on Monument Found or Set. Include a sketch or legible image of the marks found or placed

on the monument, if applicable. ()

vii. Diagram. Include clear marks on the section diagram indicating the location of the monument found or being established or reestablished in the survey. ()

viii. Location. State the county, section, township, range and the monument location being established or reestablished or found in the survey. ()

07. State Plane Coordinates. The State Plane Coordinate System is defined by NOAA and NGS and is available on the Division's website. ()

201. -- 299. (RESERVED)

300. DISCIPLINE/IMPROPER CONDUCT.

01. Fraudulent or Dishonest Enterprises. A licensee or certificate holder may not knowingly associate with or permit the use of the licensee's 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. ()

301. -- 399. (RESERVED)

SUBCHAPTER A — RULES OF PROCEDURE
(Rules 011 through 099)

~~011~~400. 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~~ are accessible on the Division's website. (3-28-23)()

- a. Licensure as a professional engineer or professional land surveyor by examination. (3-28-23)
- b. Reinstatement of a retired or expired license. (3-28-23)
- c. Certification for a business entity applying for a certificate of authorization to practice or offer to practice engineering or land surveying. (3-28-23)
- d. Renewals for professional engineers, professional land surveyors, engineer interns, land surveyor interns, and business entities. (3-28-23)
- e. Licensure for professional engineers or professional land surveyors by comity. (3-28-23)

012. 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."

(3-28-23)

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~013—015. (RESERVED)~~

~~016. **APPLICATION FOR LICENSURE OR CERTIFICATION.**~~

~~01. **Completion of Application.** Applications must be made in English. 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. (3-28-23)~~

~~02. **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. (3-28-23)~~

~~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). (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~03. **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. (3-28-23)~~

~~04. **Minimum Boundary Survey Experience.** The Board requires a minimum of two (2) years boundary survey experience as a condition of professional land surveyor licensure. (3-28-23)~~

~~017. **EXAMINATIONS AND EDUCATION.**~~

~~01. **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. (3-28-23)~~

~~02. **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: (3-28-23)

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. (3-28-23)

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: (3-28-23)

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. (3-28-23)

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. (3-28-23)

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. (3-28-23)

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. (3-28-23)

e. 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: (3-28-23)~~

~~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; (3-28-23)~~

~~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; (3-28-23)~~

~~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. (3-28-23)~~

~~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 017.03.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. (3-28-23)~~

~~**03. 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. (3-28-23)~~

~~**04. 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. (3-28-23)~~

~~**05. 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. (3-28-23)~~

~~**06. 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. (3-28-23)~~

~~**07. 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. (3-28-23)~~

~~**08. 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). (3-28-23)~~

~~**09. 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. (3-28-23)~~

~~**10. 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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**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: (3-28-23)~~

~~**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. (3-28-23)~~

~~**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 an minimum of ten (10) years and has not had any disciplinary action against them and there is none pending, and possesses the education, experience and examination credentials that were specified in the applicable registration chapter in effect in this state at the time such certification was issued. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee will be forfeited. (3-28-23)~~

~~**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: (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)

~~ii.~~ 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: (3-28-23)

~~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; (3-28-23)

~~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; (3-28-23)

~~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. (3-28-23)

~~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. (3-28-23)

~~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:~~ (3-28-23)

~~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.~~ (3-28-23)

~~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.~~ (3-28-23)

~~e. 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.~~ (3-28-23)

~~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.~~ (3-28-23)

~~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.~~ (3-28-23)

~~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.~~ (3-28-23)

~~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.~~ (3-28-23)

~~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.~~ (3-28-23)

~~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. (3-28-23)~~

~~**04. Eligibility.** Unless otherwise approved by the Board, only unexpired licensees are eligible to convert to retired status. (3-28-23)~~

~~**05. 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. (3-28-23)~~

~~**06. 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. (3-28-23)~~

~~**021—022. (RESERVED)**~~

~~**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(e), Idaho Code. Restricted licensees are not required to obtain a seal. (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**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 License 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.~~ (3-28-23)

05. Obligation to Comply with Rules of Continuing Professional Development. All Licensees must comply with the continuing professional development requirements contained in these rules. (3-28-23)

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. (3-28-23)

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. (3-28-23)

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. (3-28-23)

03. Use of Seal on Documents. A Licensee must affix his signature and seal only to plans or documents prepared under his responsible charge. (3-28-23)

102. (RESERVED)

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. (3-28-23)

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. (3-28-23)

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. (3-28-23)

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~05. **Selection on the Basis of Qualifications.** 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. (3-28-23)~~

~~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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**106.—199. (RESERVED)**~~

~~**SUBCHAPTER C—RULES OF CONTINUING PROFESSIONAL DEVELOPMENT**
(Rules 200 through 299)~~

~~**200. REQUIREMENTS.**~~

~~The purpose of the continuing professional development requirement is to demonstrate a continuing level of competency of licensees. Every licensee shall meet fifteen (15) PDH units per year or thirty (30) PDH units per biennium of continuing professional development as a condition for licensure renewal. (3-28-23)~~

~~**201. USE OF NCEES MODEL CPC STANDARD.**~~

~~Licensees must 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, and further described in the NCEES Continuing Professional Competency Guidelines. This standard is found at <https://ncees.org/wp-content/uploads/CPC-Guidelines-2017-final.pdf> and is subject to the following exceptions: (3-28-23)~~

~~**01. Excess Continuing Education.** A licensee may carry forward up to thirty (30) hours of excess continuing education per renewal period. (3-28-23)~~

~~**02. Professional Society Membership.** Membership in a professional society will count as one (1) PDH per year, for a maximum of two (2) PDH per profession per year. (3-28-23)~~

~~**202.—299. (RESERVED)**~~

~~**SUBCHAPTER D—RULES FOR CORNER 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. (3-28-23)~~

~~**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. (3-28-23)~~

302. CONTENTS ON THE FORM.

The contents on the form must contain the following: (3-28-23)

~~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. (3-28-23)

~~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. (3-28-23)

~~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. (3-28-23)

~~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. (3-28-23)

~~05. Seal, Signature, Date.~~ Include an imprint of the surveyor's professional land surveyor seal, which is signed and dated by the surveyor. (3-28-23)

~~06. Marks on Monument Found or Set.~~ Include a sketch or legible image of the marks found or placed on the monument, if applicable. (3-28-23)

~~07. Diagram.~~ Include clear marks on the section diagram the location of the monument found or being established or reestablished in the survey. (3-28-23)

~~08. Location.~~ State the county, section, township, range and the monument location being established or reestablished or found in the survey. (3-28-23)

~~303. – 399. (RESERVED)~~

~~**SUBCHAPTER E – RULES FOR COORDINATE SYSTEM OF LAND DESCRIPTION**
(Rules 400 through 499)~~

~~**400. STATE PLANE COORDINATES.**~~

~~The State Plane Coordinate System of 1983, described in NOAA Manual NOS NGS 5, reprinted September 1995, available at the URL https://www.ngs.noaa.gov/library/pdfs/NOAA_Manual_NOS_NGS_0005.pdf is adopted as the official system of projections for the Idaho Plane Coordinate System (IPCS). The Datum for the IPCS is the North American Datum of 1983 (2011) epoch 2010, defined in NOAA Professional Paper NOS 2, dated December 1989 and found at the URL: https://geodesy.noaa.gov/library/pdfs/NOAA_PP_NOS_0002.pdf; further described in Table 1 of Datums and reference frames, last revised July 1, 2020; available at the URL: <https://geodesy.noaa.gov/datums/horizontal/index.shtml>. (3-28-23)~~

~~401. – 999. (RESERVED)~~

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.37.01 – RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 24-3701-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, and Section 54-2097, Idaho Code.

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

The pending rule is being adopted under [Executive Order 2020-01, Zero Based Regulation](#). Text amended since these rules were published as proposed is as follows:

Decreases Broker and Salesperson Initial License and Renewal fees from \$160 to \$135 to comply with the legislative intent language in SB1442 from the 2024 Legislative Session directing the division to take action on boards that have a cash balances exceeding 125% of the five-year rolling average of expenditures to help reduce fund balances.

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, 2024, Idaho Administrative Bulletin, [Vol. 24-9, pages 542-549](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

As authorized in Section 54-2020, Idaho Code, the fee(s) in this rulemaking are established in Rule 400. Fees were not increased in this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the pending rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

DATED this 4th day of October, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.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. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, as well as Title 55, Chapter 22, Idaho Code, and 55-2203, Idaho Code.

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

<p>24.37.01 – Rules of the Idaho Real Estate Commission</p>
<p>Tuesday, September 17, 2024 – 9 a.m. (MT) Division of Occupational and Professional Licenses Soldier Room, Chinden Campus Building 4 11341 W. Chinden Blvd. Boise, ID 83714</p> <p>Virtual Meeting Link</p> <p>Telephone and web conferencing information will be posted on https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/.</p>

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Real Estate Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

Due to the volume of reformatting of the rule chapter, the redline version of the rules provided in the bulletin will show many sections of the current rules being struck and added back in as new text as they are moving to new sections for consistent formatting. A redlined document to show what changes were made can be found at [insert link here](#).

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

N/A. The proposed amendments to the rules do not impose any new or increased fees.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-3701-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 5, 2024, Idaho Administrative Bulletin, Vol. 24-6, p.80-81.

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. No materials have been incorporated by reference into the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

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, 2024.

DATED this 2nd day of August, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 24-3701-2401

Italicized red text that is ***double underscored*** indicates amendments to the proposed text as adopted in the pending rule.

24.37.01 – RULES OF THE IDAHO REAL ESTATE COMMISSION

000. LEGAL AUTHORITY.

~~The Rules of the This chapter is Idaho Real Estate Commission contained herein have been adopted pursuant to Sections 54-2007, 67-2504, 67-2614, 67-9409, and 67-9406, 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.~~ (3-28-23)()

001. 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. (3-28-23)

002. – 00599. (RESERVED)

100. LICENSURE.

01. Renewal of Expired 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. ()

02. Mandatory Errors and Omissions Insurance. Every licensee will certify such coverage to the

Commission in the form and manner prescribed by statute, these rules, and any policy adopted by the Commission. ()

03. 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. ()

a. Insurance Carrier. For the purposes of this section: ()

i. 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; ()

ii. 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 ()

iii. 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. ()

b. 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:

	<u>Limit Liability Coverage for Each Occurrence Not Less Than</u>	<u>Annual Aggregate Limit Not Less Than</u>
<u>Individual License Coverage</u>	<u>\$100,000*</u>	<u>\$300,000*</u>
<u>Firm Coverage</u>	<u>\$500,000*</u>	<u>\$1,000,000*</u>
	<u>*Not including costs of investigation and defense</u>	

i. A deductible amount of not greater than three thousand five hundred dollars (\$3,500), which includes costs of investigation and defense; ()

ii. 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; ()

iii. An extended reporting period per insured of at least ninety (90) days following termination of the policy period; and ()

iv. Prior acts coverage shall be offered to licensees with continuous past coverage. ()

04. 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. ()

05. 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. ()

101. -- 149. (RESERVED)

150. EDUCATION.

01. 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 records of any licensee currently licensed with the broker. ()

02. Approved Topics For Continuing Education. ()

a. 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. ()

b. 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. ()

03. 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. ()

a. 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. ()

b. Outlines and Curriculum. A course must be taught in accordance with the course outline or curriculum approved by the Commission. ()

c. 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. ()

d. 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. ()

e. 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. ()

151. -- 199. (RESERVED)

~~006~~200. ELECTRONIC SIGNATURES PRACTICE STANDARDS.

01. Electronic Signatures. Electronic signatures are permissible in accordance with the Uniform Electronic Transactions Act, Title 28, Chapter 50. (3-28-23)()

02. 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. ()

~~03.~~ **Legal Opinions.** A broker or sales associate will not discourage any party to a real estate transaction from seeking the advice of an attorney. ()

~~201. -- 299.~~ **(RESERVED)**

~~300.~~ **DISCIPLINE.** 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. ()

~~007301. -- 099399.~~(RESERVED)

APPLICATION, LICENSURE, AND TERMINATION OF LICENSES
Rules 100 through 199

~~100400.~~ **FEES.**
 License and other fees:

	Initial License	Renewal	Late Fee	Other
Broker	\$ 160 <u>135</u>	\$ 160 <u>135</u>	\$25	
Salesperson	\$ 160 <u>135</u>	\$ 160 <u>135</u>	\$25	
Business Entity	\$50	\$50	\$25	
Branch Office	\$50	\$50	\$25	
Cooperative License	\$100			
Education or License History				\$10
License Certificate				\$15

~~(3-28-23)~~ ()

~~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:
 (3-28-23)

~~01.~~ **Payment of Late Fee.** The applicant must pay the late license renewal fee. (3-28-23)

~~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. (3-28-23)

~~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. (3-28-23)

~~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. (3-28-23)~~

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. (3-28-23)~~

~~**01. Insurance Carrier.** For the purposes of Section 118: (3-28-23)~~

~~**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; (3-28-23)~~

~~**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 (3-28-23)~~

~~**e-** 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. (3-28-23)~~

~~**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		

~~(3-28-23)~~

~~**a-** A deductible amount of not greater than three thousand five hundred dollars (\$3,500), which includes costs of investigation and defense; (3-28-23)~~

~~**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; (3-28-23)~~

~~**e-** An extended reporting period per insured of at least ninety (90) days following termination of the policy period; and (3-28-23)~~

~~**d-** Prior acts coverage shall be offered to licensees with continuous past coverage. (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

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. (3-28-23)~~

~~123.—299. (RESERVED)~~

BUSINESS CONDUCT
Rules 300 through 399

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. (3-28-23)~~

~~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. (3-28-23)~~

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. (3-28-23)~~

~~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. (3-28-23)~~

~~306.—399. (RESERVED)~~

CONTINUING EDUCATION
Rules 400 through 499

~~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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~403. – 499.~~ (RESERVED)

~~EDUCATION TEACHING STANDARDS~~
~~Rules 500 through 599~~

~~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.~~ (3-28-23)

~~**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.~~ (3-28-23)

~~**02. Outlines and Curriculum.** A course must be taught in accordance with the course outline or curriculum approved by the Commission.~~ (3-28-23)

~~**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.~~ (3-28-23)

~~**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.~~ (3-28-23)

~~**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.~~ (3-28-23)

~~501-401.~~ -- 999. (RESERVED)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.39.10 – RULES OF THE IDAHO ELECTRICAL BOARD

DOCKET NO. 24-3910-2402

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, as well as Title 54, Chapter 10, Idaho Code, and 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:

The pending rule is being adopted under [Executive Order 2020-01, Zero Based Regulation](#). Text amended since these rules were published as proposed is as follows:

- Technical, non-substantive edits throughout the docket.
- Rule 600.01.g.: Clarifying language for better understanding of amendments to the National Electrical Code 2023 Edition (NEF).
- Rule 600.01.l.: Removal of Section 210.52(C) item 3 from the amendments.
- Rule 600.01.n.: Section 215.18 of the NEF shall apply in full with the exception for dwelling units.
- Rule 600.01.p.: Section 225.42 of the NEF shall apply in full with the exception for dwelling units.
- Rule 600.01.q.: Section 230.67 of the NEF shall apply in full with the exception for dwelling units.
- Rule 600.01.ee.: Addition of Article 690.12 Rapid Shut Down with exceptions for detached structures and PV system circuits.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 2, 2024 Idaho Administrative Bulletin, [Vol. 24-10, pages 272-280](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

None of these fees are being changed as a result of this rulemaking or since being previously reviewed by the Idaho Legislature.

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

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the pending rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

DATED this 8th day of November, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.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. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, as well as Title 54, Chapter 10, Idaho Code and 54-1006, Idaho Code.

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

<p>24.39.10 – Rules of the Idaho Electrical Board</p>
<p>Thursday, October 17, 2024 – 3 p.m. (MT) Division of Occupational and Professional Licenses Coolwater Room, Chinden Campus Building 4 11341 W. Chinden Blvd. Boise, ID 83714</p> <p>Virtual Meeting Link</p> <p>Telephone and web conferencing information will be posted on https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/.</p>

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

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

The Idaho Electrical Board's administrative rules were not approved by concurrent resolution during the 2024 legislative session, as required by Idaho Code Section 67-5291. As a result, the board adopted temporary rules, which will expire *sine die* unless approved by concurrent resolution. In order to ensure continuity of rules and to promote public health and safety, the board engaged in negotiated rulemaking and held six (6) public hearings throughout the state of Idaho for public comment before the Idaho Electrical Board voted to go proposed with the redlines attached in this bulletin.

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

N/A. The proposed amendments to the rules do not impose any new or increased fees.

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

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-2101-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024, Idaho Administrative Bulletin, [Vol. 24-7, p.260-262](#).

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. No materials have been incorporated by reference into the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 30th day of August 30, 2024.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-3910-2402

Italicized red text that is *double underscored* indicates amendments to the proposed text as adopted in the pending rule.

24.39.10 – RULES OF THE IDAHO ELECTRICAL BOARD

100. LICENSURE AND REGISTRATION.

01. Residential Electrician. An applicant must pass an examination designated by the Board and submit evidence of a minimum of four thousand (4,000) hours of work experience and an apprentice making installations as defined in Section 54-1003A(3), Idaho Code, and satisfactory completion of a two-year sequence of instruction approved by the Idaho Division of Career Technical Education and the Idaho Electrical Board. ()

042. Journeyman Electrician. An applicant must pass an examination designated by the Board and either (a) submit evidence of a minimum of eight thousand (8,000) hours of work experience as an apprentice making electrical installations in accordance with the requirements of the jurisdiction in which the applicant obtained the experience and satisfactory completion of a four-year sequence of instruction approved by the Idaho Division of Career-Technical Education, or (b) submit proof of sixteen thousand (16,000) hours of electrical experience in

accordance with the requirements of the jurisdiction in which the applicant obtained the experience. ~~(3-28-23)~~()

a. Examination. An applicant may sit for the exam after showing proof of completion of either the approved 4-year sequence of instruction or 16,000 hours of electrical experience. (3-28-23)

b. Provisional Journeyman ~~License~~ **Electrician**. A provisional journeyman **electrician** license can be issued to an applicant who has completed the 16,000 hours of electrical experience but has not yet passed the examination. ~~(3-28-23)~~()

c. Work experience in appliance repair, motor winding, or communications will not count towards the requirements to take the journeyman examination or obtain a provisional journeyman or journeyman license. (3-28-23)

d. No more than two thousand (2,000) hours of work experience gained while engaged in the practice of a limited electrical installer or trainee may be counted toward the satisfaction of the experience requirements for journeyman licensure. (3-28-23)

023. **Master **Electrician****. A master electrician does not need to also hold a journeyman license. ~~(3-28-23)~~()

034. **Limited Electrical Installer**. An applicant must submit evidence of a minimum of four thousand (4,000) hours of work experience in the same limited category in accordance with the requirements of the jurisdiction in which the applicant obtained the experience. (3-28-23)

045. **Electrical Contractor and Limited Electrical Contractor**. ~~Applicant or its entity designee~~ **An applicant** must pass an examination designated by the Board and submit an application ~~signed by the applicant or an official representative of the entity making the application and countersigned by the supervising electrician~~. **Each contractor shall designate one supervising electrician who shall be responsible for the activities of the license. Any such supervising electrician shall not represent any other applicant for a contractor's license. A supervising electrician holding more than one electrician license shall not use multiple licenses to represent more than one contractor.** ~~(3-28-23)~~()

~~**a.** An entity applicant (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 supervisory employee and may not represent any other applicant for a contractor's license. (3-28-23)~~

~~**ba.** In the event the working relationship between a contractor and its ~~designee~~ **supervising electrician** terminates, the contractor will notify the Division in writing within ten (10) **business** days of the date of termination. The contractor may not purchase permits or make electrical installations unless another duly qualified ~~designee~~ **supervising electrician is designated**. ~~(3-28-23)~~()~~

06. **Continuing Education**. **To renew a license, residential electricians, journeyman electricians, and master electricians must provide proof of completion of continuing education obtained during the prior three-year license cycle which consists of sixteen (16) hours of Idaho Electrical Code training and eight (8) hours of any combination of National Electrical Code code-update training, code-related training, industry-related training, or independent study as approved by the division of occupational and professional licenses.** ()

101. – 199. (RESERVED)

200. PRACTICE STANDARDS.

01. Electrical Contracting Work. 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. (3-28-23)

02. Contractor Scope. A contractor's allowable scope of work is the same as the scope of its licensed employee. (3-28-23)

03. Supervision. (3-28-23)

a. The master electrician, journeyman electrician, residential electrician or limited electrical installer shall be designated the supervising electrician; must be available during working hours to carry out the duties of supervising, as set forth herein; and will be responsible for supervision of electrical installations made by said contractor as provided by Section 54-1010, Idaho Code. Any supervisory activities shall fall within the supervising electrician's licensed scope of practice. (3-28-23)()

i. A master electrician, journeyman electrician, residential electrician, or limited electrical installer is not qualified for one (1) year as the supervising electrician if his contractor license was revoked. (3-28-23)()

ii. An individual contractor may act as his own supervising master electrician, journeyman electrician, residential electrician, or limited electrical installer upon the condition that he holds an active master electrician, journeyman electrician, residential electrician, or limited electrical installer license. (3-28-23)()

b. The employing contractor or limited electrical contractor must ensure each apprentice, trainee, and provisional journeyman electrician performs electrical work only under the constant on-the-job supervision and training of a master electrician, journeyman electrician, residential electrician or limited electrical installer. (3-28-23)()

c. A journeyman who is an employee of a company, corporation, firm, or association with a facility account may sign as supervising electrician 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. (3-28-23)

04. Connecting and Energizing Prior to Inspections. At the request of a licensed electrical contractor and upon receipt of a copy of an electrical permit, a power supply company may connect and energize an electrical service, to the line side of the service disconnect, prior to a passed inspection in the following situations: to preserve life or property or to provide temporary service for construction. Any contractor energizing an electrical installation prior to an inspection assumes full responsibility for the installation. (3-28-23)

05. Limited Electrical Installations. A limited electrical installer must be employed by an electrical contractor or limited electrical contractor in the same restricted category and may only countersign a limited electrical contractor's license application as supervising limited electrical installer for work within the same restricted category. Limited electrical installations must comply with the National Electrical Code, as amended herein. The following categories of electrical installations constitute limited electrical installations, the practice of which shall require an electrical contractor or limited electrical contractor license and supervision by a journeyman, master electrician, or limited electrical installer: (3-28-23)

a. Elevator, Dumbwaiter, Escalator, or Moving-Walk Electrical. An elevator electrical limited licensee is only authorized to 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. (3-28-23)

b. Sign Electrical. A sign electrical limited licensee is only authorized to install, maintain, repair, and replace equipment, controls, and wiring on the secondary side of sign disconnecting means; provided the disconnecting means is located on the sign or within sight therefrom. (3-28-23)

c. Manufacturing or Assembling Equipment. A licensed limited electrical manufacturing or assembling equipment installer is only authorized to 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. (3-28-23)

i. This subsection does not apply to a limited electrical manufacturing or assembling equipment

installer installing electrical wiring, equipment, and apparatus in modular buildings as that phrase is defined in Section 39-4105, Idaho Code. Only journeyman electricians and electrical apprentices, employed by an electrical contractor, may perform such installations. (3-28-23)

d. Limited Energy Electrical. 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. 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. (3-28-23)

i. 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. (3-28-23)

e. Irrigation Sprinkler Electrical. An irrigation system electrical limited licensee is only authorized to 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. (3-28-23)

f. Well Driller and Installer. ()

g. Water Pump Installer. A license holder in this category is only authorized to perform the following types of installations: (3-28-23)

i. 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. (3-28-23)

ii. 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. (3-28-23)

iii. Temporarily connect into a power source to test the installations, provided that all test wiring is removed before the installer leaves the site. (3-28-23)

iv. 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. (3-28-23)

gh. Refrigeration, Heating, and Air-Conditioning Electrical Installer. A license holder in this category is only authorized to perform the following types of installations, which installations shall be limited to factory-assembled, packaged units: (3-28-23)

i. 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. (3-28-23)

ii. 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. (3-28-23)

iii. 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. (3-28-23)

hi. Outside Wireman. 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 is only authorized to perform the following types of installation (3-28-23)

- i. Overhead distribution and transmission lines in excess of six hundred (600) volts (3-28-23)
- ii. Underground distribution and transmission lines in excess of six hundred (600) volts. (3-28-23)
- iii. Substation and switchyard construction in excess of six hundred (600) volts. (3-28-23)

ij. Solar Photovoltaic. 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 is only authorized to perform the following types of installations: (3-28-23)

- i. Solar Photovoltaic DC Systems: Install, maintain, repair, and replace all electrical equipment, wires, and accessories up to and including the inverter. (3-28-23)
- ii. 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. (3-28-23)

06. Certification and Approval of Electrical Products and Materials. All materials, devices, fittings, equipment, apparatus, luminaires, and appliances installed or to be used in installations that are supplied with electric energy must be approved as provided in one (1) of the following methods: (3-28-23)

a. Testing Laboratory. Be tested, examined, and certified (Listed) by a Nationally Recognized Testing Laboratory (NRTL). (3-28-23)

b. 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: (3-28-23)

i. 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 (3-28-23)

ii. 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. (3-28-23)

c. 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. (3-28-23)

(BREAK IN CONTINUITY OF SECTIONS)

501. – ~~999~~599. (RESERVED)

600. IDAHO ELECTRICAL CODE.

01. Documents. Under the provisions of Section 54-1001, Idaho Code, the National Electrical Code, 2023 Edition, (herein NEC) is amended as follows: ()

a. Sections 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. Section 210.8(A). Delete reference to 250-volt receptacles. ()

c. Section 210.8(A)(5). Delete section 210.8(A) list item (5) and replace with the following: Unfinished areas of basements. ()

d. Section 210.8(A)(7). Delete section 210.8(A) list item (7). Areas with sinks and permanent provisions for food preparation, beverage preparation, or cooking. ()

e. Section 210.8(A)(8). Delete section 210.8(A) list item (8) 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 inside edge of the sink. ()

f. Section 210.8(A)(11). Delete section 210.8(A) list item (11) Laundry Areas. ()

g. Article 210.8(B). Delete list items (3) Areas with sinks and permanent provisions for food preparation, beverage preparation, or cooking. (4) -serving areas with permanent provisions for food serving, or cooking. and (14) Laundry areas. ()

h. Section 210.8(B)(7). Delete section 210.8(B) list item (7) and replace with the following: Sinks - located in kitchens and any other area where receptacles are installed within one and eight tenths (1.8) meters (six (6) feet) of the inside edge of the sink. ()

i. Section 210.8(D). In dwelling units only, delete list items (7) Dishwashers, (8) Electric ranges, (9) Wall-mounted ovens, (10) Counter-mounted cooking units, (11) Clothes dryers, and (12) Microwave ovens. ()

j. Section 210.8(F). Delete list items (1) Garages that have floors that are located at or below grade level and (2) Accessory buildings. ()

k. Section 210.12(B). Shall apply in full. Exception: In one- and two-family dwelling units, Arc-Fault Circuit-Interrupter Protection shall only apply to all branch circuits and outlets supplying bedrooms. All other locations in such units are exempt from the requirements of section 210.12(B). ()

l. Section 210.52 (C) add list item (4) - Island Countertop Spaces and Peninsular Countertop Spaces. If installed, receptacle outlets shall also be permitted to be mounted not more than 300 mm (12 in.) below the countertop or work surface. Receptacles mounted below a countertop or work surface in accordance with this exception shall not be located where the countertop or work surface extends more than 150 mm (6 in.) beyond its support base. ()

m. Section 210.52(E)(3). Delete section 210.52(E) list item (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. ()

n. Section 215.18 Surge Protection shall apply in full. Exception: for dwelling units, surge protection device shall be permitted when installed in compliance with 215.18(B) through (E). Delete section 215.18(A) list item (1). ()

o. Article 225.41 Emergency Disconnects. For one- and two-family dwelling units, an emergency disconnecting means shall be permitted when installed in compliance with sections 225.41(A), (B), and (C). ()

p. Section 225.42 Surge Protection shall apply in full. Exception: For dwelling units, a surge protection device shall be permitted when installed in compliance with 225.42 (B) through (E). Delete section 225.42(A) list item (1). ()

q. Section 230.67 Surge Protection shall apply in full. Exception: For dwelling units, a surge protection device shall be permitted when installed in compliance with 230.67 (B) through (E). Delete section 230.67(A) list item (1). ()

r. Article 230.85 Emergency Disconnects. For one- and two-family dwelling units, an emergency disconnecting means shall be permitted when installed in compliance with sections 230.85(A), (B), (D), and (E). Delete section 230.85(C). ()

s. Section 314.27(C) Boxes at Ceiling-Suspended (Paddle) Fan Outlets. Delete second paragraph. ()

t. Section 334.10(3). Delete 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 lists of fire-rates assemblies. For the purpose of this section, cable located in attics and underfloor areas that are not designed to be occupied shall be considered concealed. ()

u. Section 334.15(C). 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. ()

v. Pole Lighting. Poles used as lighting standards along roadways only (parking areas are not roadways) that are forty (40) feet or less in nominal height and that support no more than four (4) luminaries operating at a nominal voltage of three hundred (300) volts or less to the ground, shall not be considered a structure as it is defined as equipment by the NEC. The disconnecting means may be mounted to the pole or elsewhere in accordance with NEC, section 225.31(B), exception 3. Special purpose fus/ble 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 luminaries shall be protected by supplementary overcurrent device (time -delay – minimum 10K RMS Amps 600 VAC) in break-a-away fuse holder accessible from the handhole. Any poles supporting or incorporating utilization equipment or exceeding the prescribed number of luminaries, or in excess of forty (40) feet, may 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. A service may not need a Watt Hour Meter. ()

w. Section 422.5(A)(7). Delete section 422.5(A) list item (7) dishwashers. ()

x. Section 675.8(B). Compliance with section 675.8(B) shall include the additional requirement that a disconnecting means always be provided at the point of service then the utility no matter where the disconnecting means for the machine is located. ()

y. 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. ()

z. Article 682.11. Add the following exception: This article shall not apply to service equipment that is located on or at the dwelling unit and which is not susceptible to flooding. ()

aa. Article 682.13. Add the following exceptions: ()

i. Exception No. 1. Wiring methods such as HDPE schedule eighty (80) 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 wherever 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: when internal conductors are jacketed submersible pump cable; when used in continuous lengths, directly buried, or secured on a shoreline above and below the water line; when submersible pump wiring terminations in the body of water according to section 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. (e.g. 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. ()

bb. Article 682.14. Add the following additional exception: 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. ()

cc. Section 682.14(A). Add the following exception: 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. ()

dd. Article 682.15. Add the following exceptions: ()

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. ()

ee. Article 690.12 Rapid Shut Down. Add following Exemptions: ()

i. Detached structures whose sole purpose is to house PV system equipment shall not be subject to the requirements outlined in article 690.12. ()

ii. PV system circuits installed on or in buildings without the presence of a utility supplied power source shall not be required to comply with article 690.12 where all of the following apply: the minimum distance to bring electric utility power lines or service conductors to the building is 1,000 feet or greater; the building has a

minimum setback distance of 100 feet from any building or structure located on adjacent properties; A lockable service entrance rated AC disconnect is installed outside at a readily accessible location; and the AC disconnect has a permanent placard or label with the following words or equivalent:

WARNING

SOLAR PV SYSTEM IS NOT EQUIPPED WITH RAPID SHUTDOWN

The warning placard or label shall comply with Section 110.21(B). ()

ff. Section 690.12(A) Exception. PV system circuits originating within or from arrays not attached to buildings that terminate on the exterior of buildings or inside nearest the point of entrance, and PV system circuits installed in accordance with article 230.6 shall not be considered controlled conductors for the purposes of this section. ()

gg. Article 706.5: Listing. Energy storage systems shall be listed. This shall not apply to lead-acid batteries. ()

hh. Section 706.15(B) Off Grid Systems. Add the following exception: For one-family and two-family dwellings, a disconnecting means or its remote control shall be located at a readily accessible location. ()

02. Availability. A copy of the 2023 National Electrical Code is available at the offices of the Division of Occupational and Professional Licenses. ()

601. – 999. (RESERVED)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

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

DOCKET 24-3940-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, as well as Sections 67-9404, 67-9405, 67-9406, 67-9409, 67-9413, Title 39, Chapter 86, Idaho Code, and 39-8605, Idaho Code.

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Elevator Program is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. 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 November 6, 2024, Idaho Administrative Bulletin, [Vol. 24-11, pages 185-188](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

The fees are set pursuant to 39-8616, Idaho Code, and were not changed during this rulemaking.

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

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the pending rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

DATED this 29th day of November, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.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. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67- 9406, 67-9409, and 67-9413, Idaho Code, as well as Title 39, Chapter 86, Idaho Code and 39-8605, Idaho Code.

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

24.39.40 -- Safety Rules for Elevators, Escalators, and Moving Walks
Monday, November 18, 2024 2:00 p.m. (MT)
Division of Occupational and Professional Licenses EagleRock Room, Chinden Campus Building 4 11341 W. Chinden Blvd. Boise, ID 83714
Virtual Meeting Link
Telephone and web conferencing information will be posted on: https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Elevator Safety Program is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

N/A. This rulemaking does not increase fees.

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

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-3940-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024, Idaho Administrative Bulletin, [Vol. 24-7, p.263-264](#).

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 updates the following materials cited that are incorporated by reference:

ANSI/ASME A17.1 Safety Code for Elevators and Escalators;

ANSI/ASME 17.4 Guide for Emergency Personnel;

ANSI/ASME A17.5 Elevator and Escalator Electrical Equipment;

ANSI/ASME A 17.8 Standard for Wind Tower Turbine Elevators;

ANSI/ASME A18.1 Safety Standards for Platform Lifts and Chairlifts; and

ASMI Standard for the Qualification of Elevator Inspectors.

These incorporation by references were updated to more current versions to align with new standards. An Incorporation by Reference Synopsis to see significant changes has been completed by the Division.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

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 November 27, 2024.

DATED this 4th day of October, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 24-3940-2401

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

000. LEGAL AUTHORITY.

This chapter is adopted by the administrator of the Division of Occupational Professional Licenses ~~in accordance with Section 39-8605~~ pursuant to Sections 39-8605, 67-2604, 67-2614, 67-9409, and 67-9406, Idaho Code.

~~(3-28-23)~~()

001. 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~~ operation, installation, alteration, maintenance, and repair of conveyances.

~~(3-28-23)~~()

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. (3-28-23)

a. ANSI/ASME A17.1 2016~~22~~, Safety Code for Elevators and Escalators with the following exceptions: (3-28-23)()

~~**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. (3-28-23)~~

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(~~ab~~) in ANSI/ASME A17.2 2014~~20~~. (3-28-23)()

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. (3-28-23)

~~**iii.** Compliance with Section 2.27 regarding visual and text communication is optional; compliance with auto communication requirements is mandatory. ()~~

b. ANSI/ASME A17.3 2015 Safety Code for Existing Elevators and Escalators. (3-28-23)

c. ANSI/ASME A17.4 ~~1999~~2015 Guide for Emergency Personnel. (3-28-23)()

d. ANSI/ASME A17.5 2014~~9~~ Elevator and Escalator Electrical Equipment. (3-28-23)()

e. ANSI/ASME A17.6 2010 Standard for Elevator Suspension, and Governor Systems. (3-28-23)

f. ANSI/ASME A17.7 2012 Performance-based Safety Code for Elevators and Escalators. (3-28-23)

g. ANSI/ASME A17.8 2016~~21~~ Standard for Wind Tower Turbine Elevators. (3-28-23)()

h. ICC/ANSI A117.1 2009 Accessible and Usable Buildings and Facilities. (3-28-23)

i. ANSI/ASME A18.1 2014~~20~~ Safety Standards for Platform Lifts and Chairlifts. (3-28-23)()

j. ASME QE-1 2013~~18~~ Standard for the Qualification of Elevator Inspectors. (3-28-23)()

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~~ Division of Occupational and Professional Licenses offices. (3-28-23)()

003. -- 010099. (RESERVED)

~~011~~100. INSPECTION REQUIREMENTS.

For an inspection may to take place: (3-28-23)

~~**01. Access.** All machine rooms and spaces must be free of dirt and debris and have any obstacles to access removed. (3-28-23)~~

021. Technician on Site. An elevator technician and fire alarm technician must be present on site to restore elevator and fire alarm systems. (3-28-23)

032. 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. (3-28-23)

043. 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. (3-28-23)

101. -- 199. (RESERVED)

~~012~~200. APPROVAL OF NEW OR ALTERNATIVE TECHNOLOGY PRACTICE STANDARDS.

01. Approval of New or Alternative Technology. ()

01a. 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. (3-28-23)()

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.~~ (3-28-23)

a.i. The manufacturer of the new product or system must provide the ~~administrator~~ Division of Occupational and Professional Licenses 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. (3-28-23)()

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.~~ (3-28-23)

e. ~~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.~~ (3-28-23)

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.~~ (3-28-23)

~~013~~201. -- 999. (RESERVED)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.39.60 – RULES GOVERNING UNIFORM SCHOOL BUILDING SAFETY

DOCKET 24-3960-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, as well as Sections 67-9404, 67-9405, 67-9406, 67-9409, 67-9413, as well as Title 39, Chapter 80, Idaho Code, and Section 39-8007, 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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Uniform School Building Safety Program is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. 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 November 6, 2024, Idaho Administrative Bulletin, [Vol. 24-11, pages 189-193](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

N/A. This rulemaking does not impose or increase 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 negative fiscal impact on the state General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the pending rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

DATED this 29th day of November, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.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. This rulemaking action is authorized pursuant to Sections 67-2604, 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, as well as Title 39, Chapter 80, Idaho Code, and Section 39-8007, Idaho Code.

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

24.39.60 – Rules Governing Uniform School Building Safety
Monday, November 18, 2024 3:00 p.m. (MT)
Division of Occupational and Professional Licenses EagleRock Room, Chinden Campus Building 4 11341 W. Chinden Blvd. Boise, ID 83714
Virtual Meeting Link
Telephone and web conferencing information will be posted on: https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Uniform School Building Safety Program is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

N/A. This rulemaking does not impose or increase fees.

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

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-3940-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024, Idaho Administrative Bulletin, [Vol. 24-7, p.265-266](#).

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. No materials have been incorporated by reference into the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

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 November 27, 2024.

DATED this 4th day of October, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 24-3960-2401

24.39.60 – RULES GOVERNING UNIFORM SCHOOL BUILDING SAFETY

000. LEGAL AUTHORITY.

The rules are promulgated pursuant to Section 39-8007, Idaho Code. (3-31-22)

001. SCOPE.

The rules prescribe the Idaho Uniform School Building Safety Code and provide for enforcement and administration of the Idaho Uniform School Building Safety Act. (3-31-22)

002. INCORPORATION BY REFERENCE.

01. Uniform Codes. The ~~following~~ uniform codes ~~are hereby incorporated by reference into these rules as, and insofar as, the most recent editions have been~~ adopted by the appropriate governing authority for the state of Idaho pursuant to applicable Idaho Code: (3-31-22)(____)

- a. ~~International~~ Idaho Building Code, as in IDAPA 24.39.30; (3-31-22)(____)
- b. International Mechanical Code; (3-31-22)
- c. International Fuel Gas Code; (3-31-22)
- d. Safety Code for Elevators and Escalators (ASME/ANSI A17.1), as adopted in IDAPA 24.39.40; (3-31-22)(____)
- e. International Energy Conservation Code; (3-31-22)
- f. Accessible and Usable Buildings and Facilities (ICC/ANSI A117.1); (3-31-22)
- g. Idaho Fire Code (IFC); (3-31-22)

- h.** National Electrical Code (NEC), as adopted in IDAPA 24.39.10; (3-31-22)()
- i.** Idaho State Plumbing Code (UPC), as adopted in IDAPA 24.39.20; (3-31-22)()
- j.** Pacific NW AWWA Manual for Backflow Prevention and Cross Connection Control; and (3-31-22)
- k.** Idaho Safety and Occupational Health Standards. (3-31-22)

02. Idaho Uniform School Building Safety Code. The codes set forth in Subsection 002.01 of this rule, together with the definitions contained therein ~~and the written interpretations thereof, insofar as they are applicable to school facilities;~~ constitute the Idaho Uniform School Building Safety Code. (3-31-22)()

~~003. — 009.~~ (RESERVED)

~~040~~**03. DEFINITIONS.**

- 01. Act.** The Idaho Uniform School Building Safety Act. (3-31-22)
- 02. Building Code.** The Building Code specified in Paragraph 002.01.a. of these rules. (3-31-22)
- 03. Code.** The Idaho Uniform School Building Safety Code. (3-31-22)
- 04. School Building or Building.** Any school building, including its structures and appurtenances necessary for the operation of the school building, and subject to the provisions of the Act. (3-31-22)

~~041~~**04. -- 049**~~299.~~(RESERVED)

~~050~~**300. VIOLATION OF CODE.**

- 01. Imminent Safety Hazard.** Code violations that constitute an imminent safety hazard, include, but are not limited to, whenever the following are observed: (3-31-22)
 - a.** Any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic; (3-31-22)
 - b.** The walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic; (3-31-22)
 - c.** The stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half (1-1/2) times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location; (3-31-22)
 - d.** Any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location; (3-31-22)
 - e.** Any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property; (3-31-22)
 - f.** Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half (1/2) of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings; (3-31-22)

- g.** Any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction; (3-31-22)
- h.** The building or structure, or any portion thereof, because of: (3-31-22)
- i.** Dilapidation, deterioration or decay; (3-31-22)
- ii.** Faulty construction; (3-31-22)
- iii.** The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (3-31-22)
- iv.** The deterioration, decay or inadequacy of its foundation; or (3-31-22)
- v.** Any other cause, is likely to partially or completely collapse; (3-31-22)
- i.** Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings; (3-31-22)
- j.** Any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than fifty percent (50%), or in any supporting part, member or portion less than sixty-six percent (66%) of the: (3-31-22)
- i.** Strength; (3-31-22)
- ii.** Fire-resisting qualities or characteristics; or (3-31-22)
- iii.** Weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location; (3-31-22)
- k.** Any building or structure, because of obsolescence; dilapidated condition; deterioration; damage; inadequate exits; lack of sufficient fire-resistive construction; faulty electric wiring, gas connections or heating apparatus; or other cause, is determined by the state fire marshal to be a fire hazard; (3-31-22)
- l.** A building or structure, because of inadequate maintenance; dilapidation; decay; damage; faulty construction or arrangement; inadequate light, air or sanitation facilities; or otherwise, is determined to be unsanitary, unfit for human occupancy or habitation, or in such a condition that is likely to cause accidents, sickness, or disease; (3-31-22)
- m.** Any building or structure, because of dilapidated condition; deterioration; damage; inadequate exits; lack of sufficient fire-resistive construction; faulty electric wiring, gas connections, or heating apparatus; or other cause, is determined by the state fire marshal to be a fire or life safety hazard; and (3-31-22)
- n.** There is, within the building, the presence of vapors, fumes, smoke, dusts, chemicals, or materials in any form (natural or man made) in quantities that have been established by national health organizations to be a threat to the health or safety of the building occupants. This does not include materials stored, used, and processed in accordance with nationally recognized safety standards for the materials in question. (3-31-22)

051301. -- 999. (RESERVED)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.39.80 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING

DOCKET 24-3980-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, as well as well as 67-2605(5), Idaho Code.

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

The pending rule is being adopted under [Executive Order 2020-01, Zero Based Regulation](#). Text amended since these rules were published as proposed is as follows:

- Employee’s Responsibility: Addition of required accident reporting.
- Rule 052.04.b.: Addition of traction and ankle support for footwear.
- Rule 301.01.f.: Clarifying language to include all persons on a job site.
- Rule 402.06: Clarifying language to include equipment that can be remotely started.
- Rule 652.08.b.: The requirement to report injuries within ten (10) days was removed in the proposed rules, but due to public comment, this was added back for the pending rules.
- Rule 652.[20]18: The subsections regarding safety orders by the Administrator were removed within the proposed rules, but due to public comment, they were added back for the pending rules.

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 November 6, 2024, Idaho Administrative Bulletin, [Vol. 24-11, pages 194-262](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

N/A. This rulemaking does not impose or increase 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 negative fiscal impact on the state General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the pending rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

DATED this 29th day of November, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.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. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67- 9406, 67-9409, and 67-9413, Idaho Code, as well as 67-2605(5), Idaho Code.

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

24.39.80 – Idaho Minimum Safety Standards and Practices for Logging
Friday, November 15, 2024 4:30 p.m. (MT) / 3:30 p.m (PT)
Idaho Department of Labor 600 N Thornton St. Post Falls, ID 83854
Virtual Meeting Link
Telephone and web conferencing information will be posted on: https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/.

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Logging Safety Program is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

N/A. This rulemaking does not impose or increase fees.

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

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-3940-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024, Idaho Administrative Bulletin, Vol. 24-7, p.267-268.

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. No materials have been incorporated by reference into the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

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 November 27, 2024.

DATED this 4th day of October, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 24-3980-2401

Italicized red text that is *double underscored* indicates amendments to the proposed text as adopted in the pending rule.

24.39.80 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING

~~**SUBCHAPTER A – GENERAL PROVISIONS**~~
~~**(Rules 000 – 050)**~~

000. LEGAL AUTHORITY.

The rules are promulgated pursuant to Section 67-2601A, Idaho Code. (3-31-22)

001. SCOPE.

The rules are applicable to the logging industry in the state of Idaho. (3-31-22)

~~**002. – 006. (RESERVED)**~~

~~**007. DEFINITIONS A THROUGH C.**~~

Terms used in these standards shall be interpreted in the most commonly accepted sense, excepting only those specifically defined. (3-31-22)

~~**01. A-Frame.** A structure made of the independent columns (of wood or steel) fastened together at the~~

~~top and separated a reasonable width at the bottom to stabilize the unit from tipping sideways. (3-31-22)~~

021. Arch. A piece of equipment attached to the rear of a vehicle, used for raising one end of logs to facilitate skidding. (3-31-22)

032. Back Cut. The final falling cut. (3-31-22)

043. Barber Chair. Slab portion of tree remaining on the stump above the back cut due to improper falling. (3-31-22)

054. Bell. The component that slides on the cable and connects to the knob or button. When a worker chokes a log or stump, the bell secures the knob or button. (3-31-22)

065. Bight. The loop of a line, ~~the ends being “gast” elsewhere,~~ or the angle formed by a line running through a block. (3-31-22)(____)

076. Binder. ~~Chain, cable, or steel strap used for binding loads of logs~~ A device to tighten chain when securing a load for transport. (3-31-22)(____)

~~**08. Brow Log.** A log placed parallel to any roadway at a landing or dump to protect vehicles while loading or unloading. (3-31-22)~~

097. Bunk. The cross support for logs on a logging car or truck. (3-31-22)

108. Cable-Assisted Logging Systems. Logging systems, including, but not limited to, winch-assisted, cable-assisted, tethered, and traction-assisted systems that enable ground-based timber harvesting machines, including, but not limited to, feller bunchers, harvesters, loaders and shovels, to be operated on slopes. (3-31-22)

~~**109. Carriage Logging.** A type of high lead logging using gravity, haul back, or remote control carriages to yard logs. (Bullet carriage is one type). (3-31-22)(____)~~

~~**1210. Chaser.** The member of the yarding crew who unhooks the logs at the landing or fights hang-ups on skid road. (3-31-22)~~

~~**13. Chock (Bunk Block Cheese Block).** A wedge that prevents logs from rolling off the bunks. (3-31-22)~~

~~**1411. Choker.** A wire rope with special attachments put around the log near the end for hauling or lifting. (3-31-22)~~

~~**1512. Cold Shut.** A link for joining two (2) chains, the link being closed cold with a hammer, not a weld. (3-31-22)~~

~~**1613. Competent Person.** An individual who is capable of identifying existing and predictable hazards in the work site surroundings or working conditions that are unsanitary, hazardous or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate such. (3-31-22)~~

~~**1714. Cutter.** A term used to designate faller or bucker. (3-31-22)~~

008. DEFINITIONS D THROUGH I.

~~Terms used in these standards shall be interpreted in the most commonly accepted sense, excepting only those specifically defined. (3-31-22)~~

~~**0115. Equipment.** The term, as used, means and include all machines, machinery, tools, devices, safeguard, and protective facilities used in connection with logging operations, regardless of ownership. (3-31-22)~~

~~**0216. Grapple.** A device attached to a hoisting line or boom for mechanically handling logs.~~

~~(3-31-22)~~()

~~03~~**17. Guarded.** Guarded means covered, shielded, or railed so as to remove the possibility of dangerous contact or approach by employees or objects. It further means construction of guards to ensure protection from flying objects where applicable. (3-31-22)

~~04~~**18. Guy Lines.** The lines used to stay or support spar trees, booms, etc. (3-31-22)

~~05~~**19. Haul Back.** A small wire line traveling between the power skidder and a pulley set near the logs. Used to return the main cable with tongs, chokers, or hooks to the next log. (3-31-22)

~~06~~**20. Hazard.** Hazard, as used in these standards, means any condition or circumstance that may cause accident or injury to an employee. (3-31-22)

~~07~~**21. Hook Tender, Hooker.** The worker who supervises the method of moving the logs from the woods to the place of loading. (3-31-22)

~~08. It is Recommended, or Should.~~ When these terms are used they indicate provisions that are not mandatory. (3-31-22)

~~009. DEFINITIONS J THROUGH R.~~

~~Terms used in these standards shall be interpreted in the most commonly accepted sense, excepting only those specifically defined.~~ (3-31-22)

~~01~~**22. Jammer.** A machine used for ~~handling~~ skidding logs. (3-31-22)()

~~02~~**23. Knob.** A metal ferrule arranged to be attached to the end of a line, used in place of a spliced eye. (3-31-22)

~~03~~**24. Landing.** Any place where logs are placed, after being yarded, awaiting loading or unloading. (3-31-22)

~~04~~**25. Leaners.** A live or dead leaning tree. (3-31-22)

~~05~~**26. Loading Boom.** Any structure projecting from a pivot point to guide a log when lifted. (3-31-22)

~~06~~**27. Log or Logs.** When the word log or logs is used, it includes poles, piling, pulpwood, skids, etc. (3-31-22)

~~07~~**28. Operation (Show Woods Layout).** Any place where logging is being done. (3-31-22)

~~08~~**29. Mainline.** A cable which pulls logs or trees to loading. (3-31-22)

~~09. Pike, Pole.~~ A long pole whose end is shod with a sharp pointed steel spike, point, or hook. (3-31-22)

~~10. Portable Spar or Tower.~~ An engineered structure designed to be used in a manner similar to which a wooden spar tree would be used. (3-31-22)

~~11~~**30. Qualified Person.** An individual who, by possession of a recognized degree, certificate or professional standing, or who by extensive knowledge, training and experience, has successfully demonstrated the ability to solve or resolve problems relating to the subject matter, the work, or the project. (3-31-22)

~~12~~**31. Reach.** An adjustable beam between a trailer and a motorized logging vehicle. (3-31-22)

~~13~~**32. Running Line.** Any line that moves. (3-31-22)

~~010. DEFINITIONS S THROUGH Z.~~

~~Terms used in these standards shall be interpreted in the most commonly accepted sense, excepting only those specifically defined. (3-31-22)~~

~~0133. Safety Factor.~~ This term as used is the ratio of the ultimate breaking strength of a member or piece of material to the actual working stress or to the maximum permissible (safe load) stress. For example: When a safety factor of six (6) is required, the structure, lines, hoists, or other equipment referred to shall be such as to provide a strength sufficient to support a load equal to six (6) times the total weight or stress to be imposed on it. (3-31-22)

~~0234. Shall, Will.~~ Is compulsory or mandatory. (3-31-22)

~~03. Skids.~~ Any group of timbers spaced a short distance apart on which the logs are placed. (3-31-22)

~~0435. Skidding.~~ Movement of logs on the ground. (3-31-22)

~~0536. Skyline.~~ The supporting line on various types of logging systems on which carriage, block, or bullet travels. (3-31-22)

~~0637. Snags.~~ Any dead standing trees. (3-31-22)

~~0738. Strap.~~ Any short piece of line with an eye or “D” in each end. (3-31-22)

~~0839. Strip.~~ A definite location of timber allocated to a cutting crew. (3-31-22)

~~0940. Substantial.~~ Means constructed of such strength, of such material, and of such workmanship, that the object referred to will withstand normal wear, shock and usage. (3-31-22)

~~1041. Tongs.~~ A hooking device used to lift or skid logs. (3-31-22)

~~1142. Undercut.~~ A notch cut in the tree to guide and control the tree in falling. (3-31-22)

~~1243. Yarding.~~ Movement of logs or trees from the place they are felled (bucked) to a central loading or shipping point. (3-31-22)

~~003. – 010. (RESERVED)~~

011. INTERPRETATION AND APPLICATION OF THESE RULES.

01. Scope. These rules are part of the state of Idaho industrial accident prevention program and have the full force and effect of law. (3-31-22)

02. Jurisdiction. In accordance with the laws of the state of Idaho, every employer and every employee working in the state of Idaho shall comply with the rules contained herein. (3-31-22)

03. Enforcement. The enforcement of all rules of this chapter and the right of inspection and examination, at any time, shall rest with the Division. (3-31-22)

04. Issues Not Covered. Where specific standards in these rules fail to provide a rule or standard applicable to the operation in question, and other state of Idaho codes or standards are applicable, those codes or standards shall apply. (3-31-22)

~~05. Interpretations.~~ Should any controversy develop as to the intent or application of any standard or rule as set forth in these rules, or the interpretation of any standard or rule set forth in these rules, such controversy shall be called to the direct attention of the Division, which shall render a decision as the applicability of such rule or standard. Any appeal from this decision shall be directed to the Administrator. (3-31-22)

065. Additional Standards. It is recognized that a definite, positive safety standard cannot anticipate all

contingencies. The Division, after due notice and opportunity to be heard, may require additional standards and practices to insure adequate safety at any place of any employment, and, on its own motion or upon application of any employer, employee, group, or organization, may modify any provision of this rule. (3-31-22)

076. Exceptions. In exceptional cases where the rigid application or compliance with a requirement can only be accomplished to the detriment and serious disadvantage of an operation, method, or process, exception to the requirement will be considered upon written application to the Division. After thorough investigation, the Division may grant an exception if human life and physical well-being will not be endangered by such exception. (3-31-22)

087. Existing Buildings, Structures, and Equipment. Nothing contained in this rule for logging safety shall prevent the use of existing buildings, structures, and equipment during their lifetime when maintained in good safe condition, and properly safeguarded, or require conformance with the applicable safety standards required by Idaho Safety Codes effective prior to the effective date of this rule, provided that replacements and alterations shall conform with all provisions of these rules. (3-31-22)

012. EMPLOYER'S RESPONSIBILITY.

01. General Requirements. (3-31-22)

a. Every employer subject to these rules shall maintain places of employment that are safe according to the standards as set forth herein. (3-31-22)

b. Every employer shall adopt and use practices, means, methods, operations and processes that are adequate to render such employment and place of employment safe. (3-31-22)

i. Employers shall place highly visible "LOGGING AHEAD" or similar-type warning signs at the entrances of active logging jobs. Employers shall also place "TRUCKS AHEAD," "TRUCKS ENTERING," "TREE FALLING," and "CABLES OVERHEAD," whenever applicable (3-31-22)

ii. Every employer shall furnish to its crew a Company Emergency Rescue Plan. (3-31-22)

c. Every employer should insure that Safety Data Sheets (SDS) are reasonably accessible for every hazardous material. (3-31-22)

d. Every employer shall post and maintain in a conspicuous place or places in and about his place or places of business a written notice stating the fact that he has complied with the worker's compensation law as to securing the payment of compensation to his employees and their dependents in accordance with the provisions of Idaho law. Such notice shall contain the name and address of the surety, as applicable, with which the employer has secured payment of compensation. Such notice shall also be readily available on the site where logging operations are occurring, and available for inspection by Division officials upon request. (3-31-22)

e. Every employer shall do all other things as required by these rules to protect the life and safety of employees. (3-31-22)

f. No employer shall require any employee to go or be in any place of employment that does not meet the minimum safety requirement of these rules, except for the purpose of meeting such requirements. (3-31-22)

g. No employer shall fail or neglect: (3-31-22)

i. To make available and use safety devices and safeguards as are indicated. (3-31-22)

ii. To adopt and use methods and processes adequate to render the employment and place of employment safe. (3-31-22)

~~**iii.** To do all other things as required by these rules to protect the life and safety of employees.~~ (3-31-22)

h. No employer, owner or lessee of any real property shall construct or cause to be constructed any place of employment that does not meet the minimum safety requirements of these rules. (3-31-22)

i. No person, employer, employee, other than an authorized person, shall do any of the following: (3-31-22)

i. Remove, displace, damage, destroy or carry off any safeguard, first aid material, notice or warning, furnished for use in any employment or place of employment, or interfere in any way with the use thereof by any other person. (3-31-22)

ii. Interfere with the use of any method or process adopted for the protection of any employee, including himself, in such employment or place of employment. (3-31-22)

iii. No person shall fail or neglect to do all other things as required by these rules to protect the life and safety of employees. (3-31-22)

iv. The use of intoxicants or drugs while on duty is prohibited. Persons reporting for duty while under the influence of or impaired by liquor or other legal or illegal drugs or substances shall not work until completely recovered. (3-31-22)

j. A procedure for checking the welfare of all workers during working hours shall be instituted and all workmen so advised. The employer shall assume responsibility of work assignments so that no worker shall be required to work in a position or location so isolated or hazardous that he is not within visual or audible signal contact with another person who can render assistance in case of emergency. In any operation where cutting, yarding, loading, or a combination of these activities are carried on there shall be a minimum crew of two (2) persons who shall work as a team, and shall be in visual or audible signal contact with one another. This does not apply to operators of motorized equipment, watchmen, or certain other jobs which, by their nature are singular workmen assignments. There shall be some method of checking-in crew members at the end of the shift. Each immediate supervisor shall be responsible for his crew being accounted for. This standard also includes operators of movable equipment. (3-31-22)

k. Every employer shall keep a record of all cases of injuries his employees receive at their work. This record shall be kept in such manner as to enable representatives of the Division to determine by examining the record, the injury rate of the employee force for the period covered by the report. (3-31-22)

l. Every employer shall investigate every accident resulting in a disabling injury that his employees suffer in connection with their employment. Employers shall promptly take any required action to correct the situation. Employees shall assist in the investigation by giving any information and facts they have concerning the accident. (3-31-22)

02. Management Responsibility. (3-31-22)

a. Management shall take an active and interested part in the development and guidance of the operation's safety program, including fire safety. (3-31-22)

b. Management shall apply a basic workable safety plan on the same priority as it does to any other work facet of the operation where elimination of all injuries is to be achieved in all phases of the operation. It is the duty of management to assume full and definite responsibility. To attain these safety objectives, management shall have the full cooperation of employers and the Division. (3-31-22)

c. Every employer shall furnish employment which shall be safe for the employees therein and shall furnish such devices and safeguards and shall adopt and use such practices, means, methods, operation and processes as are adequate to render such employment and places of employment safe to protect the life and safety of employees. The employer shall make available necessary personal protective safety equipment. (3-31-22)

d. Regular safety inspection by a qualified person of all places of employment, rigging, logging, machinery, rolling stock, bridges, and other equipment shall be made as often as the character of the equipment

requires. Defective equipment or unsafe conditions found shall be replaced, repaired or remedied promptly.

(3-31-22)()

~~e. All places of employment shall be inspected by a qualified person or persons as often as the type of operation or the character of the equipment requires. Defective equipment or unsafe conditions found by these inspections shall be replaced or repaired or remedied promptly.~~ (3-31-22)

013. EMPLOYEE'S RESPONSIBILITY.

01. General Requirements. (3-31-22)

a. Employees shall not indulge in activities that create or constitutes a hazard while on the employer's property or at any time when being transported from or to work in facilities furnished by the employer. (3-31-22)

b. Employees who are assigned to, or engaged in the operation of any machinery or equipment, shall ensure that all guards, hoods, safety devices, etc., that are provided by the employer are in proper place and properly adjusted. (3-31-22)

02. Employee Accidents. Each employee shall make it his individual responsibility to keep himself, his coworkers, and his machine or equipment free from accidents to the best of his ability. (3-31-22)

~~03. Study Requirements. So that each worker may be better qualified to cooperate with his fellow workmen in preventing accidents, he shall study and observe these and any other safety standards governing his work.~~ (3-31-22)

04.3. Employee Responsibilities. Additional responsibilities of an employee insofar as industrial safety is concerned shall be as follows: (3-31-22)

a. Report immediately, preferably in writing, to his foreman or safety coordinator for the logging operation, all known unsafe conditions and practices. (3-31-22)

b. Ascertain from the foreman where medical help may be obtained if it is needed. (3-31-22)

c. Prompt reporting of every accident regardless of severity to the foreman, first aid attendant, or person in charge. Such reports are required and are necessary in order that there may be a record of his injuries. (3-31-22)

~~d.~~ The employee shall at all times apply the principles of accident prevention in his daily work and shall use proper safety devices and protective equipment. No employee shall remove, displace, damage, destroy, or carry off any safety device or safeguard furnished and provided for use in any employment, or interfere in any way with the use thereof by any other person, or interfere with the use of any method or process adopted for the protection of any employee in such employment, or fail or neglect to do every other thing reasonably necessary to protect the life and safety of himself and fellow employees, and by observing safe practice rules shall set a good example for his fellow workmen. (3-31-22)

~~e.~~ The employee shall not report to the job impaired by intoxicants or legal or illegal drugs and shall not use intoxicants or such drugs while on the job. The employer shall prohibit any employee from working on or being in the vicinity of any job while under the influence of or impaired by intoxicants or drugs. Employers shall be responsible for the actions of any employee known to be in an intoxicated or impaired condition while on the job. (3-31-22)

~~f.~~ The employee shall wear, use and properly care for personal protective safety equipment issued to him. (3-31-22)

~~g.~~ Workers exposed to head hazards shall wear approved head protection. (3-31-22)

~~h.~~ Proper eye protection shall be worn while performing work where a known eye hazard exists.

- (3-31-22)
- ~~i.~~ The employee should consider the benefits of accident prevention to himself and to his job. (3-31-22)
 - ~~j.~~ The employee should make an effort to understand his job. (3-31-22)
 - ~~kh.~~ The employee should anticipate every way in which a person might be injured on the job, and conduct the work to avoid accidents. (3-31-22)
 - ~~li.~~ The employee should be on the alert constantly for any unsafe condition or practice. (3-31-22)
 - ~~m.~~ The employee shall learn first aid. (3-31-22)
 - ~~n.~~ The employee should keep physically fit, and obtain sufficient rest. (3-31-22)
 - ~~o.j.~~ The employee should be certain that all instructions received are understood completely before starting the work. (3-31-22)
 - ~~pk.~~ The employee should actively participate in safety programs. (3-31-22)
 - ~~ql.~~ The employee should study the safety educational material posted on the bulletin boards and distributed by the employer or safety committee. (3-31-22)
 - ~~r.~~ The employee should advise inexperienced fellow employees of safe ways to perform their work and warn them of dangers to be guarded against. (3-31-22)
 - ~~sm.~~ It is the employer's responsibility to ensure compliance with the foregoing provisions. (3-31-22)

014. -- 050. (RESERVED)

~~**SUBCHAPTER B HEALTH, SAFETY, AND SANITATION**~~
~~**(Rules 051 through 100)**~~

051. FIRST AID.

- 01. Transportation.** (3-31-22)
 - a.** Suitable means of transportation shall be established and maintained at the site of all operations to be used in the event any employee is seriously injured. (3-31-22)
 - b.** Each crew bus, or similar vehicle, shall be equipped with at least one (1) first aid kit with the required contents as indicated in Subsection 051.06 of this rule. (3-31-22)
- 02. Communication.** (3-31-22)
 - a.** Every employer shall arrange suitable telephone or radio communication at the nearest reasonable point, and shall establish an emergency action plan to be taken in the event of serious injury to any employee. (3-31-22)
 - b.** Instructions covering the emergency action plan shall be made available to all work crews. (3-31-22)
 - c.** When practicable, a poster shall be displayed on, or near the cover of each first aid cabinet or phone. The poster shall display the phone numbers of applicable emergency services. The use of the Idaho State EMS Communication Center is recommended. The number is 1-800-632-8000 or 208-846-7610. (3-31-22)

d. Every employer shall obtain their specific job location (longitude and latitude preferred) and furnish such to crew for emergency evacuation. (3-31-22)

03. Attendance for Seriously Injured. (3-31-22)

a. Seriously injured employees shall, at all times, be attended by the most qualified available person to care for the injured employees. (3-31-22)

b. Seriously injured employees shall be carefully handled and removed to a hospital, or given medical attention as soon as possible. (3-31-22)

c. Caution shall be used in removing a helpless or unconscious person from the scene of an accident to prevent further injury. (3-31-22)

04. First Aid Training. Any person performing work associated with a logging operation shall be required to complete an approved course in first-aid and have a current card. (3-31-22)

05. Stretcher or Spine Board. A spine board (designed for or adaptable to the work location and terrain) and two blankets maintained in sanitary and serviceable condition shall be available where such conditions require the use of such to provide for the proper transportation and first aid to an injured workman. (3-31-22)

06. First Aid Kits. (3-31-22)

a. The employer shall provide first aid kits that are readily available and supplied as required at each work site where trees are being felled, at each active landing, and in each employee transport vehicle. (3-31-22)

b. The following list sets forth the ~~minimally acceptable number and type of first aid supplies for~~ required ~~elements for~~ first-aid kits. The contents of the first-aid kits shall be adequate for small work sites, consisting of approximately two (2) to three (3) employees. When larger operations or multiple operations are being conducted at the same location, additional first-aid kits shall be provided at the work site or additional quantities of supplies shall be included in the first-aid kits:

TABLE 051.06 – REQUIRED FIRST-AID KIT CONTENTS	
1.	Gauze pads (at least 4 x 4 inches)
2.	Two (2) large gauze pads (at least 8 x 10 inches)
3.	Box adhesive bandages (band-aids)
4.	One (1) package gauze roller bandage (at least two (2) inches wide)
5.	Two (2) triangular bandages
6.	Wound cleaning agent such as sealed moistened towelettes
7.	Scissors
8.	At least one (1) blanket
9.	Tweezers
10.	Adhesive tape
11.	Latex gloves
12.	Resuscitation equipment such as resuscitation bag, airway, or pocket mask
13.	Two (2) elastic wraps
14.	Splint

TABLE 051.06 – REQUIRED FIRST-AID KIT CONTENTS

15. Directions for requesting emergency assistance

(3-31-22)()

c. Special kits, or the equivalent, shall be provided and approved for special hazards peculiar to any given work location. (3-31-22)

d. First aid kits shall be in sanitary containers. Such containers shall be designed and constructed so as to be impervious to conditions of weather, dust, dirt, or other foreign matter. (3-31-22)

052. SAFETY EQUIPMENT AND PERSONAL PROTECTIVE EQUIPMENT.

01. General Requirements. (3-31-22)

a. Special protective equipment or apparel required for safe employment, other than clothing or equipment customarily supplied by employees, shall be furnished by the employer where necessary for the safety of employees. (3-31-22)

b. Employees are required to utilize all prescribed safety equipment and special protective equipment or apparel, and they shall exercise due care in maintaining it in safe, efficient and sanitary conditions. (3-31-22)

c. Employers are required to provide, at no cost to employees, appropriate eye, face, head, hand, and leg protection. (3-31-22)

d. Defective safety equipment shall not be used. Where the need for their use is indicated, protective covering, ointments, gloves or other effective protection shall be provided for and used by persons exposed to materials that are irritating to the skin. (3-31-22)

02. Inspection, Maintenance and Sanitizing. (3-31-22)

a. Each employer shall maintain a regular system of inspection and maintenance of personal protective equipment furnished to workers. (3-31-22)

b. Airline equipment shall have a necessary regulator and shall be inspected before each use. (3-31-22)

c. Workers shall check their equipment at the beginning of each shift. (3-31-22)

03. Eye Protection. (3-31-22)

a. Where workers are subject to eye hazards (~~flying particles, dusts, hazardous liquids, gases, mists or vapors, or injurious light rays~~) they shall be furnished with and shall wear eye protection suitable for the hazards involved. Such eye protection shall conform to the American National Standard Institute standards for Head, Eyes and Respiratory protection. (3-31-22)()

~~b. Face shields may be used in lieu of other forms of eye protection where the nature of the operation is such that they will furnish equivalent protection. (3-31-22)~~

~~eb.~~ Clean water in ample quantities shall be immediately available where materials are handled that are caustic or corrosive to the eyes. (3-31-22)

04. Foot and Leg Protection. (3-31-22)

a. Employees shall wear footwear suitable for the work conditions. (3-31-22)

~~b. Employees shall wear sharp caulk-soled boots or other footwear which will afford maximum protection from slipping. Anyone working in the woods shall wear footwear that provides adequate traction and ankle support. (3-31-22)()~~

~~eb. Special types or designs of shoes such as sharp caulk-soled boots, or foot guards, shall be required to be worn where conditions exist that make their use necessary for the safety of the workers. (3-31-22)()~~

~~ec. Leggings or high boots of leather, rubber or other suitable material shall be worn by climbers, persons exposed to hot substances, or caustic solutions, etc., or where poisonous snakes may be encountered. (3-31-22)~~

~~ed. Each employee who operates a chain saw shall wear leg protection, which meets the requirements of ASTM F 1897 and covers the full length of the thigh to the top of the boot on each leg, except when working as a climber. (3-31-22)~~

05. Hand Protection. (3-31-22)

~~a. Hand protection suitable for the required usage shall be worn wherever the nature of the work requires extra protection for the hands. (3-31-22)~~

~~b. Gloves shall not be worn where their use would create a hazard. (3-31-22)~~

06. Head Protection. (3-31-22)

~~a. Persons required to work where falling or flying objects, overhead structures, exposed electrical conductors, equipment or material create a hazard shall wear approved safety hard hats or caps at all times while exposed to such hazards. (3-31-22)~~

~~b. Employees working in locations which present a catching or fire hazard to hair shall wear caps or other head protection that completely covers the hair. (3-31-22)~~

~~07. Life Jackets, Vests and Life Rings.~~

~~Where personal buoyancy equipment is provided, it shall be of a design and shall be worn in a manner that will maintain the wearer's face above water. It shall be capable of floating a sixteen (16) pound weight for three (3) hours in fresh water. Such equipment shall not be dependent upon manual or mechanical manipulation or chemical action to secure the buoyant effect. (3-31-22)~~

~~a. Employees shall be provided with, and shall wear, approved buoyant protective equipment at all times while working on or over water, as follows: (3-31-22)~~

~~i. On floating pontoons, rafts and floating stages. (3-31-22)~~

~~ii. On open decks of floating plants (such as dredges, pile drivers, cranes, pond saws, and similar types of equipment) which are not equipped with bulwarks, guardrails or life lines. (3-31-22)~~

~~iii. During the construction, alteration or repair of structures extending over or adjacent to water, except when guardrails, safety nets, or safety belts and life lines are provided and used. (3-31-22)~~

~~iv. Working alone at night where there are potential drowning hazards regardless of other safeguards provided. (3-31-22)~~

~~v. On floating logs, boom sticks or unguarded walkways. (3-31-22)~~

~~b. Life rings with sufficient line attached to meet conditions shall be located at convenient points along exposed sides of work areas adjacent to water. Such rings, if used at night where a person might be beyond illuminated areas, shall be provided with a means of rendering them visible.~~

~~NOTE: Consult U.S. Coast Guard requirements for operations in navigable waters. (3-31-22)~~

087. Life Lines -- Safety Belts. (3-31-22)

a. Each life line and safety belt shall be of sufficient strength to support, without breaking, a weight of ~~two five~~ thousand ~~five four~~ hundred (~~2,500~~~~5,400~~) pounds. (3-31-22)()

b. All life lines and safety belts shall be periodically inspected by the supervisor in charge. Employees shall inspect their belts and lines daily. Any defective belts or life lines shall be discarded or repaired before use. (3-31-22)

c. Life lines shall be safely secured to strong stable supports and maintained with minimum slack. (3-31-22)

098. Work Clothing. (3-31-22)

a. Clothing shall be worn which is appropriate to work performed and conditions encountered. (3-31-22)

b. Loose sleeves, cuffs or other loose or ragged clothing shall not be worn near moving machinery. (3-31-22)

c. Clothing saturated or impregnated with flammable liquids, corrosive substances, irritants or oxidizing agents shall be removed immediately and not worn again until properly cleaned. (3-31-22)

d. When it is necessary for workers to wear aprons or similar clothing near moving machines or hazardous materials, such clothing shall be so arranged that it can be instantly removed. (3-31-22)

e. Clothing with exposed metal buttons, metal visors or other conductive materials shall not be worn around exposed electrical conductors. (3-31-22)

109. Respiratory Equipment. (3-31-22)

a. When filter or cartridge-type respirators are required to be used regularly, each employee shall have one such respirator for his own exclusive use. (3-31-22)

b. Employers and employees shall familiarize themselves with the use, sanitary care and limitations of such respiratory equipment as they may have occasion to use. (3-31-22)

c. Whenever practical, harmful dusts, fumes, mists, vapors and gases shall be suppressed by water, oil or other means which will minimize harmful exposure and permit employees to work without the use of respiratory equipment. (3-31-22)

d. Whenever compressed air from an oil-lubricated compressor is used to supply respiratory equipment, a filter shall be inserted in the supply line to remove any oil, sediment or condensation that it may contain. Such filter shall be maintained in efficient working condition. (3-31-22)

e. When self-contained respiratory equipment is used in hazardous locations, a standby unit shall be maintained for rescue purposes. (3-31-22)

110. Hearing Protection. Where workers are subject to hazardous noise levels, they shall be furnished with and shall wear hearing protection suitable for the level of hazard involved. (3-31-22)

121. Additional Information and Requirements. Additional information and requirements for the use of safety equipment and personal protective equipment may be found in the Safety and Health Standards established in IDAPA 07.09.01, "Safety and Health Rules for Places of Public Employment." (3-31-22)

053. FIRE PREVENTION, PROTECTION AND SUPPRESSION.

- 01. General Requirements.** (3-31-22)
- a.** Additional Standards pertinent to the storage, distribution, and use of liquefied petroleum gases and other flammables or combustibles may be obtained by reference to regulations of the Idaho State Fire Marshal and the National Fire Protective Association pamphlets. (3-31-22)
- b.** Firefighting equipment, suitable for the hazards involved, shall be provided for the protection of workmen. Such equipment shall be readily accessible, and shall be plainly labeled as to its character and method of operation. Locations of such equipment shall be conspicuously posted. (3-31-22)
- c.** All equipment and apparatus for fire protection and firefighting shall be regularly inspected and be maintained in good and serviceable condition at all times. A record of the date of the latest inspection shall be kept with each portable fire extinguisher. This includes all automatic sprinkler systems and hose lines. (3-31-22)
- d.** Fire extinguishers, whether portable or automatic, shall comply with appropriate current standards as published by the National Fire Protection Association. Portable fire extinguishers shall also be subject to an annual maintenance inspection by ~~the Division~~ a qualified person. They must also be visually inspected by the employer each month, and such inspections documented. (3-31-22) ()
- e.** Electrical lights, apparatus, and wiring used in locations where flammable or explosive gases, vapors, mists, or dusts are present shall be of the type accepted by the adopted Electrical Code for the State of Idaho. (3-31-22)
- f.** Smoking while refueling equipment is prohibited. (3-31-22)
- g.** All fuel storage tanks, service tanks, etc., shall be bonded for ground for fueling purposes. (3-31-22)
- h.** When lights are used in enclosed rooms, vaults, manholes, tanks or other containers which may contain flammable or explosive vapors, mists, gases, or dusts, such lights shall be of the approved vapor proof types. (3-31-22)
- i.** No torch, flame, arc, spark, or other source of ignition shall be applied to any tank or container that has contained or does contain flammable or explosive vapors or materials until such container has been made to be inert or otherwise purged of flammable or explosive vapors or materials, except that “hot tapping” on tanks may be done provided that: (3-31-22)
- i. There shall be at least four (4) feet of liquid above the point of the “hot tap”; and (3-31-22)
- ii. The work shall be carried out under the direction of a supervisor experienced in this type of work.
NOTE: A test for flammability or explosiveness of the interior of such vessels shall be made using a device which will determine the concentration of flammable vapors for this purpose. Unless the percentage of flammable vapors is found to be less than twenty percent (20%) of its lower explosive limit, no source of ignition shall be permitted. (3-31-22)
- j.** Frequent testing for determining the concentration of flammable and explosive vapors shall be made, and if the concentration is found to exceed twenty percent (20%) of its lower explosive limit, sources of ignition shall be extinguished or removed immediately. Fire extinguishing equipment adequate to cope with possible hazards shall be maintained close at hand. (3-31-22)
- k.** Smoking, the use of open flames, tools which are not approved for such areas, and other sources of ignition are prohibited in locations where flammable or explosive gases, vapors, mists, or dusts are present. Warning signs shall be conspicuously posted in such areas. (3-31-22)
- l.** Where salamanders and other fuel-burning heating devices are used, they shall be provided with adequate means for preventing the emission of sparks or other sources of ignition. Such devices shall be insulated or

placed a sufficient distance from combustible structures and materials to prevent causing fires. Adequate ventilation shall be provided. (3-31-22)

m. When welding or cutting is done special precautionary measures shall be exercised before, during and after the job is finished to eliminate any possibility of immediate or delayed fires. (3-31-22)

02. Flammable Liquids. (3-31-22)

a. For the purpose of this section, “Flammable Liquids” shall mean any liquid having a flash point below one hundred forty (140) degrees Fahrenheit and having a vapor pressure not exceeding forty (40) pounds per square inch (absolute) at one hundred (100) degrees Fahrenheit. (3-31-22)

b. All flammable liquids shall be stored in approved containers suitable for their particular contents, and such approved containers shall be stored in areas removed from any direct source of ignition. (3-31-22)

c. Flammable liquids shall be kept in approved covered containers when not in actual use. (3-31-22)

d. The name of the flammable liquid contained therein shall be placed on all stock containers, and whenever such liquids are taken from the stock containers and put into other approved containers for use, it shall be the responsibility of the employer to ensure that these containers (except small containers of flammable liquids which are scheduled for immediate use and disposal) also bear the name of the flammable liquid contained therein. (3-31-22)

e. Flammable liquids shall not be used indoors to clean or wash floors, walls, any part of a building structure, furniture, equipment, machines or machine parts, unless sufficient ventilation is provided to bring and maintain the concentration of explosive vapors in the atmosphere below twenty percent (20%) of its lower explosive limit.

NOTE: The use of flammable liquids may create toxic contaminants in the atmosphere above permissible threshold limit values. (3-31-22)

03. Transferring Flammable Liquids and Powdered Materials. In transferring flammable liquids or finely divided flammable or explosive materials from one metal container to another, the containers shall be in firm contact with each other or be continuously bonded throughout the transfer so as to prevent the accumulation of static charges. Where portable tanks, mixers, or processing vessels are used for flammable liquids or flammable or explosive compounds, they shall be bonded and grounded while being filled or emptied. (3-31-22)

04. Transportation of Flammable Liquids. (3-31-22)

a. When transporting gasoline or other flammable liquids, approved containers shall be used. (3-31-22)

b. If tank truck service is not available or used, gasoline and other flammable liquids shall be transported in approved containers. Bungs shall be tight and containers shall be secured to prevent movement. (3-31-22)

c. It may be permissible to transport gasoline or other flammable liquids on passenger vehicles if in approved, closed safety containers of not more than six and one-half (6 1/2) gallon capacity, provided such containers are carried in a suitable and safe location outside the passenger compartment. (3-31-22)

054. -- 100. (RESERVED)

~~**SUBCHAPTER C – GARAGES, MACHINE SHOPS, AND RELATED WORK AREAS**~~
~~**(Rules 101–150)**~~

101. GARAGES AND MACHINE SHOPS AND RELATED AREAS.

01. General Requirements. (3-31-22)

- a. Machine shops and other structures where workers are employed shall be constructed, ventilated, lighted and maintained in a safe working condition. (3-31-22)
- b. Engines, pulleys, belts, gears, sprockets, collars and other moving parts of machinery shall be properly guarded. (3-31-22)
- c. Grinding wheels shall have proper and adequate eye guards or hoods. Face shields shall be worn by employees while grinding. (3-31-22)
- d. Machines shall be in good repair and good housekeeping shall be maintained. (3-31-22)
- e. Proper goggles or hoods shall be made available and used in grinding and cutting, acetylene welding, electric arc and other types of welding. (3-31-22)
- f. Tools shall be kept in good condition and care shall be taken in the handling and storing of all tools and materials so as to minimize chances for injury. (3-31-22)
- g. An approved screen shall be provided, and used, to protect other workers from welding flashes. (3-31-22)

102. -- 150. (RESERVED)

~~**SUBCHAPTER D SIGNALS AND SIGNAL SYSTEMS**~~
~~**(Rules 151 – 200)**~~

151. GENERAL REQUIREMENTS.

- 01. Rigging.** (3-31-22)
 - a. Rigging shall be moved by established signals and procedures only. (3-31-22)
 - b. Signals shall be thoroughly understood by the crew. (3-31-22)
- 02. Daily Test Required.** Each electric or radio signal system shall be tested daily before operations begin. (3-31-22)
- 03. Personnel in Clear Before Moving Logs or Turns.** (3-31-22)
 - a. Operators of yarding equipment shall not move logs or turns until all personnel are in the clear and a signal has been given. (3-31-22)
 - b. Operators of yarding equipment shall be alert to signals at all times. (3-31-22)

152. SIGNALING.

- 01. One Worker to Give Signals.** (3-31-22)
 - a. The Worker sending drag shall be the only one to give signals. (3-31-22)
 - b. Any person is authorized to give a stop signal when a worker is in danger or other emergency conditions are apparent. (3-31-22)
- 02. Signal Must Be Clear and Distinct.** (3-31-22)
 - a. Machine operators shall not move any line unless the signal received is clear and distinct. (3-31-22)

- b. If in doubt the operator shall repeat the signal as understood and wait for confirmation. (3-31-22)
- 03. Hand Signal Use Restricted.** (3-31-22)
 - a. Hand signals are permitted only when in plain sight of the operator. (3-31-22)
 - b. Hand signals may be used at any time as an emergency stop signal. (3-31-22)
- 04. Persons in Clear Before Signal Given.** All persons shall be in the clear before a signal is given to move logs or turns. (3-31-22)
- 05. Throwing Material Prohibited.** Throwing of any type of material as a signal is prohibited. (3-31-22)
- 06. Audible Signaling to Be Installed and Used.** A whistle, horn or other audible signaling device, clearly audible to all persons in the affected area, shall be installed and used on all machines operating as yarders. (3-31-22)
- 07. Audible Signaling Device at the Machine to Be Activated.** When radio or other means of signal transmission is used, an audible signal must be activated at the machine. (3-31-22)

153. ELECTRIC SIGNAL SYSTEMS.

- 01. Weatherproof Wire and Attachments to Be Used.** Where an electrical signal system is used, all wire and attachments shall be of the weather proof type. (3-31-22)
- 02. Electric Signal Systems to Be Properly Installed and Adjusted.** Electric signal systems shall be properly installed and adjusted as necessary. They shall be protected against accidental signaling, and shall be maintained in good operating condition at all times. (3-31-22)
- 03. All Connections to Be Weatherproof.** All connections in insulated signal wire shall be weatherproof. (3-31-22)

154. RADIO SIGNALING SYSTEMS.

- 01. Use of Conventional Space Transmission of Radio Signals.** When conventional space transmission of radio signals is used under and in accordance with an authorization granted by the Federal Communications Commissions to initiate any whistle, horn, bell or other audible signaling device, or such transmission of radio signals is used to activate or control any equipment, the following specific rules contained in this section will apply.

NOTE: This rule shall apply only to devices operating on radio frequencies authorized pursuant to the rules and regulations of the Federal Communications Commission. (3-31-22)

- 02. Description on Outside of Case.** (3-31-22)
 - a. Each radio transmitter and receiver shall have its tone frequency(s) in hertz (CPS), the manufacturer's serial number, and the assigned radio frequency clearly and permanently indicated on the outside of the case. (3-31-22)
 - b. When the duration of a tone frequency performs a function, the pulse-tone duration shall also be permanently indicated on the outside of the case. (3-31-22)
 - c. On the FCC restricted frequencies one hundred fifty-four point fifty-seven (154.57) MHZ and one hundred fifty-four point sixty (154.60) MHZ, a maximum of two (2) watts of power will be allowed. (3-31-22)
- 03. Activating Pulse-Tone Limitations.** The activating pulse-tone of any multi-tone transmitter shall

be of not more than forty (40) milliseconds duration. (3-31-22)

04. Adjustment, Repair or Alteration. All adjustments, repairs or alterations of radio-signaling devices shall be done only by or under the immediate supervision and responsibility of a person holding a first or second class commercial radio operator's license, either radio-telephone or radio-telegraph, issued by the Federal Communications Commission. (3-31-22)

05. Testing of Tone-Signal Controlled Devices. (3-31-22)

a. Tone-signal controlled devices shall be tested each day before work begins. If any part of the equipment fails to function properly, the system shall not be used until the source of trouble is detected and corrected. (3-31-22)

b. Audible signals used for test purposes shall not include signals used for movement of lines or material.

NOTE: Equipment or machines controlled by radio-signaling devices shall be designed and built to "fail safe" or stop, in case of failure of the radio-signaling device. (3-31-22)

06. Interference, Overlap, Fade-Out or Blackout. When interference, overlap, fade-out or blackout of radio signals is encountered, the use of the tone-signal controlled device shall be immediately discontinued. The use of such tone-signal controlled device shall not be resumed until the source of trouble has been detected and corrected. (3-31-22)

07. Number of Transmitters Required. (3-31-22)

a. Two (2) radio transmitters shall be in the vicinity of the rigging crew at all times when transmitters are being used by persons who are around the live rigging. (3-31-22)

b. Only one (1) radio transmitter shall be required, if in possession of a signalman who has no other duties and remains in an area where he is not subjected to hazards created by moving logs or rigging. (3-31-22)

08. Voice Communication. (3-31-22)

a. Voice Communication shall be used for explanation purposes only. (3-31-22)

b. Actual activation of equipment shall be done by audible horn, bell or whistle and not by voice. (3-31-22)

c. The signal must be audible throughout the entire yarding and machine area. (3-31-22)

155. -- 200. (RESERVED)

~~**SUBCHAPTER E TRUCK ROAD STANDARDS**~~
~~**(Rules 201—250)**~~

201. TRUCK ROAD STANDARDS.

01. Building Roads. (3-31-22)

a. When building roads, all construction shall be carried on in accordance with good logging engineering practices and shall be constructed and maintained in a manner to insure reasonably safe operation. (3-31-22)

b. The due consideration shall be given to the following factors: (3-31-22)

i. The type of material used for roadbed and surfacing. (3-31-22)

- ii. The type of hauling equipment which will travel road. (3-31-22)
- iii. The size of loads to be hauled. (3-31-22)
- iv. The pitch and length of grades. (3-31-22)
- v. The degree of curvature and visibility on turns. (3-31-22)
- vi. The volume of traffic. (3-31-22)
- c. Truck roads shall not be too steep for safe operation of logging, or work trucks which operate over them, ~~and should not exceed twenty percent (20%) grade unless an auxiliary means of truck lowering is provided.~~ (3-31-22) ()
- d. Sufficient turnouts shall be provided and a safe side clearance maintained along all truck roads. (3-31-22)
- e. Brush and other materials that obstruct the view at intersections or on sharp curves shall be eliminated and all possible precautions taken. (3-31-22)
- f. Culverts and bridge structures shall be adequate to support the maximum imposed loads without exceeding the maximum safe working unit stresses. Such structures shall be maintained in good condition and shall be inspected annually by a qualified individual. (3-31-22)
- g. Dangerous trees, snags and brush, which may create a hazard shall be cleared a safe distance on both sides of the right-of-way. (3-31-22)
- 02. Main Truck Roads.** (3-31-22)
 - a. Main truck roads shall be of sufficient width and evenness to insure the safe operation of equipment. (3-31-22)
 - b. Truck roads with blind curves where visibility is less than three hundred (300) feet shall be of sufficient width for two (2) trucks to pass, controlled by some type of signal system, or speed shall be limited to fifteen (15) miles per hour. (3-31-22)
 - c. Conditions such as broken planking, deep holes, large rocks, logs, etc., which prevent the safe operation of equipment shall be immediately corrected. (3-31-22)
 - d. Wheel guard rails on bridges shall be not less than eight (8) inches above deck and shall be substantially fastened to withstand impact of shearing wheels. Such guard rails shall extend the full length of the bridge. (3-31-22)
- 03. Operation of Equipment.** Excavators, tractors, bulldozers, and other equipment shall be operated in a safe and careful manner. All precautions shall be taken to insure the safety of all employees. (3-31-22)

202. -- 250. (RESERVED)

~~**SUBCHAPTER F — TRANSPORTATION OF EMPLOYEES**~~
~~**(Rules 251 — 300)**~~

251. TRANSPORTATION OF EMPLOYEES.

- 01. General Requirements.** (3-31-22)
 - a. Anchored seats and seat belts shall be provided for each person riding in any vehicle. (3-31-22)

- b.** Vehicles used for the transportation of employees shall be constructed or accommodated for that purpose, and shall be equipped with adequate seats with back rests properly secured in place. Vehicles shall be protected on their sides and ends to prevent falling from the vehicle. (3-31-22)
- c.** Vehicles, as described above, shall be equipped with adequate steps, stirrups, or other similar devices, so placed and arranged that the employees can safely mount or dismount the vehicle. (3-31-22)
- d.** Vehicles designed to transport nine (9) or more passengers, shall be equipped with an emergency exit not less than six and one-half (6 1/2) feet in area, with the smaller dimension being not less than eighteen (18) inches. Such exit shall be placed at or near the back of the vehicle on the side opposite the regular entrance. The route to and egress from the exit must be unobstructed. (3-31-22)
- e.** Every emergency exit shall be conspicuously marked "Emergency Exit," and be so fastened that it can be readily opened by a passenger in the case of emergency. (3-31-22)
- f.** Emergency doors shall be not less than twenty-four (24) inches in width. (3-31-22)
- g.** Every vehicle used for the transportation of employees shall be equipped with an Underwriters Laboratories, Inc. approved fire extinguisher, or its equivalent, with at least a four (4) BC rating. (3-31-22)
- h.** All drivers of vehicles used for the transportation of employees shall have an appropriate operator's license for the state of Idaho. (3-31-22)
- i.** Drivers shall inspect vehicles before operating them. If a vehicle is found to be unsafe, it shall be reported to a proper authority and shall not be operated until it has been made safe. (3-31-22)
- j.** Brakes, steering mechanism and lights shall be tested immediately before starting any trip. (3-31-22)
- k.** No flammable materials, or toxic substances shall be transported in passenger compartments of vehicles while carrying personnel. (3-31-22)
- l.** Transporting more individuals than the seating capacity of the vehicle is permitted only under emergency conditions. Should it become necessary in an emergency, all employees not having seats must ride within the vehicle. (3-31-22)
- m.** Under no circumstances shall employees ride on fenders or running boards. (3-31-22)
- n.** An employee must never ride in, or on, any vehicle with his legs hanging over the end or sides. (3-31-22)
- o.** If tools are transported at the same time that employees are being transported, the tools shall be enclosed in boxes or racks and properly secured to the vehicle. (3-31-22)
- p.** No one shall board, or leave, moving equipment except in the case of an emergency ~~(except trainmen or others whose duties require such).~~ (3-31-22) ()
- q.** Equipment shall be operated in a safe manner and in compliance with traffic regulations. Safe speeds shall be maintained at all times. (3-31-22)
- r.** No explosives shall be transported on, or in, vehicles used primarily for carrying personnel while such vehicles are being used for carrying personnel. (3-31-22)
- s.** The driver shall do everything reasonably possible to keep vehicles under control at all times, and shall not operate vehicles at excessive speeds. The driver shall take into consideration the condition of the roadway, weather factors, curves, grades and grade crossings, the mechanical condition of the vehicle and equipment and other pertinent items. The driver shall clear rocks from between dual tires before driving on multi-lane roads. A daily

inspection shall be made of trucks and trailers with particular attention to steering apparatus, brakes, boosters, brake hoses and connections, reaches and couplings. Any defects found shall be corrected before the equipment is used. (3-31-22)

252. -- 300. (RESERVED)

~~SUBCHAPTER G — FALLING AND BUCKING~~
~~(Rules 301 — 350)~~

301. FALLING AND BUCKING.

01. General Requirements. (3-31-22)

a. There shall be an established method of checking-in workers from the woods. Each supervisor shall be responsible for their crew being accounted for at the end of each shift. (3-31-22)

b. Cutters not in sight of another employee shall have radio communications with crew members on that job site. (3-31-22)

c. Common sense and good judgment must govern the safety of cutters as effected by weather conditions. At no time shall they work if wind is strong enough to prevent the falling of trees in the desired direction, or when vision is impaired by weather conditions or darkness. (3-31-22)

~~**d.** All cutters shall have a current first aid certification. Employers shall provide an opportunity for cutters to take a standard first aid course. (3-31-22)~~

ed. Tools of cutters such as axes, sledges, wedges, saws, etc., must be maintained in safe condition. Battered sledges, and wedges shall not be used. When power saws are used, wedges shall be made of soft material, such as wood or plastic. (3-31-22)

fe. Cutters shall not be placed on hillsides immediately below each other or below other operations where there is possible danger. (3-31-22)

gf. Trees shall not be felled if a falling tree endangers any worker, line, or any unit in operation. A two (2) tree length distance shall be maintained between cutters and any other person working on the same unit unless they work directly together and only one (1) cutter is sawing at a time. ~~(3-31-22)~~ ()

hg. Before starting to fall or buck any tree or snag, the cutter must survey the area for possible hazards and proceed according to safe practices. Snags, which are unsafe to cut, shall be blown down with explosives, or felled by other methods. (3-31-22)

ih. Dangerous or hazardous snags shall be felled prior to or in the course of cutting a strip. No danger tree shall be felled by one (1) cutter where and when the assistance of a fellow employee is necessary to minimize the danger or hazards involved. In the case that any danger tree or snag cannot be safely felled and must remain standing or unattended, such tree or snag shall be clearly identified and suitably marked, including all surrounding impact area, and the employee's supervisor shall be notified as soon as possible. (3-31-22)

ji. In falling timber, adjacent brush and snow shall be cleared away from and around the tree to be felled to provide sufficient room to use saws and axes and provide an adequate escape path. (3-31-22)

kj. Cutters shall not fall into another strip; leaners on the line shall be traded. Trees shall be felled into the open whenever conditions permit. (3-31-22)

lk. Undercuts and side cuts shall be large enough to safely guide the trees and eliminate the possibility of splitting and barber chairing. Particular care shall be taken to hold enough wood to prevent the tree from prematurely slipping or twisting from the stump. Undercuts shall be cleaned out to the full depth of the saw cut. Especially large undercuts are necessary in heavy leaners. When required to safely fell a tree, mechanical or other

means shall be employed to accomplish this objective. Pre-cutting of trees for the purpose of ~~production logging~~ ~~domino falling~~ is prohibited.

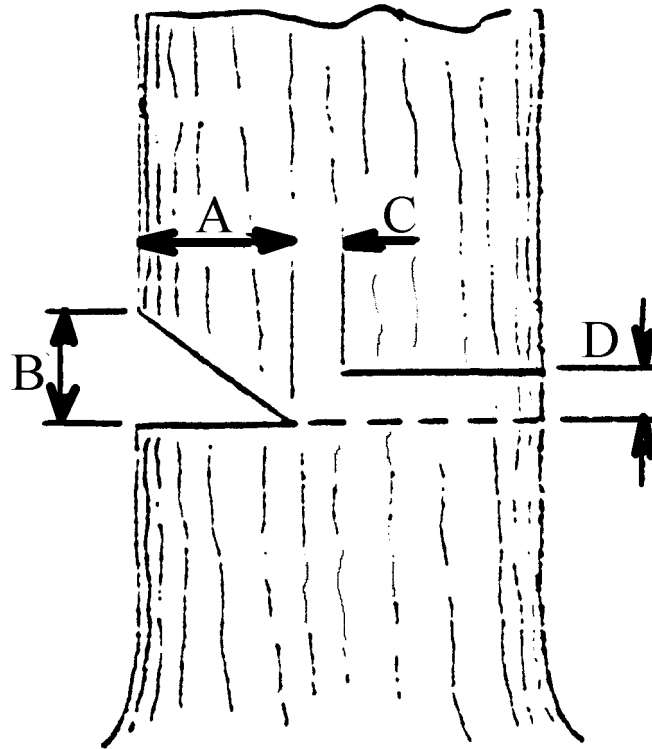
NOTE: Trees with no perceptible lean having an undercut to a depth of one quarter (1/4) of the diameter of the tree with an undercut height equal to one fifth (1/5) of the diameter of the tree will be assumed to be in reasonable compliance with this rule. (3-31-22)()

- m.l.** Back-cuts shall be above the level of the upper horizontal cut of the undercut. (3-31-22)
- m.m.** While wedging, fallers shall watch for limbs or other material which might be jarred loose. Cutting of holding wood in lieu of using wedges is prohibited. (3-31-22)
- m.n.** When falling or bucking a tree is completed the power saw motor should be stopped. The power saw motor shall be stopped while the operator is traveling to the next tree. (3-31-22)
- m.p.** Cutters shall not work on the downhill side of the log being bucked unless absolutely unavoidable and only when the log is blocked or otherwise secured to prevent rolling when cut is completed. (3-31-22)
- m.q.** Cutters must give timely warning to all persons within range of any log which may have a tendency to roll or slide after being cut off. (3-31-22)
- m.r.** Logs shall be completely bucked-through whenever possible. If it becomes hazardous to complete a cut, then the log shall be marked and identified by a predetermined method. Rigging crews shall be instructed to recognize such marks and when possible cutters shall warn rigging crew of locations where such unfinished cuts remain. (3-31-22)
- m.s.** A competent person properly experienced in this type of work shall be placed in charge of falling and bucking operations. Inexperienced workers shall not be allowed to fall timber or buck logs unless under the direction of experienced workers. (3-31-22)
- m.t.** Power saws shall be kept in good repair at all times. All exhaust parts on power chain saws shall be constructed and maintained so the operator is exposed to a minimum amount of fumes and noise. (3-31-22)
- m.u.** Combustion engine driven power saws shall be equipped with an automatic throttle which will return the motor to idling speed upon release of the throttle. (3-31-22)
- m.v.** Power saw motors shall be stopped while being fueled. (3-31-22)
- m.w.** ~~All personnel shall wear approved head protection, proper clothing and footwear.~~ (3-31-22)
- m.y.** Each employee who operates a chain saw shall wear leg protection, which meets the requirements of ASTM F 1897 and covers the full length of the thigh to the top of the boot on each leg, except when working as a climber. (3-31-22)

302. ILLUSTRATION OF UNDERCUTS.

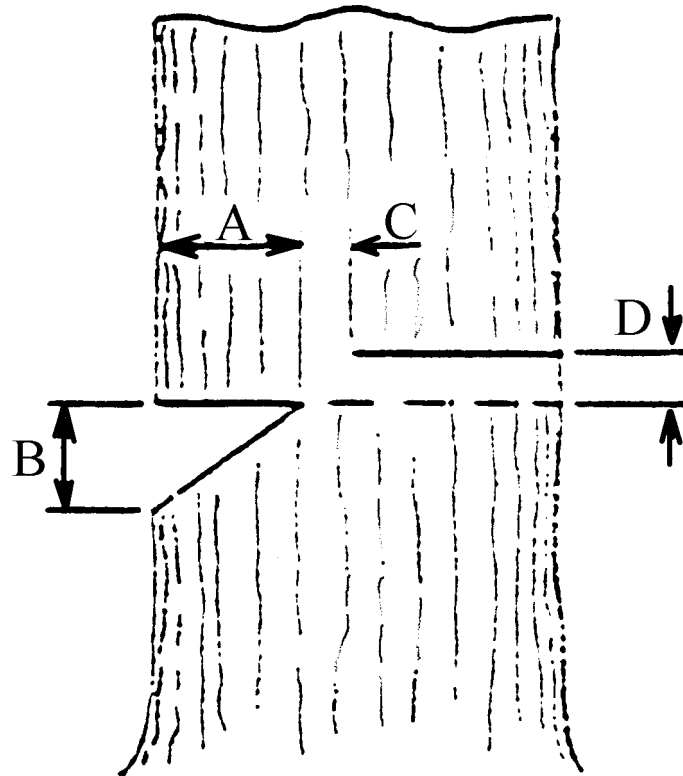
- 01. Illustration of Undercuts.** (3-31-22)

FIGURE 302.01.a. – CONVENTIONAL UNDERCUT



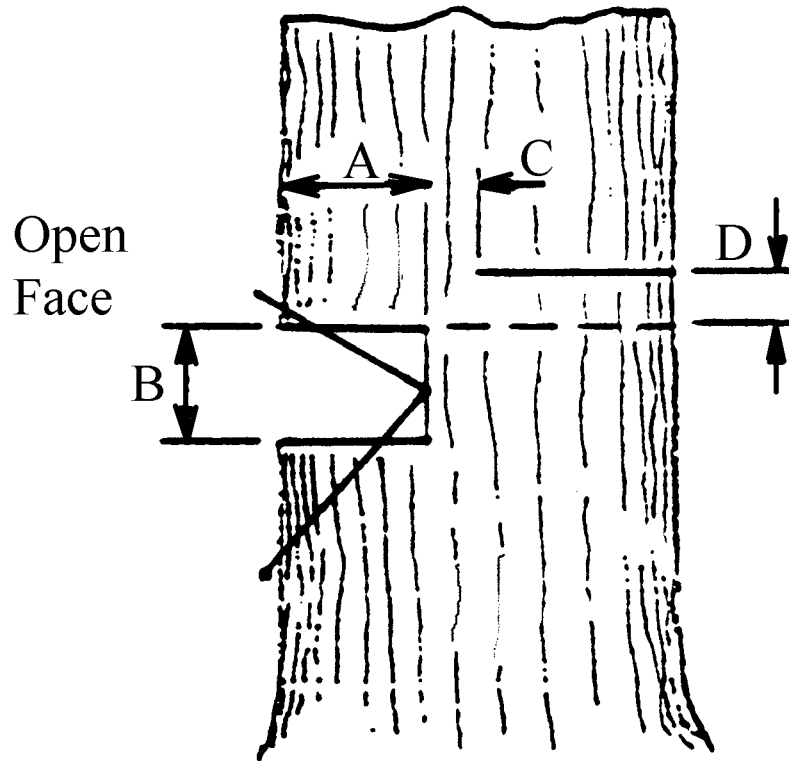
a. Conventional Undercut. May be made with parallel saw cut and a diagonal cut. Backcut (D) shall be above undercut. (3-31-22)

FIGURE 302.01.b. – HUMBOLT UNDERCUT



b. Humbolt Undercut. ~~A cut in which both cuts made with the saw leaves a square end log~~ (See Figure 302.01.b.). The cut is the same as a conventional cut (See Figure 302.01.a.) except that waste is on the stump. Backcut (D) shall be above undercut. (3-31-22)()

FIGURE 302.01.c. – OPEN FACE UNDERCUT



c. Open Face Undercut. A cut in which two (2) angle cuts are made with the saw (See Figure 302.01.c.) -- It is used when it is necessary that the face does not close until the tree is near the ground. (3-31-22)

303. MECHANICAL DELIMBERS AND FELLER BUNCHERS.

01. General Requirements. (3-31-22)

a. Before start-up or moving equipment, check the surrounding area for fellow employees or equipment. (3-31-22)

b. If any protective device is missing, it is to be replaced as soon as possible. If it affects a safe operation, the machine is to be shut down. (3-31-22)

c. When a machine is working, extreme caution shall be used when approaching. The operator shall be notified by radio or visual contact. (3-31-22)

d. All raised equipment shall be lowered to the ground or to a safe position and the park brake set before leaving the machine. (3-31-22)

304. -- 350. (RESERVED)

~~**SUBCHAPTER H — RIGGING, LINES, BLOCKS, AND SHACKLES**~~
~~**(Rules 351 — 400)**~~

351. RIGGING.

01. General. The determining factor in rigging-up shall be the amount of rated stump pull which a machine can deliver on each line. (3-31-22)

02. Equipment Classification. (3-31-22)

a. Equipment shall be classed according to the manufacturer's rating. (3-31-22)

b. Where lower gear ratios or other devices are installed to increase the power of equipment, the size of the rigging shall be increased proportionately so that it will safely withstand the increased strains to conform to Subsection 010.04 of these rules. (3-31-22)

03. Safe Loading. Rigging, and all parts thereof, shall be of a design and application to safely withstand all expected or potential loading to which it will be subjected. (3-31-22)

04. Allowable Loading or Stress. (3-31-22)

a. In no case shall the allowable loading or stress ~~be imposed on~~ be over one half (1/2) of the rated breaking strength of any parts of the rigging. ~~(3-31-22)~~ ()

b. This shall not be construed as applying to chokers. (3-31-22)

05. Chokers. Chokers shall be at least one eighth (1/8) inch smaller than the mainline. (3-31-22)

06. Placing, Condition, and Operation of Rigging. The placing, condition and operation of rigging shall be such as to ensure safety to those who will be working in the vicinity. (3-31-22)

07. Arrangement and Operation. Rigging shall be arranged and operated so that rigging or loads will not pound, rub, or saw against lines, straps, blocks, or other equipment. (3-31-22)

08. Line Hazards. (3-31-22)

a. Running lines and changed settings shall be made in a way to avoid bight of line hazards. (3-31-22)

b. Signals to operator shall be made before moving lines. (3-31-22)

~~09. Reefing. Reefing or similar practices to increase line pull shall be prohibited.~~ (3-31-22)

~~109.~~ **109. Inspection of Rigging.** (3-31-22)

a. A thorough inspection, by the operator or qualified person, of all blocks, straps, guylines, and other rigging shall be made before the rigging is placed in position for use and subsequently repeated every thirty (30) days for as long as the rigging is in position for use. Each rigging inspection shall be documented and kept onsite for review. (3-31-22)

b. This inspection shall include an examination for damaged, cracked or worn parts, loose nuts and bolts, lubrication, condition of straps and guylines. (3-31-22)

c. The repairs or replacements necessary for safe operation shall be made before rigging is used. (3-31-22)

352. GUYLINES.

01. General Requirements. (3-31-22)

- a. Guylines shall be of plow steel or equivalent, and in good condition. (3-31-22)
 - b. Guylines shall be provided in sufficient number, condition and location to develop stability and strength equivalent to the breaking strength of any component part of the rigging or equipment. (3-31-22)
 - c. Guylines shall be fastened by means of shackles or hooks and slides. The use of loops or molles for attaching guylines is prohibited. The use of wedge buttons on guylines is prohibited. (3-31-22)
 - d. The “U” part of a shackle shall be around the guyline and the pin passed through the eye of the guyline. Pins shall be secured with molles, cotter-keys, or the equivalent. (3-31-22)
 - e. Guylines shall be kept tightened while equipment or rigging they support is in use. (3-31-22)
- 02. Anchoring Guylines.** (3-31-22)
- a. Stumps used for fastening guylines and skylines shall be carefully chosen as to position, height and strength. They shall be tied back if necessary. See Figures 352.02.a. and 352.02.b.

FIGURE 352.02.a.

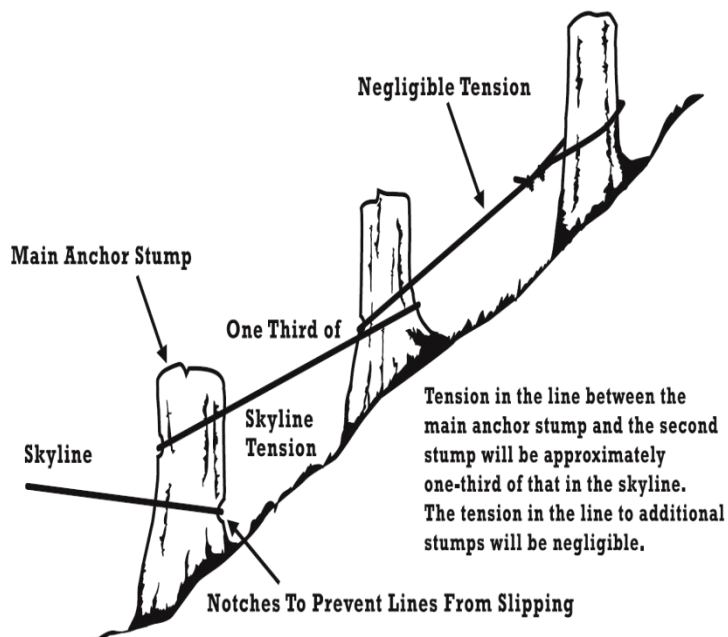
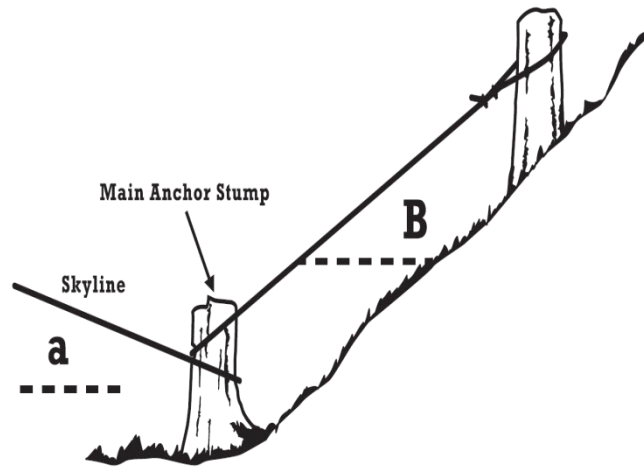


FIGURE 352.02.b.



Profile of a common two-stump anchor.

(3-31-22)

b. Properly installed deadman anchors are permitted. Guylines shall not be directly attached to deadman anchors. Suitable straps or equally effective means shall be used. (3-31-22)

c. Stumps, trees and guyline anchors shall be inspected from time to time while an operation is in progress and hazardous conditions immediately corrected. (3-31-22)

d. Standing trees which will reach landing or work areas shall not be used for guyline anchors. (3-31-22)

e. Any guyline anchor tree that can reach the landing or work area shall be felled before using as an anchor. (3-31-22)

03. Effectiveness of Guys. (3-31-22)

a. Guys making an angle with the horizontal greater than sixty (60) degrees will be considered less than fifty percent (50%) effective. For the effectiveness of other angles see Table 352.03.a.

Effectiveness of Angles	
Degree	Effectiveness
60 to 45	50% to 75%
45 to 30	75% to 85%
30 to 10	85% to 95%

(3-31-22)()

b. For the effectiveness of guys according to the number of guys and their spacing, see Table 352.03.b.

Effectiveness of Guys		
No. of Guys Equally	Guys Most Effective When Pull Is:	Guys Will Support Strain Equal To The Following:
3	Opposite 1 guy	100% of strength of 1 guy
4	Halfway between 2 guys	140% of strength of 1 guy
5	Opposite 1 guy or halfway between 2 guys	160% of strength of 1 guy
6	Opposite 1 guy or halfway between 2 guys	200% of strength of 1 guy
7	Opposite 1 guy or halfway between 2 guys	225% of strength of 1 guy
8	Halfway between 2 guys	260% of strength of 1 guy
9	Opposite 1 guy or halfway between 2 guys	290% of strength of 1 guy
10	Opposite 1 guy or halfway between 2 guys	325% of strength of 1 guy

(3-31-22)()

~~04. **Minimum Guyline Requirements.** A minimum of four (4) top guys are required on any portable spar tree used for yarding, swinging, loading or cold decking.~~ (3-31-22)

353. LINES, SHACKLES AND BLOCKS.

01. General Requirements. (3-31-22)

a. All lines, shackles, blocks, etc., should be maintained in good condition and shall be of sufficient size, diameter and material to withstand one and one half (1 1/2) times the maximum stress imposed. (3-31-22)

b. Wire rope or other rigging equipment which shows a fifteen percent (15%) reduction in strength shall be replaced. (3-31-22)

02. Splices. (3-31-22)

a. Two (2) lines may be connected by a long splice, or by shackles of patent links of the next size larger than the line where practical. (3-31-22)

b. A safe margin of line must be used for making long splices. See Table 353.02.b.

Long Splices		
Rope Diameter	Unraveled	Total Length
3/8"	8'	16'
5/8"	13'	20'

Long Splices		
Rope Diameter	Unraveled	Total Length
3/4"	15'	30'
7/8"	18'	36'
1"	20'	40'

(3-31-22)()

03. Wire Rope Clips or Clamps.

(3-31-22)

a. Clips should be spaced at least six (6) rope diameters apart to achieve maximum holding power. See Table 353.03.a.

Wire Rope Clip Spacing		
Diameter of Rope	Number of Clips	Required Space Between Clips
1-1/2-inch	8	10 inches
1-3/8-inch	7	9 inches
1-1/4-inch	6	8 inches
1-1/8-inch	5	7 inches
1- inch	5	6 inches
7/8-inch	5	5-1/4 inches
3/4-inch	5	5-1/2 inches
3/8 to 5/8-inch	4	3 inches

(3-31-22)()

b. Clips should always be attached with the base or saddle of the clip against the longer or “live” end of the rope. See Figure 353.03.b. This is the only approved method.

FIGURE 353.03.b.



(3-31-22)

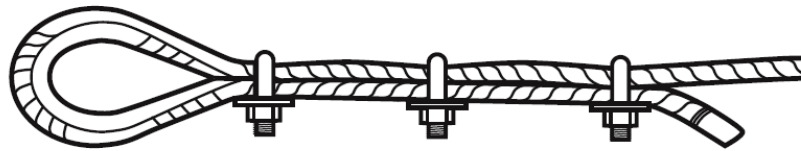
c. Do not reverse the clips or stagger them. See Figure 353.03.c. Otherwise the “U” bolt will cut into

the live rope when the load is applied.

FIGURE 353.03.c.



Wrong



Wrong

(3-31-22)

d. After the rope has been used and is under tension, the clips should again be tightened to take up any looseness caused by the tension reducing the rope diameter. Remember that even when properly applied a clip fastening has only about ninety percent (90%) of the strength of the rope and far less than that when rigged improperly. (3-31-22)

e. U-bolt wire rope clamps must not be used to form eyes on running lines, skylines, machine guylines, or straps. (3-31-22)

04. Blocks. All blocks must be of steel construction or of material of equal or greater strength and so hung that they will not strike or interfere with other blocks or rigging. (3-31-22)

05. Pins. All pins in blocks shall be properly secured by keys of the largest size the pin hole will accommodate (3-31-22)

06. Shackles. (3-31-22)

a. Spread in jaws of shackles shall not exceed by more than one (1) inch the size of yoke or swivel of the block to which it is connected. (3-31-22)

b. All shackles must be made of forged steel or material of equivalent strength and one (1) size larger than the line it connects. (3-31-22)

07. Cable Cutting. Cable cutters, soft hammers, or a cutting torch shall be available and used for cutting cables. Eye protection must be used when cutting cable. (3-31-22)

08. Damaged or Worn Wire Rope. Worn or damaged wire rope creating a safety hazard shall be taken out of service or properly repaired before further use. (3-31-22)

354. -- 400. (RESERVED)

~~**SUBCHAPTER 1 – CANOPY AND CANOPY CONSTRUCTION FOR LOGGING EQUIPMENT**~~
~~**(Rules 401–450)**~~

401. GENERAL REQUIREMENTS.

01. Driver Protection Guard. (3-31-22)

a. A substantial metal guard for the protection of the driver shall be installed on every piece of equipment, where exposed to overhead hazards. (3-31-22)

b. This guard shall be strongly constructed to afford adequate protection for the driver against overhead hazards. (3-31-22)

c. This guard shall be of sufficient width and height so that it will not impair the movements of the driver or prevent his immediate escape from the equipment in emergencies. (3-31-22)

d. This guard shall be of open construction to allow the driver all the visibility possible. (3-31-22)

02. Canopy Framework. (3-31-22)

a. The canopy framework shall ~~consist of at least two (2) arches, either transverse or longitudinal be consistent with the Society of Automotive Engineers SAE J1040 April 1988 “Performance Criteria for Rollover Protective Structures (ROPS) for Construction, Earthmoving, Forestry, and Mining Machines.”~~ (3-31-22)()

~~**b.** If transverse, one (1) arch shall be installed at the rear of the equipment and the other at the center of the equipment. They shall be joined together by three (3) longitudinal braces, one (1) at the top and one (1) at each side of the arches. (3-31-22)~~

~~**c.** There shall be a shear or deflecting guard extending from the leading edge of the forward arch to the front part of the frame of the tractor or similar equipment. (3-31-22)~~

~~**d.** If longitudinal arches are used, they shall be extended from the rear of the tractor or equipment to the front frame of the tractor or equipment and each arch shall have an intermediate support located approximately at the dash so that ingress or egress will not be impeded. (3-31-22)~~

~~**e.** Regardless of the type of construction used, the fabrication and method of connecting to the tractor or equipment shall be of such design as to develop a strength equivalent to that of the upright members. (3-31-22)~~

~~**03. Canopy Structure.** The canopy structural framework shall be fabricated of pipe of the following size, or materials of equivalent strength, depending upon the gross weight of the tractor or similar equipment as equipped. Under twenty eight thousand (28,000) lbs., two (2) inch double extra strong pipe (XXS); twenty eight thousand (28,000) to fifty eight thousand (58,000) lbs., three (3) inch double extra strong pipe (XXS); over fifty eight thousand (58,000) lbs., four (4) inch double extra strong pipe (XXS). (3-31-22)~~

~~**04. Gusset Plates or Braces.** Gusset plates or braces shall be installed on the canopy framework so that the framework will withstand a horizontal pressure equal to twenty five percent (25%) of the gross weight of the tractor or similar equipment, as equipped, when such pressure is applied to any vertical member at a point not more than six (6) inches below the roof of the canopy. (3-31-22)~~

~~**05. Clearance Above the Deck.** The clearance above the deck of the tractor or similar equipment at points of egress shall be not less than fifty two (52) inches and the clearance above the driver’s seat shall be of such height as will allow sufficient clearance above the driver’s head. (3-31-22)~~

~~**06. Overhead Covering.** The overhead covering on the canopy structure shall be of not less than three sixteenth (3/16) inch steel plate except that the forward eighteen (18) inches may be made of one quarter (1/4) inch woven wire having not more than one (1) inch mesh. (3-31-22)~~

~~07. Rear Covering. (3-31-22)~~

~~a. The opening in the rear of the structure shall be covered with one quarter (1/4) inch woven wire having not less than one and one half (1 1/2) inch or more than two (2) inch wire mesh. This covering shall be affixed to the structural members so that ample clearance will be provided between the screen and the back of the operator. (3-31-22)~~

~~b. Structural members shall present smooth, rounded edges and the covering shall be free from projections which would tend to puncture or tear flesh or clothing. (3-31-22)~~

~~08. Pin Connections. (3-31-22)~~

~~a. Pin connections are recommended for joints in the structural frame and especially at connections to the tractor frame or similar equipment frame. (3-31-22)~~

~~b. Gusset plates shall be installed at each place where individual pieces of pipe are joined. (3-31-22)~~

~~09. Sideguards. When practical, sideguards shall be installed to protect the operator from hazards. (3-31-22)~~

402. TRACTORS AND SIMILAR LOGGING EQUIPMENT.

01. Operating Condition. (3-31-22)

a. The general operating condition of a tractor or equipment shall be sufficient to ensure the safety of the driver and other workmen. (3-31-22)

b. An operating manual shall be readily available in either print or electronic format for each piece of machinery. (3-31-22)

02. Guards. All guards shall be kept in place and in good repair at all times when the tractor or similar equipment is used. (3-31-22)

03. Repairs or Adjustments. Repairs or adjustments to clutches, frictions, or other parts of equipment which may cause hazardous movement of equipment shall not be done while engines are running. (3-31-22)

04. Blades or Similar Equipment. (3-31-22)

a. Blades or similar equipment shall be blocked or otherwise securely supported when making repairs or performing other work around such equipment when they are elevated from the ground. (3-31-22)

b. Equipment under repair or adjustment should be tagged out. (3-31-22)

05. Brakes and Steering. (3-31-22)

a. All equipment shall be equipped with a braking system capable of stopping and holding the maximum load on all grades at all times. (3-31-22)

b. Any defect found in the braking system or steering devices of any equipment used in skidding or yarding operations shall not be used until repaired or replaced. (3-31-22)

06. Starting of Equipment. Equipment shall be started (cranked) only by the operator or other experienced persons when they are sitting in the operators seat, unless the equipment can be remotely started.

~~(3-31-22)~~ ()

07. Seatbelts. (3-31-22)

- a. Seatbelts shall be installed on all tractors and mobile equipment having roll-over protection or in accordance with a design by a professional engineer which offers equivalent employee protection. (3-31-22)
- b. Seatbelts shall be used when operating any machine equipped with Roll Over Protection Structure (ROPS), Falling Object Protection Structure (FOPS), or overhead guards. (3-31-22)
- ~~08. Pin Connections. (3-31-22)~~
- ~~a. Pin connections are recommended for joints in the structural frame and especially at connections to the tractor frame or similar equipment frame. (3-31-22)~~
- ~~b. Gusset plates shall be installed at each place where individual pieces of pipe are joined. (3-31-22)~~
- ~~09g. Sideguards. When practical, sideguards shall be installed to protect the operator from hazards. (3-31-22)~~

403. -- 450. (RESERVED)

~~SUBCHAPTER J — SKIDDING AND YARDING~~
~~(Rules 451 — 500)~~

451. SKIDDING AND YARDING.

- 01. General Requirements. (3-31-22)**
 - a. All personnel shall wear approved head protection and proper clothing at all times in skidding and yarding. (3-31-22)
 - b. Getting on or off moving equipment is strictly prohibited. (3-31-22)
 - c. Equipment operators shall move rigging only upon the signal of an authorized person. (3-31-22)
 - d. Workers shall at all times watch for and protect themselves and their fellow workers from side-winders, rolling logs, up ending logs, snags, and other hazards caused by the movement of equipment, logs and/or lines. (3-31-22)
 - e. Chokers should be placed near, but not closer than two (2) feet, from the ends of logs if possible. (3-31-22)
 - f. Choker holes shall be dug from the uphill side of a log if there is any danger of its rolling. (3-31-22)
 - g. Knots shall not be used to connect separate lengths of chain or cable. (3-31-22)
 - h. Chaser (hooker) shall not unhook logs (trees) until rigging has stopped and the equipment operator is aware of his location. (3-31-22)
 - i. Riding on drag or logs or any part of equipment used in skidding and yarding except in the area of the driver's seat is prohibited. (3-31-22)
 - j. A tool handle, stick, iron bar, or similar object shall be used in guiding lines onto drums. Guiding lines with hands is prohibited. (3-31-22)
 - k. Make sure all personnel are in the clear before skidding turn, drag, log, or tree into landing. (3-31-22)
 - l. All personnel shall keep out of the bight of line and clear of running lines. (3-31-22)

- m. Logs shall not be swung over personnel. (3-31-22)
- n. Knot bumping should be done before a log is loaded. (3-31-22)

452. CABLE YARDING.

- 01. Safety A.** Personnel shall not ride hooks, lines, rigging, or logs suspended in the air or being moved. (3-31-22)
- 02. Safety B.** Personnel shall not hold on to haywire, running lines, drop lines, or chokers as an assist when walking uphill. (3-31-22)
- 03. Safety C.** Personnel shall not work in the bight of lines under tension. (3-31-22)
- 04. Safety D.** Personnel shall be “in the clear” before any signal to move any lines is given. (3-31-22)
- 05. Safety E.** All swing yarders shall have the outer swing radius marked with hi-vis tape or cones while skidding is in progress. No tools or supplies may be kept inside that radius ~~outside~~ below the counterweight level of the machine unless in a locked box. No employee may get inside that radius without first notifying the operator. (3-31-22)()

453. (RESERVED)

454. WIRE ROPE.

- 01. General Characteristics.** Wire rope comes in many grades and dimensions, and every rope has its own characteristics with regard to strength and resistance to crushing and fatigue. A larger rope will outlast a smaller rope of the same materials and construction, used in the same conditions, because wear occurs over a larger surface. Similarly, a stronger rope will outlast a weaker rope, because it performs at a lower percentage of its breaking strength, with reduced stress. (3-31-22)
- 02. Wire Rope Terms.** Common grades of wire rope include extra improved plow steel (EIPS) and swaged Powerflex, among others. The following terms are commonly used for wire rope: (3-31-22)
 - a. **Abrasion Resistance.** Ability of outer wires to resist wear. Abrasion resistance is greater with larger wires. (3-31-22)
 - b. **Core.** The foundation of a wire rope which is made of materials that will provide support for the strands under normal bending and loading conditions. A fiber core (FC) can be natural or synthetic. If the core is steel, it can be a wire strand core (WSC) or an independent wire rope core (IWRC). (3-31-22)
 - c. **Crushing Resistance.** Ability of the rope to resist being deformed. A rope with an independent wire core is more resistant to crushing than one with a fiber core. (3-31-22)
 - d. **Die-form Line.** Made from strands that are first compacted by drawing them through a drawing die to reduce their diameter. The finished rope is then swaged or further compressed. (3-31-22)
 - e. **Fatigue Resistance.** Ability of the rope to withstand repeated bending without failure (the ease of bending a rope in an arc is called its “bendability”). Fatigue resistance is greater with more wires. (3-31-22)
 - f. **Strength.** Referred to as breaking strength, usually measured as a force in pounds or tons. The breaking strength is not the same as the load limit, which is calculated as a fraction of the breaking strength to ensure safety. (3-31-22)
 - g. **Swaged Line.** Manufactured by running a nominal-sized line through a drawing die to flatten the outer crown and thus reduce the rope diameter. This compacted rope allows for increased drum capacity and

increased line strength.

(3-31-22)

03. Typical Wire Rope Specifications. The table below lists a few examples of wire-rope breaking strengths.

Typical Wire Rope Specifications						
6x26 Improved Plow Steel			6x26 Swaged		Swaged Compact-Strand	
Diameter (inches)	Weight (lbs/ft)	Breaking Strength (tons)	Weight (lbs/ft)	Breaking Strength (tons)	Weight (lbs/ft)	Breaking Strength (tons)
1/2	0.46	11.5	0.6	15.2	0.63	18.6
9/16	0.59	14.5	0.75	19	0.78	23.7
5/8	0.72	17.9	0.93	23.6	1.01	28.5
11/16			1.10	28.8	1.18	35.3
3/4	1.04	25.6	1.37	34.6	1.41	42.2
13/16			1.56	39.6	1.63	49.3
7/8	1.42	34.6	1.83	46.5	1.91	56.0
15/16			1.95	53.3	2.20	66.1
1	1.85	44.9	2.42	60.6	2.53	73.7
1-1/8	2.34	56.5	2.93	75.1	2.97	92.9
1-1/4	2.89	69.3	3.52	92.8	3.83	112.1
1-3/8	3.5	83.5	4.28	108.2	4.62	128.6

Source: Cable Yarding Systems Handbook. 2006. Worksafe BC. Table lists typical breaking strengths. See manufacturer’s specifications for specific lines. (3-31-22)

04. Synthetic Rope. High-tensile strength synthetic lines are considerably lighter than standard wire rope; however, some lines are dimensionally as strong as standard wire rope. Accordingly, high-tensile strength synthetic lines are permitted to be used in appropriate logging applications, including as substitutes for brush straps, tree straps, tail and intermediate support guylines, guylines extensions, skyline extensions, and haywire. Manufacturers’ standards and recommendations for determining usable life or criteria for retirement of such lines shall be followed. Personnel shall examine the lines for broken or abraded strands, discoloration, inconsistent diameter, glossy or glazed areas caused by compression and heat, and other inconsistencies. Rope life is affected by load history, bending, abrasion, and chemical exposure. Most petroleum products do not affect synthetic ropes. (3-31-22)

05. Inspection and Care. (3-31-22)

a. Wire rope shall be inspected daily by a qualified individual and repaired or taken out of service when there is evidence of any of the following conditions: (3-31-22)

- i. Twelve and five tenths percent (12.5%) of the wires are broken within a distance of one (1) lay. (3-31-22)
- ii. Evidence of chafing, sawing, crushing, kinking, crystallization, bird-caging, corrosion, heat damage, or other damage that has weakened the rope structure. (3-31-22)

b. Qualified personnel shall closely inspect those points subject to the most wear, including the knob ends of lines, eye splices, and those sections of line that most often run through blocks or carriages. If there is doubt about the integrity of the line, it is far safer to replace a suspect line, or cut out and resplice a defective area, than risk a failure during operation. Evaluation of the load-bearing yarder lines shall be stringent. A qualified person shall also inspect all other lines used on site and remove any that are unsafe. (3-31-22)

06. Additional Precautions. The following precautions shall also be observed: (3-31-22)

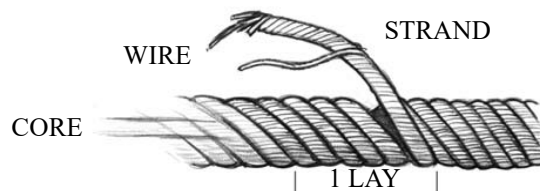
- a. Ensure the working load limit for any line is adequate for the intended use. (3-31-22)
- b. The manufacturer’s specifications with regard to assigned breaking strength shall be followed. Such specifications as determined by engineering test results should factor the grade of the wire, number of strands, number of wires per strand, filler wire construction, lay pattern of the wires, and the diameter of the line. (3-31-22)

07. Safety Factor. Operators shall follow the manufacturer’s specifications in determining load limits. The working load limit is a fraction of a line’s breaking strength – a factor of three (3), or one-third (1/3) the breaking strength, is commonly used as a safety factor for running and standing lines, when workers are not exposed to breaking lines or loads passing overhead. A safety factor of three (3) is commonly used to determine the working load limit for a standing or running line. A standard six (6) x twenty-six (26) IWRC wire rope with a diameter of one (1) inch has a breaking strength of approximately forty-five (45) tons – divide by three (3) – equals fifteen (15) tons working load limit. (3-31-22)

08. Wire Labeling. (3-31-22)

a. The elements of a typical wire rope are labeled, for example, six (6) x twenty-five (25) FW PRF RL EIPS IWRC. The label indicates a six (6)-strand rope with twenty-five (25) wires per strand (six (6) x twenty-five (25)), filler-wire construction (FW), strands pre-formed in a helical pattern (PRF), laid in a right-hand lay pattern (RL), using an extra-improved plow steel (EIPS) grade of wire, and strands laid around an independent wire rope core (IWRC). ~~See figure 013.08-A for proper labeling of wire rope.~~ (3-31-22)

FIGURE 454.08.a.



(3-31-22)

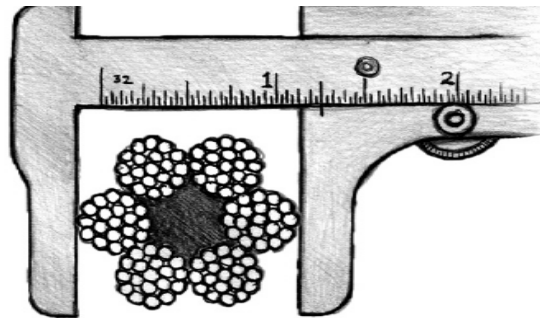
b. Out of Service Standard Example. A six (6) x twenty-five (25) IWRC wire rope = six (6) strands in one (1) lay with twenty-five (25) wires per strand = one hundred fifty (150) wires. The rope must be taken out of service when twelve and five tenths percent (12.5%), or one-eighth (1/8), of the wires are broken within the distance of one (1) lay = one hundred fifty (150) divided by eight (8) = eighteen and seventy-five one hundredths (18.75), or nineteen (19) broken wires. (3-31-22)

09. Wire Line Life. ~~Table 454.09 provides the allowable life of a line in million board feet in accordance with line size and use.~~ Figure 454.09.a. illustrates both the correct and incorrect manner in which to measure line size (diameter).

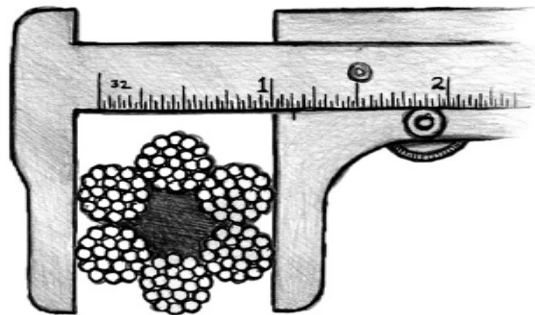
TABLE 454.09			
LINE LIFE BY WOOD HAULED			
System	Use	Line-Size (inches)	Line-Life (million board feet)
Standing-Skyline	Skyline	1-3/4	20-25
		1-1/2	15-25
		1-3/8	8-15
	Mainline	1 to 1-1/8	15-20
		1	10-15
		Haulback	3/4 to 7/8
Live Skyline	Skyline	1-1/2	10-20
		1-3/8	8-15
		1	6-10
	Mainline	1	10-15
		3/4	8-12
		5/8	8
	Haulback	3/4 to 7/8	8-12
		1/2	6-10
	Dropline	7/16	5-8
	High Lead	Mainline	1-3/8
1-1/8			6-12

Source: Willamette Logging Specialist's Reference by Keith L McGonagill. 1976. Portland, OR: Willamette National Forest. Calculations of line life refer to EIPS 6x21 wire rope for the skyline, and EIPS 6x26 for other lines. Figures will be different for other classes of wire rope. (3-31-22)

FIGURE 454.09.a.



Correct way to measure line diameter



Incorrect way to measure line diameter

(3-31-22)()

10. Dynamic Loads. Operators shall consider high dynamic loads when calculating safe working limits of wire ropes. Wire ropes are often subjected to high dynamic loads, which greatly multiply the force on a line and may exceed the safe working limit. Even a split second of time over the limit can lead to premature failure of a line. Typical dynamic loads occur when a turn hits a stump, a turn comes down off of the back hillside to full suspension, or when excessive force is applied to pulling a turnout of its bed. A high dynamic load or a sudden shock load that exceeds the working limit may not result in immediate failure, but rope strands may stretch and weaken, and may fail at a later time. (3-31-22)

11. Other Common Wire Rope Considerations. (3-31-22)

a. Wire Rope Stretching and Line Diameter. A stretched wire rope has a reduced diameter. Operators shall check for stretched lines by measuring the diameter, particularly on older lines and any line used in stressful situations. (3-31-22)

b. Older Wire Rope. Standing lines and guylines are often kept in service for multiple years (four (4) to five (5), and as long as ten (10) years in some instances) without exhibiting any obvious signs of excessive wear other than rust. Operators shall check date stamps of wire rope and evaluate line life. Operators shall also inspect the core of older lines periodically for a fractured or dry core, which could indicate other deficiencies such as broken wires, excessive wear, or line deformation. (3-31-22)

c. Hard Use. The life of a wire rope is also affected by hard use. ~~Line life can be measured by the volume of wood hauled (see Table 459.09).~~ Line life is reduced when a line exceeds its elastic limits, is heavily shocked, or rubbed against rocks or other lines. As a line wears, the safe working load limit shall be lower and the payload adjusted appropriately. (3-31-22)()

d. Wire Rope endurance and elastic limits. Working within the endurance and elastic limits of lines can help preserve line life. The following principles shall be observed when evaluating the integrity and safe use of

wire rope: (3-31-22)

i. The “endurance limit” for all lines is fifty percent (50%) of the breaking strength. If wire rope tensioning regularly exceeds the endurance limit, the life of the line is reduced through fatigue. (3-31-22)

ii. The “elastic limit” for all lines is sixty to sixty-five percent (60-65%) of the breaking strength. When a wire rope is loaded to its normal safe working limit, the line stretches, but then returns to its original size when the load is released. If a load increases past the elastic limit through prolonged exertion or repeated stress, the line will stretch and stay stretched, resulting in a permanent reduction in the breaking strength. (3-31-22)

e. **Lubrication and Abrasion.** Wire rope is lubricated in the factory to reduce internal friction and corrosion, and prolong the life of the rope. Heat from friction causes the internal lubricant to deteriorate. Friction occurs when the rope stretches under load, particularly in places where it bends around sheaves or other objects. An improperly lubricated line can pick up particles of dirt and sand that will increase abrasion. Accordingly, operators shall: (3-31-22)

i. Check for and ensure the proper lubrication of all lines and wire rope, following the manufacturer’s instructions. Commercial wire rope lubricants are available. (3-31-22)

ii. Carefully inspect lines for faults in areas where dust and sand may collect. (3-31-22)

iii. Store all wire rope and lines off the ground. (3-31-22)

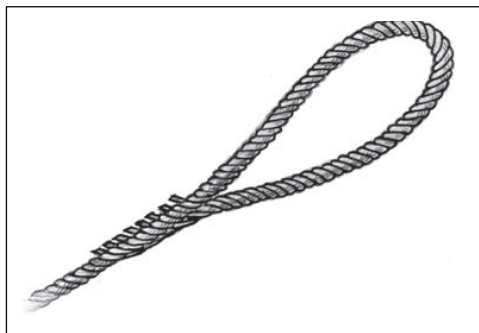
12. Line Connections. (3-31-22)

a. **Inspection.** Operators shall regularly inspect shackles, hooks, splices, and other connecting equipment for damage and wear, as well as ensure the connectors are the correct type and size for the line and intended use. (3-31-22)

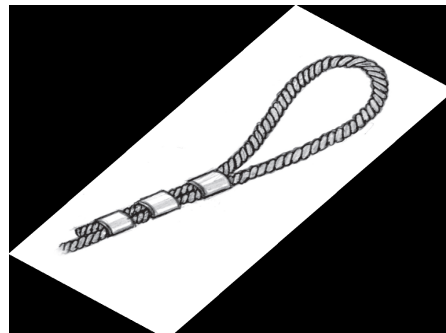
b. **Wire Splicing.** Splices are used to form an eye at the end of a line, extend the length of a line, or repair a broken or damaged line. The splicing of wire rope requires special skill and shall only be performed under the supervision of a competent person with using the proper tools. Reference materials are available with detailed instructions for numerous types of splices. Individuals splicing wire shall always wear appropriate eye protection while splicing or assisting with a splicing procedure. (3-31-22)

c. The logger’s eye splice and three (3)-pressed eye are the most common methods to form an eye for use as a skyline terminal. See Figure 454.12.c. The spliced eye is approximately eighty percent (80%) efficient. A three (3)-pressed eye can reach ninety percent (90%) line strength. The pressed eye is typically performed at the rigging shop. Spliced eyes may be placed in the field, but may require additional time to install. (3-31-22)

FIGURE 454.12.c.



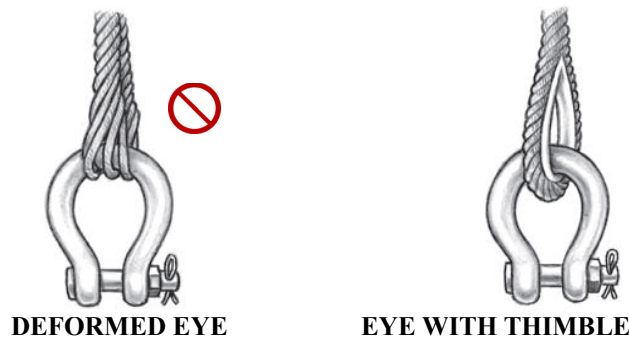
THE LOGGER’S EYE SPLICE



THREE-PRESSED EYE
(3-31-22)

- d.** When Flemish (Farmers, Rolled) eye splices are used on load-bearing lines, the strand ends must be secured by: (3-31-22)
- i. Hand tucking each strand three (3) times; or (3-31-22)
 - ii. Applying a compression (pressed-eye) fitting. (3-31-22)
- e.** Guyline Care. Guylines are a vital link in holding up a tower. Guyline extensions shall not be excessively moved around by dragging on the ground, or left on the ground for long periods of time as they will deteriorate faster. (3-31-22)
- f.** Guyline extensions must be connected by: (3-31-22)
- i. A bell shackle using a safety pin to connect spliced eyes or pressed eyes; or (3-31-22)
 - ii. Poured nubbins (buttons) and a double-ended hook. (3-31-22)
- g.** Line Deformity. A line may deform where it loops around a shackle or pin, producing weakness that may result in line failure. A thimble in the loop protects the line. Thimbles may be used on standing lines, but not on running lines. Examples of the appearance of deformed lines and the use of thimbles in shackles are illustrated in Figure 454.12.g. (3-31-22)

FIGURE 454.12.g.



(3-31-22)

13. Shackles and Hooks.

(3-31-22)

a. Hooks. Hooks shall be inspected to ensure that they have not sprung open. Ensure that shackles are positioned correctly to bear the load. Haywire swivels shall be inspected frequently, due to their susceptibility to wear rapidly. (3-31-22)

b. Shackle Safety. Proper bells or shackles shall be used to connect the guylines to the stumps, and the guyline lead blocks to the ring at the top of the tower. Connections shall have at least one and a half (1-1/2) times the strength of the guyline. The pins of the shackles must be secured to protect against dislodgement, and a nut and cotter key, or a nut and molly may be used for that purpose. The use of loops or mollies to attach guylines is prohibited. Examples of the appearance of some shackle equipment is illustrated in Figure 454.13.b.

FIGURE 454.13.b.



SHACKLE WITH
SAFETY PIN



HAYWIRE SWIVEL



HAYWIRE HOOKS

(3-31-22)

c. The following practices shall be observed in order to ensure the safe use of shackles: (3-31-22)

i. A shackle must have a rated breaking strength greater than the rated breaking strength of the lines attached to it, and the manufacturer's rated strengths to determine oversized requirements shall be used. Accepted industry standards shall be utilized and adhered to when determining the correct shackle size based on the type and nature of the logging operation being performed. Examples of the appearance of some shackle equipment for the purposes of proper selection is illustrated in Figure 454.13.c.i (3-31-22)

ii. Shackles with pins, and securing nuts with mollies or a cotter key shall be used on standing or overhead rigging. (3-31-22)

iii. Screw shackle pins shall not be used in any standing or overhead rigging. (3-31-22)

iv. Screw shackle pins, where allowed to be used, shall be tightened securely. (3-31-22)

v. Shackle pin mollies shall be rolled sufficiently and fit the pin hole fully. Mollies shall be tucked a minimum of three (3) times. (3-31-22)

vi. The shackle shall always be placed with the pin nearest to the yarder, so that in the event the shackle fails the least amount of hardware may be thrown at the yarder. (3-31-22)

vii. Replace shackles that are bent, broken, or show excess wear on the inner surfaces. Examples of the appearance of some damaged or non-conforming shackles are illustrated in Figure 454.13.c.vii. (3-31-22)

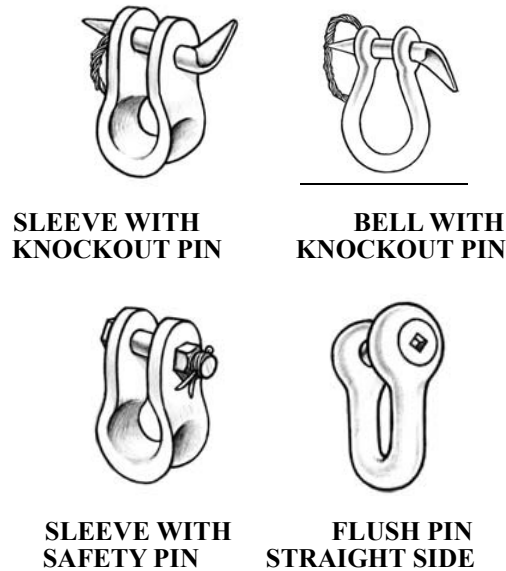
FIGURE 454.13.c.vii.



**REPLACE SHACKLES THAT ARE BENT, BROKEN, OR SHOW
EXCESS WEAR ON THE INNER SURFACES.**

viii. Sleeve shackles or choker bells must be used when choked lines are permitted. (3-31-22)

FIGURE 454.13.c.i.



(3-31-22)

14. Knobs, Ferrules, and Eyes.

(3-31-22)

a. Poured nubbins and a double-end hook are acceptable connectors in place of shackles in some instances. The use of quick nubbins (wedge buttons) as guyline and skyline end fittings is prohibited unless attaching guylines to guyline drums. Operators shall follow the manufacturer's recommendations when attaching sockets and similar end fastenings. (3-31-22)

b. Poured nubbins achieve ninety-nine percent (99%) of line strength and may be used. Quick nubbins only achieve a maximum of sixty-five percent (65%) under ideal conditions, and accordingly operators shall consider whether they are appropriate for safe use in any given application. Pressed ferrule are not certifiable for strength, and shall not be used. Examples of the appearance of some knob, ferrule, and nubbin equipment are illustrated in Figure 454.14. (3-31-22)

c. Operators shall inspect knobs, ferrules, and eyes at cable ends for loose or broken wires, and corroded, damaged, or improperly applied end connections. Poured nubbins shall be date stamped.

FIGURE 454.14

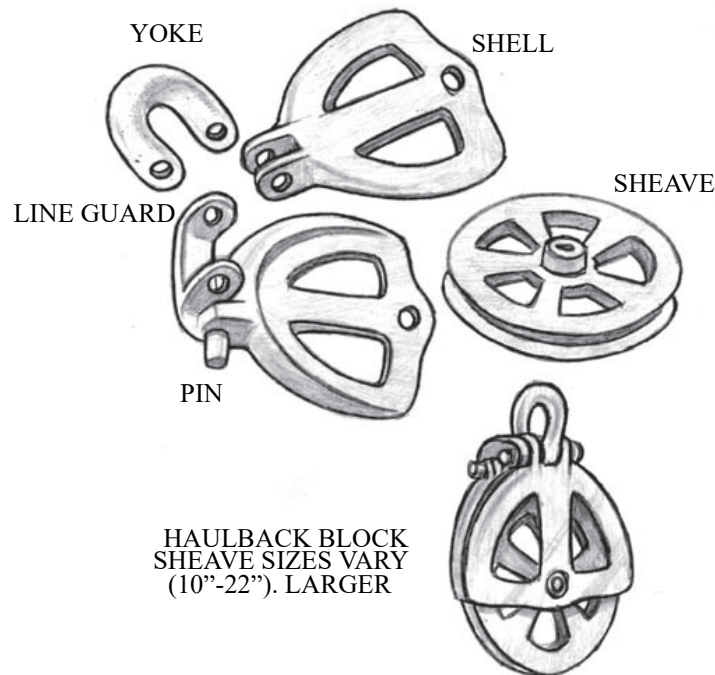


(3-31-22)

15. Brush Blocks. Brush blocks shall be thoroughly inspected for cracks, wear, or deterioration. Operators shall closely examine the areas subject to the most wear, including bearings, sheave, frame, yoke, and pins.

Defective parts shall be replaced immediately. Blocks shall be greased every time before each use.

FIGURE 454.15



(3-31-22)

16. Chains and Straps. Chains or straps shall always be sized and used correctly for the intended purpose. Determining which size to use may depend on various factors. Oversized trailer lift straps, for example, shall have a breaking strength equal to five (5) times the load to be lifted. Towing chains shall have a tensile strength equivalent to the gross weight of the towed vehicle. The manufacturer's specifications or other appropriate reference materials shall always be consulted to ensure the right chain or strap is used for a task. (3-31-22)

a. Operators shall periodically inspect chains for damaged, worn, or stretched links. Chains with more than ten percent (10%) wear at the bearing surface shall be replaced. Operators shall periodically inspect straps, and examine them for broken wires or wear. Examples of the appearance of damaged and safe chains are illustrated in Figure 454.16.a.

FIGURE 454.16.a.





WORN CHAIN (INSIDE LINKS)

(3-31-22)

455. TREE CLIMBING.

Loggers are often required to climb considerable heights to top trees or hang rigging on lift trees. All workers who may be exposed to fall hazards shall be specifically trained and equipped with fall protection. (3-31-22)

01. Rescue Plan. Before rigging any tree, the employer must develop rescue procedures, which includes identifying appropriate equipment, personnel, and training to perform a rescue in case a climber is injured or incapacitated in the tree. A second set of climbing gear and a person with climbing experience shall be readily available. Equipment and procedures that will support an injured climber's chest and pelvis in an upright position during a rescue shall be used. When an injured climber is wearing only a climbing belt, provisions must be made to prevent the climber from slipping through it; this may include using a rope to create an upper-body support system. Consideration should be made to replacing climbing belts with a climbing harness. (3-31-22)

02. Before Leaving the Ground. Employers shall check climbing equipment and immediately remove defective equipment from service. Personnel shall ensure that hardware and safety equipment is securely fastened before placing weight on the lanyard or life-support rope. All climbing knots shall be tied, dressed, and set prior to ascending. All personnel shall follow the recommendations of the manufacturer of the cordage with respect to the use of splices. (3-31-22)

03. Climbing Equipment. (3-31-22)

a. A climbing harness provides both pelvic and upper-body support, and may be a one (1)-piece, full-body harness, or any two (2)-piece design that meets industry standards. (3-31-22)

b. Climbing and life-support lines shall be conspicuous and easily identifiable. (3-31-22)

c. All lines and webbing used for life support shall have a minimum breaking strength of five thousand four hundred (5,400) pounds and may only be used for climbing. (3-31-22)

d. When a cutting tool is used in a tree, the climbing rope (lanyard) shall be a high-quality steel safety chain of three-sixteenths (3/16) inch size or larger, or a wire-core rope. (3-31-22)

e. A life-support rope evidencing excessive wear or damage or that has been subjected to a shock load shall be removed from climbing service. (3-31-22)

04. Climbing Operations. (3-31-22)

a. Ensure climbers are appropriately well-trained in climbing and in the use of all equipment to carry out assigned tasks. (3-31-22)

b. While climbing operations are underway, co-workers and others on the ground shall stay clear of potential falling objects. If co-workers must work directly below a climber, the climber shall stop any activity in which objects could be dropped or dislodged until the area below is cleared. Climbers shall provide warning whenever any material may be likely to fall or is dropped deliberately. Unsecured equipment, rigging, or material shall not be left in the tree. (3-31-22)

c. Yarding activity must cease within reach of a tree or guylines of a tree where a climber is working. Machinery may operate in reach of the climber to hoist rigging into the tree. In such circumstance the following shall apply: (3-31-22)

- i. A spotter shall be utilized and yarding operations shall be performed with extra caution; (3-31-22)
- ii. The machine operator and the spotter shall give the task their undivided attention; (3-31-22)
- iii. Equipment that is nearby and which may be noisy, such as power saws, tractors, or logging machines shall be shut down if the noise interferes with signal communications with the climber; and (3-31-22)
- iv. Lines attached to a tree in which a climber is working shall not be moved except on a signal from the climber. (3-31-22)

d. Tree climbers shall use a three (3)-point climbing system whereby three (3) points of contact must be firmly in place on a secure surface before moving to another point. Along with hands and feet, other points on the body, such as a hooked knee, can be considered a point of contact if it can support the full body weight. Additionally, the places of support must be secure, and climbers should use care to void unsound branches or stubs as a contact point. A lanyard around the tree secured to the safety harness or climbing belt on both ends constitute two (2) points of contact. (3-31-22)

e. Climbing without being secured to the tree is prohibited, except in conifers, when in the judgment of a qualified climber, the density of branches growing from the stem make attaching the lanyard more hazardous than simply climbing the tree. In such instances, the climber shall evaluate the tree farther up, and use attachments when it is safe to do so. (3-31-22)

05. Topping Trees. Only an experienced climber with experience felling trees shall top a tree. Cutters shall not cut when wind or other conditions make doing so hazardous. Standard safe felling procedures shall apply, with the additional following requirements: (3-31-22)

~~**a.** A chainsaw with a bar short enough to make both the face cut and backcut easily from one side shall be used. (3-31-22)~~

ba. Cutters shall determine the felling direction and ensure there are no obstructions. Consideration shall be given to the fact that an impact could cause violent movement in the tree being topped where the climber is perched. (3-31-22)

eb. A safety chain shall be wrapped around the tree just below the cut to prevent the tree from splitting or slabbing down inside the climbing rope. (3-31-22)

ec. The cutter shall ensure he is comfortable, and avoid any awkward cutting position. (3-31-22)

ed. Exact cuts should be made. There is no escape route for the climber to get away from the stem to avoid kickback or a splintered hinge. When making horizontal side cuts, extra care shall be used to stay on the line of the backcut to avoid wood breaking away with the saw as the top falls. (3-31-22)

456. -- 500. (RESERVED)

~~**SUBCHAPTER K — ROAD TRANSPORTATION**~~
~~**(Rules 501 — 550)**~~

501. LOG TRUCK TRANSPORTATION.

01. General. The following requirements are supplemental to any Idaho law governing automobiles, trucks, tractors, trailers, and any combination of these units. If there are any discrepancies in the codes between this section and any federal or Idaho motor vehicle regulations pursuant to title 49, Idaho Code, applicable in the state of Idaho, such federal or other governmental regulations will govern. (3-31-22)

02. Stopping and Holding Devices for Log Trucks. (3-31-22)

a. Motor logging trucks and trailers must be equipped with brakes or other control methods which

will safely stop and hold the maximum load on the maximum grade. Air or vacuum brake lines shall be of the type intended for such use and shall have fittings which will not be interchangeable with water or other lines. (3-31-22)

b. Brake Test - A brake test shall be made before and immediately after moving a vehicle. Any defects shall be eliminated before proceeding. (3-31-22)

03. Lighting Equipment Required. (3-31-22)

a. Motor vehicles used on roads not under the control of the Idaho Transportation Board, counties or cities, shall have equipment necessary for safe operation, such as head, tail, and stop lights. (3-31-22)

b. Such lights shall be used during ~~clearance~~ periods of reduced visibility. ~~(3-31-22)~~()

04. Safe Operating Requirements. (3-31-22)

a. The driver shall do everything reasonably possible to keep his truck under control at all times and shall not operate in excess of a speed at which he can stop the truck in one-half (1/2) the distance between him and the range of unobstructed vision. (3-31-22)

b. The driver shall take into consideration the condition of the roadway, weather factors, curves, grades and grade crossings, the mechanical condition of his equipment, and other relevant factors. (3-31-22)

c. The driver shall clear rocks from between dual tires before driving on multi-lane roads. (3-31-22)

d. A daily inspection shall be made of trucks and trailers with particular attention to steering apparatus, brakes, boosters, brake hoses and connections, reaches, and couplings. Any defects found shall be corrected before equipment is used. (3-31-22)

05. Stakes, Bunks, or Chock Blocks. All stakes and bunks, installed on log trucks and trailers, together with the means provided for securing and locking the stakes in a hauling position, shall be designed and constructed of materials of such size and dimensions that will withstand a pressure of fifteen thousand (15,000) pounds applied outward against the tops of the stakes, and, or extensions when used, without yield or permanent set resulting in the stakes, bunks or the means provided for securing and locking the stakes.

NOTE: Test Procedure - A test pressure of fifteen thousand (15,000) pounds is applied to the top of one (1) stake, using the top of the stake opposite as a base for applying pressure. Bunk is not to be secured to floor or other base except in a manner similar to that used to mount it to truck or trailer. Stakes must return to normal upright position at end of test and stakes and all component parts examined and checked with original specifications. If no yield results in any part, the design and construction may be considered as meeting code requirements. (3-31-22)

06. Stake Extensions. ~~(3-31-22)~~

~~**a.**~~ Stake extensions shall not be used unless all component parts of the bunking system are of sufficient size and strength to support the added stresses involved. (3-31-22)

~~**b.**~~ Truck drivers shall report missing or broken stake extensions to the proper authority. ~~(3-31-22)~~

~~**07. Stake and Chock Tripping Mechanisms.**~~ Stakes and chocks that trip shall be constructed in such a manner that the tripping mechanism, which releases the stake or chocks, is activated at the opposite side of the load from the stake being tripped. ~~(3-31-22)~~

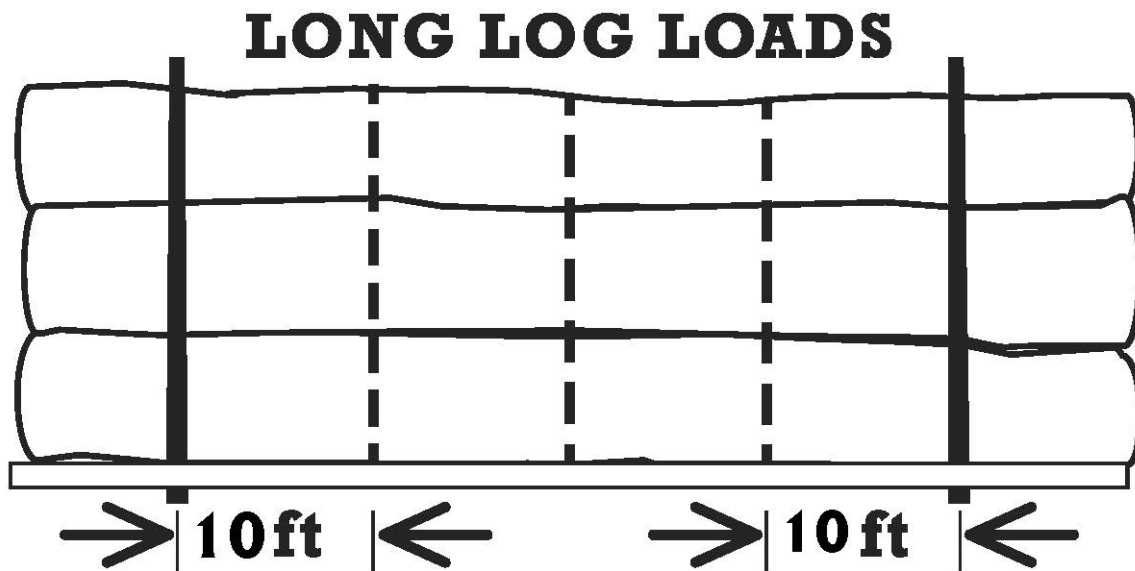
~~**08. Linkage for Stakes or Choeks.**~~ ~~(3-31-22)~~

~~**a.**~~ The linkage used to support the stakes or chock must be of adequate size and strength to withstand the maximum imposed impact load. ~~(3-31-22)~~

~~**b.**~~ "Molly Hogans" or cold shuts are prohibited in chains or cable used for linkage. ~~(3-31-22)~~

- 097. Notify Engineer When Around Truck.** (3-31-22)
- a. Persons shall not walk along side of or be underneath any truck being loaded. (3-31-22)
- b. Prior to performing any duties, such as releasing bunk locks, placing or removing compensating pin, scaling logs, reading scale, chopping limbs or making connections, persons shall notify the loading engineer of their intentions and be acknowledged. (3-31-22)
- 408. Number of Wrappers Required.** (3-31-22)
- a. Each unit used for hauling logs longer than twenty six (26) feet, shall have the load secured by a minimum of three (3) wrappers. Wrappers shall be placed in positions that effectively secure the load. One (1) wrapper shall be placed within ten (10) feet of each bunk. See Figure 501.408.a.

FIGURE 501.408.a.

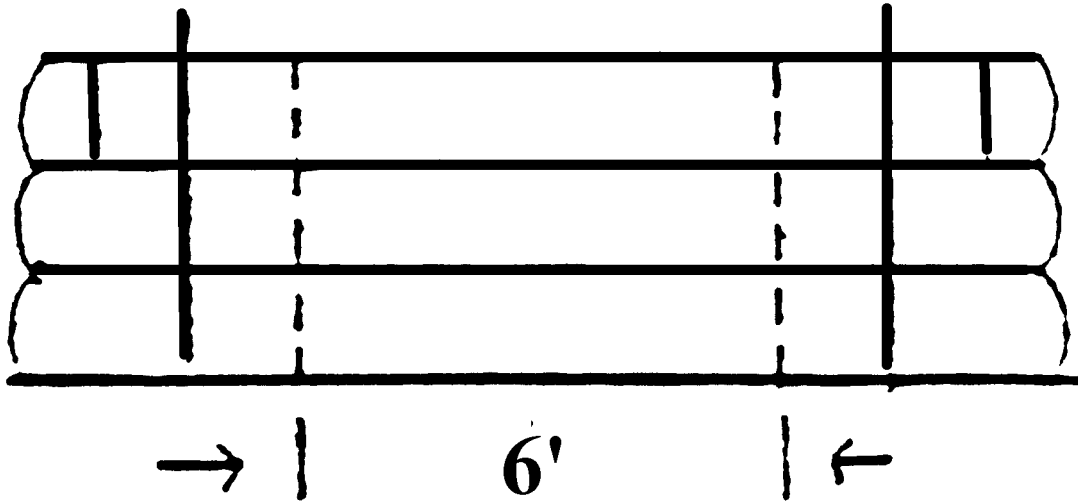


(3-31-22)()

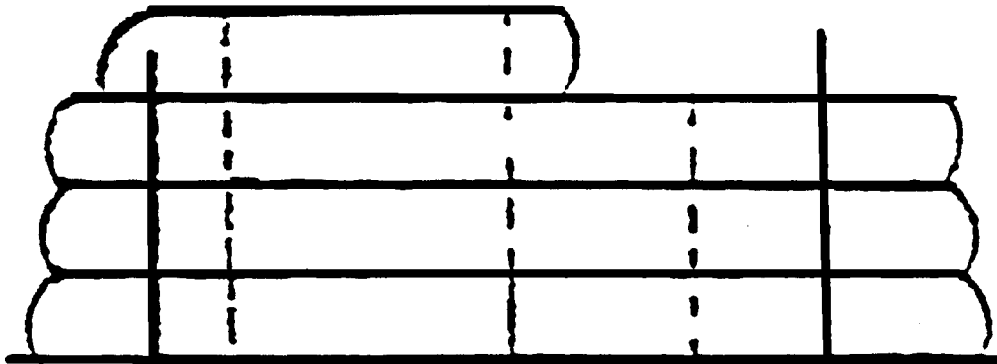
- b. All exposed outside logs shall be secured by a minimum of two rappers. See Figure 501.408.b.

FIGURE 501.408.b.

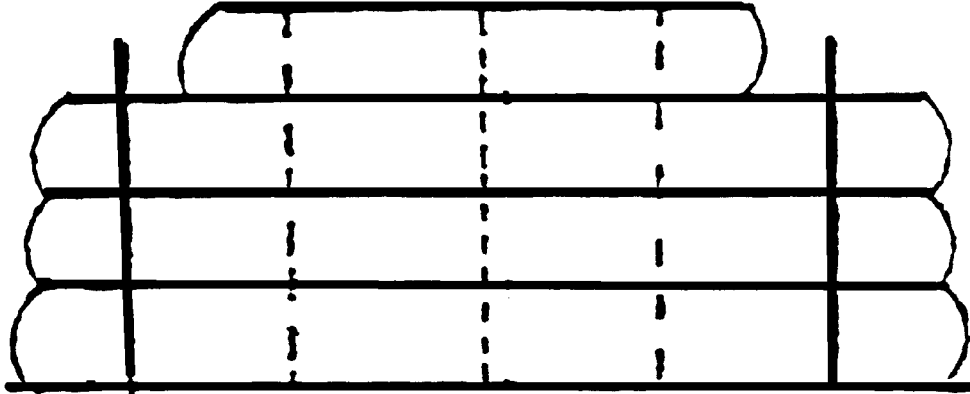
SHORT LOG LOADS



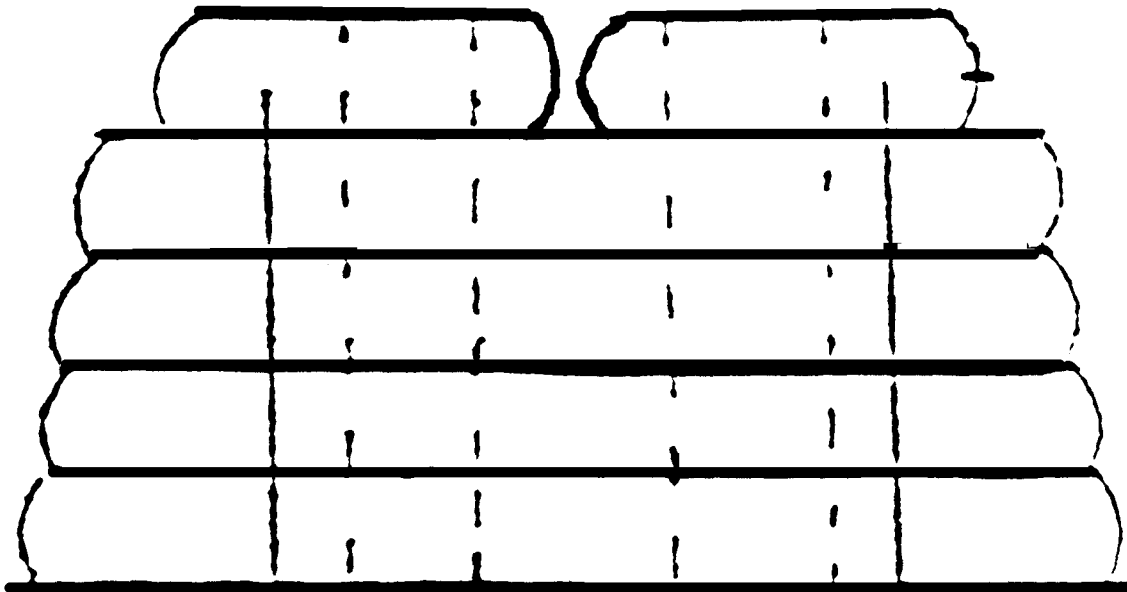
LONG LOG LOAD WITH SHORT LOGS IN REAR OR IN FRONT



LONG LOG LOAD WITH SHORT LOGS IN CENTER



LONG LOG LOAD WITH SHORT LOGS BUTTED



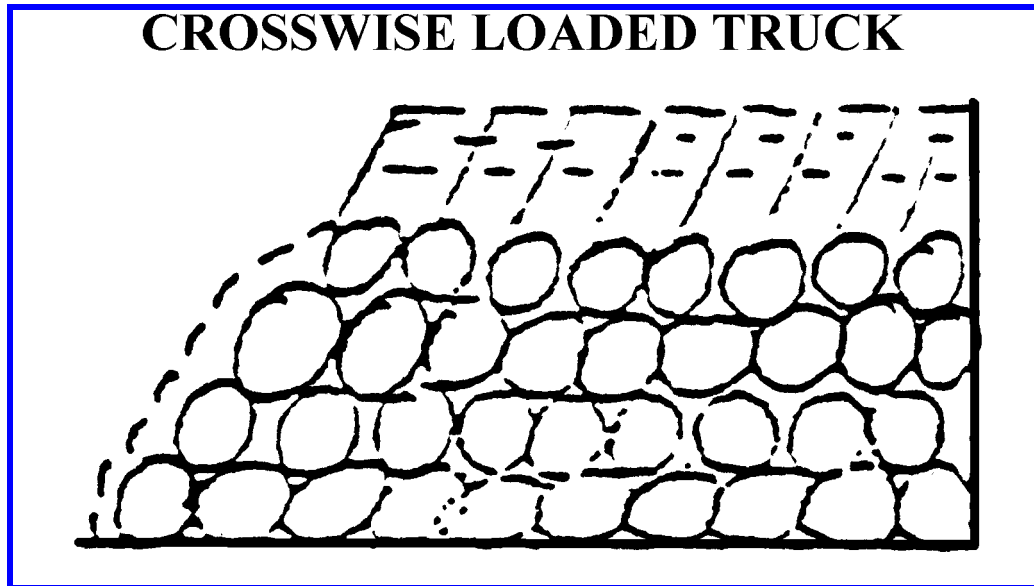
(3-31-22)()

~~11. Requirements for Crosswise Loaded Trucks.~~

(3-31-22)

~~a. When loads of short logs are loaded crosswise, the logs shall be properly contained by use of stake or chock blocks and shall be secured by a minimum of two (2) wrappers. (See Figure 501.11.a.)~~

FIGURE 501.11.a.



(3-31-22)

~~b.~~ Binders shall be securely fastened to the vehicle.

(3-31-22)

~~4209.~~ **Construction of Wrappers and Binders.**

(3-31-22)

a. Cables shall have a spliced eye or swaged fittings.

(3-31-22)

b. “Molly Hogans” or cold shuts are prohibited to make splices or connections.

(3-31-22)

c. Each wrapper shall have a minimum breaking strength of not less than fifteen thousand (15,000) pounds.

(3-31-22)

d. Binders must be stamped with a working load limit of four thousand (4,000) pounds or greater.

(3-31-22)

~~4310.~~ **Binder Placement Requirements.**

(3-31-22)

a. Binders shall be placed in a manner whereby they will be released on the side opposite the brow log, or on the side where the unloading equipment operator can see the binders.

(3-31-22)

b. Truck drivers shall be required to stop vehicles, dismount, check and tighten loose load binders, either just before or immediately after leaving a private road to enter the first public road they encounter.

(3-31-22)

~~4411.~~ **Precautions When Placing or Removing Binders and Wrappers.**

(3-31-22)

a. Binders and wrappers shall remain on the load until an approved safeguard has been provided to prevent logs from rolling off the side of truck where binders are being released.

(3-31-22)

b. At least one (1) wrapper shall remain secured while relocating or tightening other binders.

(3-31-22)

152. Binders and Wrappers to Be Placed Before Leaving Landing Area. Binders and wrappers shall be placed and tightened around the completed load ~~before shifting the load for proper balance~~. Each load must have all required wrappers placed and secured at the loader before the truck is moved. If it is unsafe to do so, the truck may be moved to the nearest safe place in sight of the loader. (3-31-22)()

163. Adequate Reaches Required. (3-31-22)

a. Log trailers must be connected to tractors by reaches of a size and strength to withstand all imposed stresses. (3-31-22)

b. Spliced reaches shall not be used. (3-31-22)

c. Documented reach inspections shall be performed annually. (3-31-22)

174. Proper Lay of Logs in Stakes or Bunks. (3-31-22)

a. The method of loading shall be such that the logs in any tier or layer unsecured by stakes or cheese blocks shall have their centers inside of the centers of the outer logs of the next lower tier or layer so that the load is stable without the aid of binders. (3-31-22)

b. Logs shall be well saddled without crowding so that there will be no excessive strain on the wrappers or stakes. (3-31-22)

c. No more than one half (1/2) of the diameter of any face log shall extend above the stakes ~~unless properly and securely saddled~~ or extensions, if used. (3-31-22)()

d. Bunk logs shall extend not less than twelve (12) inches beyond the bunk, with the exception of non-oscillating bunks. (3-31-22)

185. Traffic Travel on Right Side of Road Except Where Posted. All trucks shall keep to the right side of the road, except where road is plainly and adequately posted for left side traveling. (3-31-22)

196. Towing of Trucks. When trucks must be towed on any road, the person guiding the vehicle being towed shall, by prearranged signals, govern the speed of travel. (3-31-22)

2017. Scaling and Branding. When at the dump or reload and where logs are scaled or branded on the truck, the logs shall be scaled or branded before the wrappers are released. (3-31-22)

218. Metal Parts Between Bunk and Cab to Be Covered. Suitable material shall be used on treading surfaces between the bunk and cab to prevent persons from slipping on the metal parts. (3-31-22)

2219. Bunks to Be Kept in Good Condition and Repair. (3-31-22)

a. Log bunks or any part of bunk assembly bent enough to cause bunks to bind shall be straightened. (3-31-22)

b. Bunks shall be sufficiently sharp to prevent logs from slipping. (3-31-22)

230. Following Other Vehicles. (3-31-22)

a. A vehicle not intending to pass shall not follow another vehicle closer than one hundred fifty (150) feet. (3-31-22)

b. Passing shall be done only when it can be done safely. The passing vehicle shall consider all factors which may be essential, such as condition of the roadway, width of the road, and distance of clear visibility ahead. (3-31-22)

241. Reaches to Be Clamped When Towing Unloaded Trailer. A positive means, in addition to the clamp, shall be installed on the reach of log truck trailers when the trailers are being towed without a load. (3-31-22)

252. Inserting of Compensating Pin. (3-31-22)

a. Persons shall never enter the area below suspended logs or trailers. (3-31-22)

b. At dumps where the load must remain suspended above the bunks until the truck is moved away and when the trailer is the type with a compensating pin in the reach, a device shall be installed that will allow the trailer to be towed away from the danger area. (3-31-22)

263. Safety Chains. (3-31-22)

a. All trailers shall be secured with a safety chain, or chains, which connect the frame of the truck assembly to the trailer unit. (3-31-22)

b. The chains shall be capable of holding the trailer in line in case of failure of the hitch assembly. (3-31-22)

502. ~~STEERED TRAILERS. (RESERVED)~~

~~**01. Steered Trailers.** Steered trailers not controlled from the truck cab shall be designed, constructed, and operated in accordance with this section. (3-31-22)~~

~~a. Secure seat. A secure seat with substantial foot rests shall be provided for the steerer at the rear of the bunk. Any arrangement that permits the steerer to ride in front of the bunk is prohibited. (3-31-22)~~

~~b. Unobstructed exit. The seat for the steerer shall be so arranged that the steerer has an unobstructed exit from both sides and the rear. (3-31-22)~~

~~c. Bunk support. The bunk support shall be so constructed that the steerer has a clear view ahead at all times. (3-31-22)~~

~~d. Adequate means of communication. Adequate means of communication shall be provided between the steerer and the truck driver. (3-31-22)~~

~~e. Eye protection and respirator. Eye protection and respirator shall be provided for the steerer. (3-31-22)~~

~~f. Fenders and splash plates. The trailer shall be equipped with fenders or splash plates to protect the steerer from mud and dust so far as possible. (3-31-22)~~

~~g. Lights. If used during a period of reduced visibility on roads not under the control of the Idaho Transportation Board, counties or cities, the trailer shall be equipped with head, tail and stop lights. (3-31-22)~~

503. COMMON CARRIERS.

01. Responsibility. It shall be the responsibility of the common carrier, and particularly the operator of the common carrier, upon entering the premises of any sawmill, woodworking or allied industry, to exercise all possible caution and to use all necessary safety devices and precautions to their fullest extent. (3-31-22)

02. Audible and Visual Warning Devices. (3-31-22)

a. All common carriers equipped with audible and visual warning devices shall activate such warning devices before entering a danger zone, and they shall remain activated as long as the carrier is moving in that zone. (3-31-22)

- b. A danger zone shall be defined as an area where men or vehicles are working or normally work. (3-31-22)

~~03. **Train Operations.** When a train is operating on a plant railway system, the safety rules shall apply as outlined by the Association of American Railroads governing train, engine and transportation of employees. (3-31-22)~~

504. SELF-LOADING LOG TRUCKS.

01. Self-Loading Log Trucks. Self-loading log trucks manufactured after January 1, 1981, shall be equipped with: (3-31-22)

- a. A load check valve ~~(velocity fuse)~~ or similar device installed on the main boom. ~~(3-31-22)~~ ()

b. A seat that is offset from the point of attachment of the boom. The seat and boom structure shall rotate concurrently. (3-31-22)

02. Operator. The operator of a self-loading log truck shall not: (3-31-22)

- a. Heel the log over his head; or (3-31-22)

b. Heel the log on the operator side of the boom of the seat if offset from the point of attachment of the boom. (3-31-22)

03. Safe and Adequate Access. A safe and adequate means of access to and from the loading work station on self-loading log trucks shall be provided. (3-31-22)

~~04. **Overhead Hazards.** A self-loading log truck shall not load itself or another truck when the loading process is under or within a guyline circle or similar overhead hazard. (3-31-22)~~

~~054. **Trailers Secured.** Self-loading truck trailers shall be secured to the truck when the trailer is being hauled on the truck. (3-31-22)~~

505. -- 550. (RESERVED)

~~**SUBCHAPTER L LOG DUMPS, LANDING, LOG HANDLING EQUIPMENT,
LOADING AND UNLOADING BOOMS, AND TRAILER LOADING HOISTS
(Rules 551—600)**~~

551. SPECIFIC REQUIREMENTS.

01. Log Dumps, Landings, Log Handling Equipment, Loading, and Unloading. (3-31-22)

a. Only authorized persons shall operate log handling equipment. Machine operators shall be capable and experienced personnel. No persons other than the operator may be in the operator's compartment while machinery is operating, except for purposes of operating instructions. Unnecessary talking to the operator of log handling equipment while the machine is in operation is prohibited. (3-31-22)

b. Machine operators shall make necessary inspection of machines each day before starting work. All repairs or adjustments shall be made before any strain or load is placed upon the equipment. (3-31-22)

c. Substantial barriers or bulkheads protecting the operator shall be provided for all log handling machines where the design, location, or use of such machines exposes the operator to material or loads being handled. Such barriers or bulkheads shall be of adequate area and capable of withstanding impact of materials handled. (3-31-22)

- d. A safe and adequate means of access to, and egress from, the operator's station shall be provided.

Necessary ladders, steps, step plates, foot plates, running boards, walkways, grab irons, handrails, etc., shall be provided and maintained. (3-31-22)

e. All moving parts shall be guarded in an approved manner to afford complete protection to the operator and other workers. (3-31-22)

f. Throttles and all power controls shall be maintained in good operating condition. (3-31-22)

g. Landings shall be prepared and arranged to provide maximum safety for all employees and shall provide ample space for the safe movement of equipment and storage and handling of logs. (3-31-22)

h. Adequate means shall be used to prevent logs from rolling into the road or against trucks. Workers shall be sure that logs are securely landed before approaching them. While unhooking chokers, workers shall choose the safest approach. This is usually from the upper side of the log. (3-31-22)

i. Logs shall not be landed at loading areas until all workers, tractors, trucks, or equipment are in the clear. All persons shall stay in the clear of running lines, moving rigging, and loads until rigging or loads have stopped. (3-31-22)

~~**j.** The loading machine shall be set so that the operator shall have an unobstructed view of the loading area, or a signalman shall be properly placed and his signal shall be followed. Signaling the operator shall be done by standard hand signals, whistles, or other positive means of communication. (3-31-22)~~

~~**k.** Machines, sleds, or bases shall be of sufficient strength to safely withstand moving, and machines shall be securely anchored to their bases. (3-31-22)~~

l. Mufflers shall be installed on all internal combustion engines of log handling equipment and located or guarded in such a manner as to prevent accidental contact with the muffler or exhaust pipes and afford protection from fumes. (3-31-22)

~~**m.** Brakes shall be installed on all machine drums and maintained in effective working condition. (3-31-22)~~

~~**n.** Brake levers shall be provided with a ratchet or other equally effective means for securely holding the drum. (3-31-22)~~

~~**o.** Brake bands shall have a safety factor of five (5) times the stress to be imposed and they shall be of a design which will render them impervious to exposure. Operators shall test brakes before lifting any load at the start of each shift. (3-31-22)~~

~~**p.** In no case shall stresses in excess of the manufacturer's recommendation be permitted. Equipment not carrying a manufacturer's recommendation shall not exceed stresses of more than one half of the yield strength of the material used. Conversion of cranes, shovels, etc., into yarders shall be in conformity with these rules. Necessary guylines or outriggers shall be provided and used to effectively prevent mast, A frames, etc., from tipping or overturning. (3-31-22)~~

~~**q.** The manufacturer's recommendations for line sizes, if in compliance with these rules, shall be followed and such line sizes shall not exceed the rated capacity of the machine using it. (3-31-22)~~

r. Fork lifts or arms, tongs, clams or grapples shall be lowered to their lowest position and all equipment brakes set before the operator leaves the machine. (3-31-22)

~~**s.** Log unloaders shall not be moved about the premises for distances greater than absolutely necessary with the lift extended or with the loads higher than necessary for clear vision. (3-31-22)~~

t. All log handling machines which have lift arms that create a shear point with the driver's cab or position shall be provided sheer guards that will eliminate the operator's exposure to such hazard. Grapple arms or

other positive means of keeping logs on the forks shall be required on fork lift-type loading machines. (3-31-22)

~~mm.~~ All workers shall be in the clear and in view of the machine operator before a lift is made. (3-31-22)

~~nn.~~ All mobile log handling machines shall be equipped with rearview mirrors, a horn or other audible warning device, and lights front and rear so as to illuminate the entire length of the load being lifted or carried. An automatic warning device that will activate when the vehicle is moved is preferable in areas where other workers are employed. (3-31-22)

~~oo.~~ Logs or loads shall not be swung over occupied equipment or workers and no person shall ride the load or rigging. (3-31-22)

~~pp.~~ While logs are being loaded, no person shall remain on the chain deck or behind the truck cab protector where they could be pinned between the end of a log and cab, tank, or cab protector. Cab protectors shall be cleaned of all loose gear before trucks are moved from the landing. (3-31-22)

~~qq.~~ An unimpaired clearance of not less than three (3) feet shall be maintained from swinging or moving parts of machines, where such swinging or moving parts create a hazard to personnel. If this clearance cannot be maintained, suitable barricades or safeguards shall be installed to isolate the hazardous area. (3-31-22)

~~zz.~~ ~~A frames, towers, masts, etc., shall be designed and constructed to provide adequate structural strength and height for positive control of materials or loads lifted. When in use, they shall be guyed or braced to provide stability and prevent tipping. Their bases shall be secured against possible displacement.~~ (3-31-22)

~~aaa.~~ All log handling equipment shall be equipped with brakes capable of holding and controlling the vehicle with capacity load. (3-31-22)

~~bbb.~~ ~~A limit stop which will prevent the lift arms from over traveling shall be installed on all electric powered log unloaders.~~ (3-31-22)

~~ees.~~ Gas powered vehicles shall not be refueled while motor is running nor in the vicinity of smoking or open flames. (3-31-22)

~~ddd.~~ All log handling equipment shall be equipped with approved fire extinguisher of at least five (5) B.C. rating easily accessible to operator. (3-31-22)

~~eeu.~~ Methods of unloading logs shall be properly arranged and used in a manner to provide protection to all employees. (3-31-22)

~~fff.~~ ~~After cars or trucks are spotted at such dump or landing, no person will be permitted to pass between a brow log and a truck or rail ear.~~ (3-31-22)

~~ggg.~~ ~~Where there is danger of tongs or hooks pulling out of the logs, straps shall be used.~~ (3-31-22)

~~hhh.~~ All equipment should be so positioned, equipped, or protected so that no part shall be capable of coming within ten (10) feet of any power line. (3-31-22)

~~iiw.~~ Bunk logs shall extend not less than twelve (12) inches beyond the bunks, with the exception of non-oscillating bunks. (3-31-22)

~~jjx.~~ The method of loading shall be such that the logs in any tier or layer unsecured by stakes or cheese blocks shall have their centers inside of the centers of the outer logs of the next lower tier or layer so that the load is stable without the aid of binders. Logs shall be well saddled without crowding so that there will be no excessive strain on the binders, bunk chains, or stakes. No more than one half (1/2) of the diameter of any face log shall extend above the stakes unless properly and securely saddled or extensions, if used. (3-31-22) ()

ky. Binders shall be ~~be~~ placed so that they will not be fouled by the unloading machine and that they may be released from the side on which the unloader operates. Proper protection shall be provided for workers while removing wrappers. (3-31-22)()

hz. Truck drivers shall be in the clear and in view of the log unloader operator before forks are moved into the load or against it, before a lift is made. All persons are prohibited from standing under, or near, the ends of logs being lifted or moved. (3-31-22)

maa. Loads or logs shall not be moved or shifted while binders are being applied or adjusted.
NOTE: For logs in transit see Section 501 of these rules "Log Truck Transportation." (3-31-22)

bb. All log dumps, trailer loading areas, and landings shall be kept reasonably free from bark and other debris. (3-31-22)

cc. Logs in storage decks shall be ~~be~~ arranged so as to prevent logs from rolling off the face of the deck. (3-31-22)()

ppdd. All log load wrappers shall be arranged so that they must be released in view of the unloader operator or signal person. When binders are released by remote control devices and when the person releasing the binders is in a safe location, and when in view of the unloading operators, or signal person, the binders may be released from either side. After the unloading machine is in position to hold the load, the binders shall be removed and the person removing them shall be in a safe location in view of the operator. The operator will be given a signal by the person releasing the binders before the machine or load is moved. (3-31-22)

02. Trailer Loading Hoist/Sawmill Log Dump. (3-31-22)

a. The hoist shall be designed and constructed in accordance with the National Electrical Code, so as to provide safe loading or unloading of the trailer. (3-31-22)

b. The hoist shall be equipped with a limiting device to maintain safe take-up limits of line on the hoisting drum. (3-31-22)

c. Regular service and inspection of the hoist and hoisting equipment shall be made to assure reliable serviceability of the facility. (3-31-22)

552. -- 600. (RESERVED)

SUBCHAPTER M — HELICOPTER LOGGING
(Rules 601 — 650)

601. GENERAL REQUIREMENTS.
Safety requirements are as follows: (3-31-22)

01. Briefings. Prior to each day's operation, a briefing shall be conducted. This briefing shall set forth the daily plan of operation for the pilot and ground personnel. (3-31-22)

02. Personal Protective Equipment. Personal protective equipment for employees receiving the load shall, as a minimum, consist of complete eye protection and hard hats secured by chinstraps. (3-31-22)

03. Loose-Fitting Clothing. Loose-fitting clothing likely to flap in the downwash, and perhaps be snagged on the hoist line, shall not be worn. (3-31-22)

04. Reduced Visibility. When visibility is reduced by dust or other conditions, ground personnel shall keep clear of main and stabilizing rotors. (3-31-22)

05. Unauthorized Personnel. No unauthorized person shall be allowed to approach within fifty (50) feet of the helicopter when the rotor blades are turning. (3-31-22)

06. Approaching or Leaving Helicopter. All employees approaching or leaving a helicopter with blades rotating shall remain in full view of the pilot and remain in a crouched position. (3-31-22)

07 Areas to Avoid in Helicopter. Employees shall avoid the area from the cockpit or cabin rearward unless authorized to be there by the helicopter operator. (3-31-22)

08. Approach and Departure Zones. Helicopter approach and departure zones shall be designated and no equipment or personnel will occupy these areas during helicopter arrival or departure. (3-31-22)

09. External Loads. Helicopters with an external load shall not pass over areas where fallers are working. (3-31-22)

10. Open Fires. Open fires shall not be permitted in an area that could result in such fires being spread by rotor downwash. (3-31-22)

11. Compliance with FAA Regulations. Helicopter operations shall comply with any applicable regulation of the Federal Aviation Administration. (3-31-22)

~~**12. Protective Precautions.** Every practical precaution shall be taken to provide for the protection of employees from flying objects in the rotor downwash. (3-31-22)~~

602. SPECIFIC REQUIREMENTS.

01. Signal Systems. (3-31-22)

a. Signal systems between air crew and ground personnel shall be understood and checked before hoisting the load. This applies to either radio or hand signal systems. (3-31-22)

b. There shall be constant reliable communication between the pilot and a designated signalman during the period of loading and unloading. (3-31-22)

c. The helicopter shall be equipped with a siren to warn workers of hazardous situations. (3-31-22)

02. Loading Logs. (3-31-22)

a. It shall be the responsibility of the firm, supervisor, or person who is in charge of the actual loading operation to comply with the provisions of these rules applicable to log loading. (3-31-22)

b. The helicopter operator shall be responsible for the size, weight and manner in which loads are attached to the helicopter. If, for any reason, the helicopter operator believes the lift cannot be made safely, the lift shall not be made. (3-31-22)

c. When employees are required to perform work under hovering aircraft, a safe means of access shall be provided for employees to reach the hoist line hook and engage or disengage cargo slings. (3-31-22)

d. Employees shall not work under hovering aircraft except while hooking or unhooking loads. (3-31-22)

e. The weight of an external load shall not exceed the manufacturer's rating. (3-31-22)

f. The hook-up crew shall not work on slopes below felled and bucked timber when an unsafe situation exists. Culls left, which have a potential of rolling, should be moved to a safe position. (3-31-22)

03. Loading and Landing Areas. (3-31-22)

a. The minimum dimensions of a drop zone shall be determined by the length of the logs being

hauled. All zones shall be at least one and one-half (1 1/2) times as long, and as wide as the length of the average log being harvested. (3-31-22)

b. Landing or loading machinery shall be a reasonable distance away from where logs are to be landed. (3-31-22)

c. Landing crew shall be in the clear before logs are landed. (3-31-22)

d. The approach to the landing shall be clear and long enough to prevent tree tops from being pulled onto the landing. (3-31-22)

e. Separate areas shall be designated for landing logs and fueling helicopters. (3-31-22)

f. Sufficient ground personnel shall be provided for safe helicopter loading and unloading operations. (3-31-22)

g. A clear area shall be maintained in all helicopter loading and unloading areas. (3-31-22)

h. Emergency landing areas for injured workers shall be located within a reasonable distance from all working areas. (3-31-22)

04. Hooks and Chokers. (3-31-22)

a. The electrical activating device of all electrically operated cargo hooks shall be designed and installed to prevent inadvertent operation. In addition, these cargo hooks shall be equipped with an emergency mechanical control for releasing the load. (3-31-22)

b. Logs will be laid on the ground and the helicopter completely free of the chokers before workers approach the logs. (3-31-22)

c. One (1) end of all the logs in the turn shall be touching the ground and at an angle no greater than forty-five degrees (45°) before the chokers are released. (3-31-22)

d. If the load must be lightened, the hook shall be placed on the ground on the uphill side of the turn before the hooker approaches to release the excess logs. (3-31-22)

603. -- 650. (RESERVED)

~~**SUBCHAPTER N — RECOMMENDED SAFETY PROGRAM**~~
~~**(Rules 651 — 700)**~~

651. INTRODUCTION.

01. Scope. (3-31-22)

a. These rules are part of the accident prevention program of the state of Idaho. This program is dedicated to the safety and well-being of all workers in Idaho's logging industry. It has been established according to the processes prescribed by law. (3-31-22)

b. These rules contain the primary safety rules for the logging industry. However, other Idaho Safety Standards promulgated and adopted by the Industrial Commission shall be applicable to this industry where not inconsistent with the provisions herein, or where any particular activity which is being carried on is not specifically covered or regulated herein. (3-31-22)

02. Enforcement. The enforcement of these rules is the responsibility of the Division of ~~Building~~ Occupational and Professional Licenses Logging Safety Program. These rules will not serve their purpose if their requirements are considered anything but a minimum for safe operation. So much variation exists in the logging

industry that each operation should be judged, not by its compliance to the letter of this Standard, but according to a higher standard -- that of absolute safety under all conditions. (3-31-22)()

~~03. **Accident Prevention.** Accident prevention is often a problem of organization and education. It does not succeed solely on detailed safety codes but consists largely of the desire to institute a common sense safety program and determination to carry out the program effectively. Effective accident prevention embodies the following five (5) principles: management leadership; employee cooperation; effective organization; thorough training; and good supervision. (3-31-22)~~

652. FIRE AND SAFETY POLICY.

01. Elements. The basic elements or management responsibility for fire and safety policy are enumerated in this section. (3-31-22)

02. Management Leadership. The establishment of the safety policy should be made clear to all levels of supervision, purchasing, engineering, industrial and construction, and communicated to all employees that top management has approved the operation's safety program. (3-31-22)()

03. Planning. The program should be based on the following: accounting record of safety cost, accident recording system, accident investigation recommendations, operation inspection recommended corrections, employee suggestions, and job analysis to determine the work hazards. The hazard appraisal can be summarized as follows: mechanical and physical hazards; environmental hazards; and work procedure and practices. (3-31-22)

04. Management Discharge of Duty. (3-31-22)

a. If management is to discharge its duty in proper directing of the fire and safety program, it must organized a definite planned program of continuous supervision and leadership by all facets of the management organization. The very fact that safety must be woven into all operations and activities should not require extra managerial time beyond the ordinary to operate a business successfully, i.e., if the entire management team will assume their safety responsibility. (3-31-22)

b. The first task of management is to determine the operational hazards. Once these are ascertained and appraised, suitable corrective action can be initiated. If the working unit is operating, the following specific activities should be carried out to find the hazards. These are: job inspection; job analysis; accident investigation (near accident, non-disabling injuries) to determine necessary remedial action to prevent reoccurrence of the accident. (3-31-22)

05. Hazard Appraisal. The partial list of terms covered by appraisals are summarized briefly as follows: mechanical and physical hazards; adequacy of mechanical guarding of machines and equipment; preventing the use of inferior manufactured and unsafe supplies, equipment, chain, cables, sheaves, tires, power saws, tractor canopy guards, approved head protection, fire extinguishers, solvents, mill saws, etc.; and physical exhaustion such as may be caused by excessive work hours by truck drivers and mill maintenance employees. (3-31-22)

06. Environmental Hazards Inherent to the Operation. (3-31-22)

a. Personal protection devices (approved head protection, ear plugs, knee pads, proper eye protection, respirators, etc.) (3-31-22)

b. Storage and use of flammable liquids and gases (gasoline, diesel, acetone, acetylene, acids, etc.) (3-31-22)

c. All employees should be familiar with proper work signals (falling, blasting, high lead signals, loading, mill signals, operation fire signal, etc.) (3-31-22)

d. Noise and fatigue hazards that are inherent to the industry (planers, cutoff saws, jack hammers, etc.). (3-31-22)

- 07. Work Procedures and Practices.** (3-31-22)
- a.** Hazards directly related to work practices should be carefully observed and evaluated. (3-31-22)
- b.** Work practices that should be investigated include, but are not necessarily limited to: use, care and maintenance of hand and portable power tools; degree of supervision given the worker; the extent of job training provided; the safety indoctrination and training of new or transferred employees; the proper use of fire extinguishers; the use of personal protective devices (approved head protection, shoes, etc.); and the repair and maintenance of equipment with respect to machines, mechanical handling equipment, log loaders, yarding equipment, tractors, fork lifts, overhead cranes, headrigs, etc.; (3-31-22)
- 08. Reporting of Injuries.** (3-31-22)
- a.** The employer shall instruct all employees to report all job injuries to the supervisor at the time injuries occur. The employer shall check specifications for new machines, processes and equipment for compliance with existing safety standards, laws and safety requirements, and shall have such equipment fully inspected before it is placed in use. (3-31-22)
- b.** The employer is required to report all industrial injuries to their surety (work comp carrier) within ten (10) days. (3-31-22)
- c.** The employer is responsible for reporting all in-patient hospitalization, amputation, or the loss of an eye for any employee to the Occupational Safety and Health Administration (OSHA) and the Division of ~~Building Safety~~ Occupational and Professional Licenses Logging Safety Program within twenty-four (24) hours. (3-31-22)()
- 09. Fatalities.** All work fatalities should be immediately reported to the County Sheriff or Coroner, the Division of ~~Building Safety~~ Occupational and Professional Licenses Logging Safety Program, and OSHA in accordance with the Code of Federal Regulations, 29 CFR 1904.39. (3-31-22)()
- 10. Management of Personnel.** (3-31-22)
- a.** The recruiting and placing of a new worker on the job is a major responsibility of the management organization. Every effort should be made to match the qualifications of the worker with the demands of the job. (3-31-22)
- b.** The furnishing of first aid services, treatment of injuries, and inspection of working conditions is the employer's responsibility. (3-31-22)
- 11. Assignment of Responsibilities.** (3-31-22)
- a.** Supervisors, ~~purchasing agents, engineering personnel, safety directors, personnel directors,~~ and employees have responsibilities to ensure conformance with the organization's fire and safety objectives in every operation. (3-31-22)()
- b.** Management must accept the normal obligation for preventing accidents. ~~In many operations it is a practice to delegate the actual administration of the safety program to a person who can devote full time to it. In smaller operations, safety administration may be a collateral duty carried on in conjunction with some other duties. The safety director should function in a staff capacity. Because the safety director operates in a consultant capacity, ultimate responsibility for accident prevention rests with the workers' supervisor, the foreman and line production organization. There is no doubt that the foreman is the key person in every safety program. Safety is not something separate and apart from production. If the job is done right, it is done safely.~~ (3-31-22)()
- c.** Safety is an integral and important part of production, just as is quality and quantity, or meeting production schedules. (3-31-22)
- ~~**d.** All these duties are foreman or project superintendent duties, and the most important part of the~~

~~line production organization. This obligation cannot be delegated. As the person in charge of production, the foreman is responsible for the safety of his people. This fact must be made clear and should be included in the statement of policy.~~ (3-31-22)

~~**12. Safety Director (Part Time or Full Time):**~~ (3-31-22)

~~**a.** Makes periodic inspections of the operations and suggests corrective measures to eliminate hazards.~~ (3-31-22)

~~**b.** Should assist in investigation of all types of accidents to determine the cause, so as to prevent like accidents in the future.~~ (3-31-22)

~~**c.** Aids foremen in developing safe work procedures and practices and assists foremen in training their workers.~~ (3-31-22)

~~**d.** Keeps accident records and makes periodic reports to the proper official on the progress being made. Reports and records; report of accidents; accident investigation report; performance report (injury frequency and severity); accident cost report; safety committee reports; report on degree of corrective action taken on different recommendations.~~ (3-31-22)

~~**e.** Conducts or initiates safety training courses including first aid and fire fighting, where appropriate, and any other course inherent to the job (truck driver courses, power saw courses, welding, grinder usage, fork lift truck operator, etc.).~~ (3-31-22)

~~**f.** Establishes safety committee.~~ (3-31-22)

~~**g.** Ensures that recommendations are promptly and properly implemented.~~ (3-31-22)

~~**h.** Checks specifications for new machines, processes and equipment for compliance with existing safety standards, laws and safety requirements, and shall have such equipment fully inspected before it is placed in use.~~ (3-31-22)

~~**i.** He shall assist the safety committee in developing agendas for their meetings.~~ (3-31-22)

~~**13. Foreman Responsibilities.** It is widely accepted that the foreman is the key man in attaining proper work habits in any operation. It is the obligation of management to give the most careful attention to the selection, education, and training of foremen and train them in the proper way to train employees in correct and safe work methods to attain the best production in the safest way.~~ (3-31-22)

~~**142. First Aid Training.** It shall be the responsibility of management to ~~arrange to have~~ ensure all supervisors and employees ~~take a full course in first aid training. It is required that supervisory personnel shall take an approved first aid course, and~~ have a current first aid card. (3-31-22)()~~

~~**153. Injury Record and Reporting System.**~~ (3-31-22)

~~**a.** If an employer had ten (10) or fewer employees at all times during the last calendar year, it does not need to keep OSHA injury and illness records unless OSHA or the Bureau of Labor Statistics (BLS) informs the employer in writing that it must keep records under OSHA regulations. However, as required by such regulations, all employers covered by the OSH Act must report to OSHA and the Division of ~~Building Safety~~ Occupational and Professional Licenses Logging Safety Program any workplace incident that results in a fatality or the hospitalization, the amputation of a limb, or the loss of an eye for any employee.~~ (3-31-22)()

~~**b.** For those employers subject to the injury and illness recording requirements under OSHA, the employer shall establish in its main Idaho office an injury record and reporting system which is consistent with reporting, record, and statistical requirements of the Occupational Safety and Health Administration (OSHA).~~ (3-31-22)

c. Injury frequency rates shall be calculated annually commencing the first of January each year. These rates shall be kept on file in the office of the employer for at least four (4) years after the date of entry thereof, and shall be made available to the Division of Building Safety, upon request. (3-31-22)()

~~d. The injury frequency rate shall be the number of lost time injuries to all employees per one million (1,000,000) man hours of exposure. The frequency rate is computed by multiplying the number of lost time injuries by one million (1,000,000) (the standard of measurement) and dividing the product by the total number of man hours worked during the period. The formula is expressed as follows: Frequency equals the number of lost time injuries times one million (1,000,000) total man hours of exposure. (3-31-22)~~

~~ed. A lost time injury shall be the term applied to any injury, arising out of, and in the course of employment which makes it impossible for the injured person to return to an established regular job at the beginning of the next regular shift following the shift during which the injury occurred, or some future shift. (3-31-22)~~

~~fe. Man hours of exposure shall be the total number of man hours actually worked by all personnel in the industrial unit during the period for which the rate is being computed. (3-31-22)~~

164. Training and Education. (3-31-22)

a. Training and education includes: (3-31-22)

i. Establishment of effective job training methods and safety education. (3-31-22)

ii. First aid courses, proper work signals and job hazard warnings. (3-31-22)

iii. Pamphlets, bulletin boards, safety meetings, posters, etc. (3-31-22)

b. The employer shall establish an adequate job training and safety education program. The relationship of safety to job quality and modern quantity production methods should be clearly understood. Good work production is governed by careful planning and accurate control of all phases of the operation. Accidents are the result of inadequate planning of faulty operation. (3-31-22)

c. Safety must be made an essential and integral part of every operation and integrated into the activity if the most successful quantity production is to be attained. ~~The soundness of this statement has been proven many times by comparing the accident cost with the day by day curve of production. (3-31-22)()~~

d. It is the responsibility of management to train employees in all phases of the work they are assigned. The worker training should begin at the time of employment with a careful presentation of the general safety information the employee must have to work on and in logging and ~~lumbering or woods working~~ operations. When the worker is placed on the job, the worker must be given detailed training on proper work methods for accomplishment of the job. ~~The correct way is the safe way. Telling is not training. (3-31-22)()~~

~~e. People learn to do things primarily through action. The employee's job training should be given using the five (5) step job training method: (3-31-22)~~

~~i. Tell the employee; (3-31-22)~~

~~ii. Show the employee; (3-31-22)~~

~~iii. Have the employee do it; (3-31-22)~~

~~iv. Correct until the employee does it right; and (3-31-22)~~

~~v. Supervise to see that the employee keeps doing it right. (3-31-22)~~

~~fe. Education and promotion are a supplemental means of reducing injuries. This device employs any number of methods to accomplish results. A good program may use but will not overemphasize emotional appeal to~~

~~the workers using such devices as scholarships, stamps, posters, safety meetings, contests, and awards.~~ It is management's responsibility to integrate education and training program and balance its effectiveness to employee training. Unsafe acts or unsafe work practices are the result of failure to train workers in safe work procedures. In establishing or operating a safe and quality work program, an appraisal of unsafe work procedures and poor quality of work is called for, and job training methods initiated to correct these practices. (3-31-22)()

175. Employer, ~~and~~ Employee, ~~and~~ Labor Representative Cooperation. (3-31-22)

~~a.~~ The workers have a responsibility to obey the units safety rules, smoking rules, report unsafe conditions, to serve on the different safety committees, perform their work in a safe way, and to help fellow workers by showing them how to do their job safely. (3-31-22)()

~~b.~~ ~~Many safety programs fail because the worker has not been made to feel that it is their program, or that they can contribute as well as benefit from the program. It often fails because it lacks employee participation and interest. The fact that employees are given the opportunity to participate and to contribute to the program not only opens a reservoir of valuable information on practical experience in accident prevention, it also gives the employee a feeling of being a part of the organization.~~ (3-31-22)

~~c.~~ ~~The committee on safety should be made up of personnel selected from management and workers. Management members are supervisors and worker members may be selected by the union or by the employees.~~ (3-31-22)

~~d.~~ ~~The labor unions should help develop a safe behavior among the workers.~~ (3-31-22)

186. Maintenance of Safe Working Conditions. (3-31-22)

a. The employer shall provide a safe and healthy work area in which to work, including purchasing of safe equipment and tools and provide proper maintenance of such equipment. (3-31-22)

b. Since a safe and healthy place to work is the very foundation of the safety program, the mechanical, physical, and environmental conditions should be given first consideration. (3-31-22)

~~c.~~ ~~For almost every accident there are typically two (2) contributing causes—an unsafe condition and an unsafe act. A safe and healthy place to work will diminish or eliminate the first cause, the unsafe condition; but unless the unsafe act is corrected, accidents will continue to occur. Unsafe acts may stem from a number of factors, such as improper selection of the worker for the job, lack of job training, physical or mental limitations or inadequate supervision. When a safety program is first established or a new project with a new crew is started, this may necessitate a thorough periodic survey of the entire operation to determine hazards.~~ (3-31-22)

197. Remedial Measures of Corrective Action. (3-31-22)

a. The employees shall support and correct the findings of job analysis, inspections, accident investigations, employee suggestions, etc. (3-31-22)

b. The assumption of responsibility for fire and accident prevention by management carries with it the continuing responsibility to assess the progress being made on the program, and where progress is unsatisfactory to take necessary steps to bring about improvement. Inspection alone is primarily a means of finding and eliminating fire and physical hazards, particularly in connection with enforcement. All educational ~~and promotional~~ activities should be integrated with inspection activities, and should be based on the specific needs of the establishment or operation. Inspection and educational ~~and promotional~~ programs are sometimes looked upon as entirely unrelated activities rather than a single integrated program. (3-31-22)()

c. None of the foregoing activities are of value unless followed by effective corrective action. The responsible executive within top management must establish specific procedures to effect proper and complete corrective action in each area for problems that occur. In well-managed organizations the areas of responsibility are clearly defined. ~~The activities are well coordinated, supervision is adequate and proactive, employees' safety behavior is excellent, and policies are well defined to permit smooth organization. This is not difficult; the corrective~~

~~measures are applied as part of the day to day operating procedure.~~

~~(3-31-22)()~~

2018. Safety Order By the Administrator. In accordance with the provisions of section 67-2601A (3), Idaho Code, the administrator may issue a safety order requiring an owner, operator or other party responsible for ensuring safe logging operations to immediately stop work or close any work site, or portion thereof where an inspection has revealed evidence of a condition that poses an immediate threat of bodily harm or loss of life to any person. The process governing the issuance of a safety order is contained herein this section. (3-31-22)

a. Upon receiving information evidencing an unsafe condition or unsafe practices at any logging workplace or place of employment, the administrator shall inspect or cause to be inspected such place of employment unless such information was obtained by previous inspection of the Division. If upon such inspection the administrator determines that an unsafe condition or unsafe practice exists which may pose an immediate threat of bodily harm or loss of life, the administrator may issue a safety order requiring the employer to immediately stop work or close any work site, or portion thereof. Any safety order issued by the administrator shall specifically identify the unsafe condition or practice, as well as the safety risks associated therewith. Written notice of such order shall immediately be provided by the administrator to the owner or operator of the business, or any other appropriate party responsible for abating the unsafe condition or practice. (3-31-22)

b. Upon receiving such notice from the administrator, such owner, operator or responsible party shall immediately comply with such, and may notify the administrator in writing of their objection to the notice and request to contest such at a hearing. The owner, operator or responsible party shall provide the administrator with information, documentation, or other evidence supporting their objection. (3-31-22)

c. Upon receipt and review of such information from the owner, operator, or responsible party, the administrator may reconsider the matter and issue appropriate findings to the owner, operator, or party responsible for abating the unsafe condition or practice, including rescission of the order. (3-31-22)

d. If after review it is the determination of the administrator to keep the safety order in place, he shall so notify the owner, operator or responsible party and designate a time and place for hearing, and may assign the matter for hearing by a hearing officer. The hearing shall be afforded at such time not to exceed five (5) business days from the date the administrator received the notice of objection unless additional time is requested by the owner, operator, or responsible party. The hearing proceedings shall be governed by the provisions of Title 67, Chapter 52, Idaho Code. The hearing officer shall issue an order in accordance with Section 67-5243, Idaho Code. The hearing may be held at such location or by such means as the administrator determines most convenient for the parties. (3-31-22)

e. The safety order shall remain in effect, and shall not be rescinded until the administrator has determined that the safety threat has been corrected or removed from the workplace. Upon verification by the administrator that the safety threat has been corrected or otherwise removed from the worksite, the administrator shall immediately notify the owner, operator or responsible party of the rescission of the safety order. Any party aggrieved by the final order of the administrator shall be entitled to judicial review thereof in accordance with the provisions of Title 67, Chapter 52, Idaho Code. (3-31-22)

f. Any person who knowingly fails or refuses to comply with the provisions of a safety order issued by the administrator shall be guilty of a misdemeanor, and the administrator may seek criminal prosecution of any such violations. (3-31-22)

653. -- 700. (RESERVED)

~~**SUBCHAPTER O — CABLE-ASSISTED LOGGING SYSTEMS**~~
~~**(Rules 701 — 999)**~~

701. MACHINE SAFETY REQUIREMENTS.

01. Harvesting Machines. Harvesting machines for cable-assisted logging operations shall comply with each of the following: (3-31-22)

- ~~a.~~ ~~Meet the protective structure requirements set forth in IDAPA 07.08.10.010;~~ (3-31-22)
- ~~b.a.~~ Be equipped with a certified roll-over protective structure (ROPS); and (3-31-22)
- ~~b.b.~~ Be equipped with at least a four (4)-point restraint system approved by the machine's manufacturer or a qualified person. (3-31-22)

02. System Approval. The cable-assisted logging system shall be designed and constructed for cable-assisted logging applications by the original equipment manufacturer, or approved for cable-assisted logging applications in writing by the original equipment manufacturer or a registered professional engineer. (3-31-22)

03. Operation of System. The cable-assisted logging system shall be operated, inspected and maintained in accordance with the manufacturer's recommendations, specifications and limitations, or if no manufacturer's recommendations exist, then by the recommendations of a registered professional engineer. Cable-assisted logging systems not in safe operating condition shall be removed from service until repaired by a qualified person. (3-31-22)

702. TETHERED LINE SAFETY REQUIREMENTS.

01. Inspection of Tethered Lines. Tether lines shall be new wire rope and have a rated breaking load according to the cable-assisted logging system manufacturer's recommendations and specifications. At a minimum, a competent person shall inspect the entire length of each tether line and drum connection prior to the startup of each cable-assisted logging operation, ~~and thereafter on a monthly basis.~~ A competent person shall also inspect the first fifty (50) feet of each tether line daily prior to use. These inspections shall be documented in writing. Tether lines must not be spliced and shall be replaced if there is evidence of chafing, sawing, crushing, kinking, crystallization, bird-caging, significant corrosion, heat damage, other damage that has weakened the tether line. (3-31-22)()

02. Line Tension. The tether line tension and machine travel shall be synchronized or automatically held constant to ensure tether line tension is continuously provided and does not exceed thirty-three percent (33%) of the rope's rated breaking load. The operator shall have an immediate and self-reliant or automated method to identify tether line tension, winch rotation and speed, amount of line on and off the drum, and anchor movement. (3-31-22)

03. Tether Line Components. All tether line assembly components shall be rated with a greater safe working load than the wire rope. Tether line attachment points and hitches shall be engineered and certified to maintain a safety factor equal to or greater than the recommendations and specifications of the cable-assisted logging system manufacturer. Inspections of tether line assembly components (except drum connection as specified in Subsection 011.01 of these rules), hitches, winches, machines, and anchors shall be performed daily by a competent person prior to use. (3-31-22)

703. OPERATION AND SAFETY REQUIREMENTS.

01. General. Cable-assisted logging systems shall be operated, inspected and maintained in accordance with the manufacturer's recommendations and specifications. Inspections shall be documented in writing. (3-31-22)

02. Planning. All cable-assisted logging operations shall be planned by the operator and a competent person who has the knowledge, training or experience to identify existing and predictable hazards in the work site surroundings or working conditions, which could be hazardous to employees, and has been authorized by the employer or employer representative to eliminate the hazard or take corrective action therefrom. Items to consider during site-specific planning must include, but are not limited to, the following: (3-31-22)

- a. Experience of the operator; (3-31-22)
- b. Limitations of the equipment; (3-31-22)
- c. Soil and terrain conditions; (3-31-22)

- d. Environmental conditions; (3-31-22)
 - e. Poor visibility and lighting conditions; (3-31-22)
 - f. Weather conditions; (3-31-22)
 - g. Direction of travel; (3-31-22)
 - h. Requirements for turning the machine on slopes; (3-31-22)
 - i. Load sizes; (3-31-22)
 - j. Method and adequacy of anchorage; and (3-31-22)
 - k. Any other condition that may adversely affect operations. (3-31-22)
- 03. Operator Qualifications.** Cable-assisted logging operators shall have documented training or adequate experience to safely operate the equipment on slopes. (3-31-22)
- ~~**04. Operating Plans.** A cable assisted logging system operator shall have a written operating plan on site detailing the following: (3-31-22)~~
- ~~a. Tether line replacement criteria; (3-31-22)~~
 - ~~b. Cable size, type and breaking strength, and method of assurance that tensions do not exceed one-third (1/3) of breaking strength to maintain a 3:1 safety factor or greater; (3-31-22)~~
 - ~~c. Inspection and maintenance to be performed on tether lines, end connectors, machines and winches; (3-31-22)~~
 - ~~d. How the operator will use tension limiting controls to maintain desired tension; (3-31-22)~~
 - ~~e. How the winch cable tension and machine travel are synchronized; (3-31-22)~~
 - ~~f. How the operator will monitor machine slope, anchor movement, winch tension, amount of line on and off drum, and winch function; (3-31-22)~~
 - ~~g. How the tether line attachment points to the harvesting machine are engineered to withstand potential loads; (3-31-22)~~
 - ~~h. All harvesting machine modifications that allow it to operate on steep slopes, including operator harness or restraint system; (3-31-22)~~
 - ~~i. How pre operations planning and daily assessments will identify hazards for soil and terrain conditions; (3-31-22)~~
 - ~~j. How the operator will determine if soil and terrain conditions are unsafe during operations; (3-31-22)~~
 - ~~k. How operators will report new hazards identified during operations; (3-31-22)~~
 - ~~l. Operating guidance given to the operator; and (3-31-22)~~
 - ~~m. How emergencies are handled by the system, including line failure, machine failure, winch failure, anchor failure, winch machine movement or anchor movement, and whether there is an emergency stop for the operator or at the anchor. (3-31-22)~~

054. Unsafe Conditions. The employer shall establish and use procedures for operators to report unsafe conditions to a supervisor or qualified person. Such conditions must be corrected prior to resuming cable-assisted logging operations. Procedures shall also include steps to take in the event of equipment breakdown and for upset conditions. (3-31-22)

065. Warning Signs. Effective signage shall be affixed to all remotely operated equipment warning employees and others that lines and machines may start, stop, or move without warning. All employees working in close proximity of cable-assisted logging operations must receive training that enables them to recognize the potential hazards involved and to maintain safe distances. (3-31-22)

704. -- 999. (RESERVED)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.39.90 – RULES GOVERNING THE DAMAGE PREVENTION BOARD

DOCKET NO. 24-3990-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 67-9404, 67-9405, 67- 9406, 67-9409, and 67-9413, Idaho Code, as well as Title 55, Chapter 22, Idaho Code, and 55-2203, 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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Damage Prevention Board is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. 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 August 7, 2024, Idaho Administrative Bulletin, [Vol. 24-8, pages 175-182](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: N/A.

The proposed amendments to the rules do not impose any new or increased 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 negative fiscal impact on the state General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the pending rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

DATED this 4th day of October, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.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. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, as well as Title 55, Chapter 22, Idaho Code, and 55-2203, Idaho Code.

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

<p>24.39.90 – Rules of the Damage Prevention Board</p>
<p>Monday, August 12, 2024 – 9:00 a.m. (MT) Division of Occupational and Professional Licenses Soldier Room, Chinden Campus Building 4 11341 W. Chinden Blvd. Boise, ID 83714</p> <p>Virtual Meeting Link</p> <p>Telephone and web conferencing information will be posted on https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/.</p>

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Damage Prevention Board is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

N/A. The proposed amendments to the rules do not impose any new or increased fees.

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

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-3990-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 5, 2024, Idaho Administrative Bulletin [Vol. 24-6, p.82-83](#).

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. No materials have been incorporated by reference into the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2024.

DATED this 5th day of July, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 24-3990-2401

24.39.90 – RULES GOVERNING THE DAMAGE PREVENTION BOARD

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Sections 55-2203, 67-2604, 67-2614, 67-9409, and 67-9406, Idaho Code. (3-28-23)()

001. SCOPE.

These rules are applicable to underground facilities, and facility owners as established in Title 55, Chapter 22, Idaho Code. (3-28-23)

002. -- 099. (RESERVED)

100. 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. ()

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. ()

101. -- 299. (RESERVED)

300. DISCIPLINE.

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. 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, as outlined in the board-approved complaint form. ()

02. 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. ()

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. ()

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. ()

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. ()

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. ()

03. 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. ()

04. 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. ()

05. Violations of Title 55, Chapter 22, Idaho Code. The following acts subject a person to civil penalties: ()

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. ()

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. ()

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. ()

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. ()

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. ()

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. ()

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. ()

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. ()

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. ()

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. ()

k. Failure to Participate. Any person, as defined in Section 55-2206 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. ()

l. False Notification of Emergency. Any person who provides notice of an emergency excavation when there is not an emergency as defined in Idaho Code Section 55-2202(5). ()

06. 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. ()

07. 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. ()

301. -- 349. (RESERVED)

~~002~~**350. ADMINISTRATIVE APPEALS.**

01. 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. (3-28-23)

~~002~~**351. -- 006399.(RESERVED)**

~~007~~**400. FUNDING OF BOARD ACTIVITIES FEES.**

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: (3-28-23)()

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. (3-28-23)

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. (3-28-23)

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. (3-28-23)

~~008.~~ **AUDIT OF ONE NUMBER SERVICE RECORDS.**

04. 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~~ Occupational and Professional Licenses. (3-28-23)()

~~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. (3-28-23)

~~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. (3-28-23)

~~03. Accessibility of Training and Educational Programs.~~ The Division maintains and periodically

updates a database of approved educational materials and training programs. (3-28-23)

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. 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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)

~~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. (3-28-23)~~

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. (3-28-23)~~

~~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. (3-28-23)~~

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. (3-28-23)~~

~~01. Violations of Title 55, Chapter 22, Idaho Code. The following acts subject a person to civil penalties: (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~e. 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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**l.** False Notification of Emergency. Any person who provides notice of an emergency excavation when there is not an emergency as defined in Idaho Code Section 55-2202(5). (3-28-23)~~

~~**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. (3-28-23)~~

~~**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. (3-28-23)~~

~~**021401.** -- 999. (RESERVED)~~