

BUSINESS COMMITTEE
ADMINISTRATIVE RULES REVIEW
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2013 Legislative Session

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IDAPA 01 - BOARD OF ACCOUNTANCY

01.01.01 - IDAHO ACCOUNTANCY RULES

DOCKET NO. 01-0101-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-204(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 as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 22 and 23](#).

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 Kent A. Absec, Executive Director, at 208-334-2490.

DATED this 13th day of November, 2012.

Kent A. Absec, Executive Director
Idaho State Board of Accountancy
3101 W. Main Street, Suite 210
P.O. Box 83820
Boise, Idaho 83720-0002
Phone: 208-334-2490
Fax: 208-334-2615
Email: kent.absec@isba.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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

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

Amend Rule 004.02 to update the incorporation by reference from 2002 to 2012 for the "Statements on Standards for Continuing Professional Education." The new "Statements on Standards for Continuing Professional Education" was jointly approved by the American Institute of Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy (NASBA) in 2012.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes are simple in nature and were discussed with the Idaho Society of Certified Public Accountants and licensing candidates without objections.

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:

Rule 004.02 is incorporated by reference under Rule 004. These materials are being incorporated by reference so that licensees, Continuing Professional Education program developers and program sponsors are aware of the standards that they will be held to in the area of Continuing Professional Education. With these standards jointly approved by the AICPA and NASBA, our licensees and the general public can benefit from knowing that strict guidelines have been established around what constitutes a quality learning experience.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact the undersigned.

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 24, 2012.

DATED this 28th, Day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 01-0101-1201

004. INCORPORATION BY REFERENCE (RULE 004).

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

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

02. CPE Standards. ~~2002~~ 2012 Statements on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA. ~~(4-2-03)~~()

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

04. NASBA Model Code of Conduct. 2008 Model Code of Conduct issued by the National Association of State Boards of Accountancy. (5-8-09)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.03 - RULES GOVERNING PERMIT FEE SCHEDULE

DOCKET NO. 07-0203-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2605, 54-2606 and 54-2626, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 77 through 80](#).

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

There will be minimal negative fiscal impact on the Division of Building Safety, and a minimal positive affect on contractors and home owners as the Division will no longer be automatically required to charge a re-inspection fee to remove a “red tag” from a jobsite.

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

DATED this 29th day of October, 2012.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2605, 54-2606 and 54-2626, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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

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

Current rule requires the DBS to assess a re-inspection fee for any trips to a job site necessary to remove a “red tag” from a plumbing installation. However, some trips to re-inspect an initially unacceptable plumbing installation should be included in the price of the original permit. A re-inspection fee should only be assessed by the DBS for the other instances enumerated in this subsection of the rule, which already includes the ability to impose a re-inspection fee for repeat trips necessary as a result of the submitter improperly responding to a correction notice. The amendments to this rule would eliminate the mandatory requirement that the Division impose a re-inspection fee for each trip to remove a correction notice (“red tag”) from a plumbing installation.

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

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

There will be minimal negative fiscal impact on the Division of Building Safety, and a minimal positive affect on contractors and home owners as the Division will no longer be automatically required to charge a re-inspection fee to remove a “red tag” from a jobsite.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rulemaking reflects an administrative change whereby the Division will eliminate any mandatory requirement to charge a re-inspection fee solely to remove a notice of unacceptable plumbing (“red tag”). The rulemaking was addressed by the Board at four separate meetings over the past year, several conducted prior to the passage of

2012 SB 1366 related to negotiated rulemaking. This proposal did not receive any opposition at any such meetings.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 24th day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0203-1201

011. FEE SCHEDULE.

01. New Residential - Single Family Dwelling. Includes all buildings with plumbing systems being constructed on each property.

New Residential - Single-Family Dwelling		
Up to 1,500 Square feet of living space	-	\$130
1,501 to 2,500 Square feet of living space	-	\$195
2,501 to 3,500 Square feet of living space	-	\$260
3,501 to 4,500 Square feet of living space	-	\$325
Over 4,500 Square feet of living space	-	\$325 plus \$65 for each additional 1,000 square feet or portion thereof

(4-9-09)

02. New Residential - Multi-Family Dwellings.

New Residential - Multi-Family Dwellings		
Duplex Apartment	-	\$260

Three (3) or more Multi-family Units - \$130 per Building plus \$65 per Unit

(3-26-08)

03. Existing Residential. Sixty-five dollars (\$65) plus ten dollars (\$10) for each additional plumbing fixture being installed up to a maximum of the corresponding square footage of the residential building. (3-26-08)

04. Other Installations Including Industrial and Commercial. The inspection fees listed in this Section shall apply to any and all plumbing installations not specifically mentioned elsewhere in this schedule. The plumbing cost shall be the cost to the owner of all labor charges and all other costs that are incurred in order to complete the installation of any and all plumbing equipment and materials installed as part of the plumbing system. (3-26-08)

a. Plumbing system cost not exceeding ten thousand dollars (\$10,000): sixty dollars (\$60) plus two percent (2%) of the total plumbing system cost. (3-26-08)

b. Plumbing system cost over ten thousand dollars (\$10,000), but not exceeding one hundred thousand dollars (\$100,000): two hundred sixty dollars (\$260) plus one percent (1%) of the plumbing system cost exceeding ten thousand dollars (\$10,000). (3-26-08)

c. Plumbing system cost over one hundred thousand dollars (\$100,000): one thousand one hundred sixty dollars (\$1,160) plus one half of one percent (.5%) of the plumbing system cost exceeding one hundred thousand dollars (\$100,000). (3-26-08)

d. All fees calculated under this schedule must be calculated on the total plumbing cost of the job and this figure must be shown on the permit. (3-26-08)

05. Requested Inspections. A fee of sixty-five dollars (\$65) per hour or portion of an hour shall apply, with the requesting party responsible for all costs incurred in out-of-state travel. (3-26-08)

06. Additional Fees and Re-Inspection Fees. A fee of sixty-five dollars (\$65) per hour or portion of an hour shall apply to: (3-26-08)

a. Trips to inspect when: (3-26-08)

i. The submitter of the permit has given notice to the Division of Building Safety that the work is ready for inspection and it is not; or (3-26-08)

ii. If the submitter has not accurately identified the work location; or (3-26-08)

iii. If the inspector cannot gain access to make the inspection. (3-26-08)

b. Trips to inspect corrections required by the inspector as a result of the submitter improperly responding to a corrective notice. (3-26-08)

~~**e.** Each trip necessary to remove a red tag from the jobsite. (3-26-08)~~

d.c. When corrections have not been made in the prescribed time, unless an extension has been requested and granted. (3-26-08)

ed. No permit - failure to post or send permit and required fee in the prescribed time will, at the discretion of the Division, result in the assessment of a double fee. (3-26-08)

07. Plan Checking Fee. Sixty-five dollars (\$65) per hour or portion thereof. (3-26-08)

08. Mobile Homes. Each connection or re-connection to existing sewer and water stubs shall be sixty-five dollars (\$65). (3-26-08)

09. Mobile Home Parks and/or RV Parks. Sewer and water service lines in mobile home parks and RV parks shall be classed as commercial. NOTE: This does not include or permit the connection of the mobile home. See Subsection 011.04, of these rules. (7-11-89)

10. Residential. Lawn sprinklers shall be sixty-five dollars (\$65). (3-26-08)

11. Water Conditioners. Water conditioners shall be sixty-five dollars (\$65). (3-26-08)

12. Sewer and Water Permit Fees. Residential sewer and water service line fees shall apply to all new construction, installations, and replacements. (3-30-06)

a. Sewer and water permit fees for excavators or property owners shall be assessed at the same rate as residential or nonresidential based on the classification of the construction project. (3-30-06)

b. Residential sewer and water service lines installation permit fees will be assessed at the rate of thirty-eight dollars (\$38) each or sixty-five dollars (\$65) for a combination of both if only one (1) inspection is required and the work is done by the same individual. (3-26-08)

13. Non-Residential. Lawn sprinkler permit fees shall be calculated at the same rate as industrial and commercial plumbing installations. (3-26-08)

14. Nonresidential Sewer and Water Service Lines Permit Fees. If installed by someone other than the plumbing contractor of the building, fees shall be calculated at the same rate as industrial and commercial plumbing installations. (3-26-08)

15. Technical Service Fee. Sixty-five dollars (\$65) per hour for each hour or portion thereof. (3-26-08)

16. Multipurpose Residential Fire Sprinkler and Domestic Water Supply System Fee. The inspection fee for the installation of the fire sprinkler portion of a multipurpose residential fire sprinkler and domestic water supply system in a one (1)-family or two (2)-family residence shall be a minimum of sixty-five dollars (\$65) or four dollars (\$4) per fire sprinkler head, whichever is greater. (3-26-08)

17. Gray Water Systems. Gray water systems in residential occupancies shall be permitted at one hundred thirty dollars (\$130). (4-9-09)

18. Reclaimed Water Systems. Reclaimed water systems shall be calculated at the same rate as industrial and commercial installations in the same manner provided for in Subsection 011.04 of these rules. (4-9-09)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.04 - RULES GOVERNING PLUMBING SAFETY INSPECTIONS

DOCKET NO. 07-0204-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2605 and 54-2625, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 81 and 82](#).

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

The fiscal impact to the Division will be positive because of the reduction in the number of differently colored tags purchased and the ability to use the same tags across multiple trades. There will be a small negative fiscal impact on the Division of Building Safety as it will not be able or required to charge a re-inspection fee merely to remove a red tag (correction notice). However, that is mitigated by the fact that DBS frequently does not charge it anyway. It will have a positive fiscal impact on contractors and home owners performing their own installations as they will no longer be required to pay a re-inspection fee merely for the DBS to remove a red tag. Such re-inspection fees are specifically addressed in another chapter of IDAPA rules.

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

DATED this 29th day of October, 2012.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.

P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2605 and 54-2625, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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:

DBS is required to notify the permit holder when a plumbing installation fails to comply with the applicable standards by attaching an appropriate inspection tag on each plumbing installation that is unacceptable. However, the Division no longer utilizes differently colored inspection tags and identifies unacceptable plumbing installations by issuing and attaching a "Notice of Correction." Additionally, this amendment reflects that a re-inspection fee may not necessarily be appropriate when a Correction Notice is issued. The rulemaking would eliminate the reference to a red inspection tag, and clarify that unacceptable plumbing installations will result in the issuance of a "Notice of Correction." It also clarifies that re-inspection fees will only be assessed in accordance with IDAPA 07.02.03, "Rules Governing Permit Fee Schedule" which specifically address such re-inspection fees.

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

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

The fiscal impact to the Division will be positive because of the reduction in the number of differently colored tags purchased and the ability to use the same tags across multiple trades. There will be a small negative fiscal impact on the Division of Building Safety as it will not be able or required to charge a re-inspection fee merely to remove a red tag (correction notice). However, that is mitigated by the fact that DBS frequently does not charge it anyway. It will have a positive fiscal impact on contractors and home owners performing their own installations as they will no longer be required to pay a re-inspection fee merely for the DBS to remove a red tag. Such re-inspection fees are specifically addressed in another chapter of IDAPA rules.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rulemaking reflects an administrative change whereby the Division will eliminate any reference to an inspection tag color and simply identify unacceptable plumbing by issuing a “Notice of Correction.” The rulemaking was addressed by the Board at four separate meetings over the past year, several conducted prior to the passage of 2012 SB 1366 related to negotiated rulemaking. This proposal did not receive any opposition at any such meetings.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 24th day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0204-1201

011. REQUIRED INSPECTIONS.

01. Ground Work Inspection Tags. For ground work to be covered, with acceptance by the inspector. A tag will be attached in a prominent location, preferably to a vertical riser. (5-8-09)

02. Rough-In Inspection Tags. For rough-in, prior to covering or concealing with acceptance by the inspector. A tag will be placed in a prominent location. (5-8-09)

03. Final Inspection Tags. For final, attached when the plumbing as specified on the permit is complete and conforms to the requirements of the code. (5-8-09)

04. Inspection Tags for Unacceptable Plumbing. ~~Red: Not acceptable, and Correction Notice~~ - when attached to the plumbing system means that the plumbing is not acceptable and that corrections will be required. Also, a reinspection and reinspection fee for such installations shall be required in accordance with IDAPA 07.02.03, “Rules Governing Permit Fee Schedule.” Subsection 011.06. ~~(6-4-76)()~~

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.02.06 - RULES CONCERNING UNIFORM PLUMBING CODE
DOCKET NO. 07-0206-1201
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2601 and 54-2605, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 83 through 95](#).

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

The proposed amendments will have a positive impact on both plumbing and general contractors due to the fact that, in most cases, the changes allow for fewer fixtures on commercial jobs, resulting in a cost reduction to the contractors and owners. The negative impact is minimal and would only apply to certain conditions in which the plumbing contractor would need to install one extra fitting. The proposed changes have no fiscal impact on the Division of Building Safety dedicated fund or the state of Idaho general fund.

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

DATED this 29th day of October, 2012.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.

P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2601 and 54-2605, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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:

Previously, the Idaho Plumbing Board, in collaboration with plumbing industry stakeholders, adopted the Idaho State Plumbing Code (ISPC) in lieu of the Uniform Plumbing Code (UPC) as the legal standard by which all plumbing installations performed in the state must be installed. The current rules provide specific amendments to various provisions of the 2003 UPC that the Plumbing Board has adopted over the years. The amendments in this rulemaking update several of those code amendments. Furthermore, the ISPC is modeled after the 2009 UPC and additional amendment to it is desired by the Board and stakeholders. The Board is statutorily required to make amendments to the ISPC utilizing the negotiated rulemaking process. Since the ISPC is modeled after the UPC, many of the existing amendments in the rule will remain in effect; however, additional amendments by the Board are desired and included, as well as amendments generated through the negotiated rulemaking process.

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

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

The proposed amendments will have a positive impact on both plumbing and general contractors due to the fact that, in most cases, the changes allow for fewer fixtures on commercial jobs, resulting in a cost reduction to the contractors and owners. The negative impact is minimal and would only apply to certain conditions in which the plumbing contractor would need to install one extra fitting. The proposed changes have no fiscal impact on the Division of Building Safety dedicated fund or the state of Idaho general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 2, 2012 Idaho Administrative Bulletin, [Vol. 12-5, page 51](#).

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 Idaho State Plumbing Code, Appendices and Amendments are being incorporated by reference into this rule because, previously, the Idaho Plumbing Board, in collaboration with plumbing industry stakeholders, adopted the Idaho State Plumbing Code (ISPC) in lieu of the Uniform Plumbing Code (UPC) as the legal standard by which all plumbing installations performed in the state must be installed.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 28th day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0206-1201

IDAPA 07
TITLE 02
CHAPTER 06

07.02.06 - RULES CONCERNING ~~UNIFORM~~ IDAHO STATE PLUMBING CODE

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 07.02.06, "Rules Concerning Uniform Idaho State Plumbing Code," Division of Building Safety. ()

02. Scope. These rules prescribe the use of the Idaho State Uniform Plumbing Code. (~~2-26-93~~)()

(BREAK IN CONTINUITY OF SECTIONS)

011. ADOPTION AND INCORPORATION BY REFERENCE OF THE ~~2003 UNIFORM IDAHO STATE~~ PLUMBING CODE.

The ~~2003 Uniform Idaho State~~ Plumbing Code published in 2012, including Appendices “A, B, D, E, ~~G, H, I, J,~~ and L,” (herein ~~U.P.C. ISPC~~) is adopted and incorporated by reference with ~~the following~~ amendments as prescribed by the Idaho Plumbing Board and contained in this Section. The Idaho State Plumbing Code is modeled after the 2009 Uniform Plumbing Code (UPC). The 2003 Uniform Idaho State Plumbing Code is available at the Division of Building Safety; offices located at 1090 E. Watertower St., Suite 150, Meridian, Idaho 83642; ~~and at the Division of Building Safety~~; 1250 Ironwood Dr., Ste. 220, Coeur d’Alene, Idaho 83814; and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. It may also be accessed electronically online at <http://dbs.idaho.gov/>. (4-6-05)()

01. Section 218. Delete definition of “Plumbing System.” Incorporate definition of “Plumbing System” as set forth in Section 54-2604, Idaho Code. (3-15-02)

02. Section 315.4. Add: Where unsuitable or soft material is encountered, excavate to a depth not less than two (2) pipe diameters below the pipe and replace with select backfill. Such backfill shall be sand, fine gravel, or stone and shall provide lateral support for the pipe. Where rock is encountered, the trench shall be excavated to a minimum depth of six (6) inches (152 mm) below the bottom of the pipe. Sand shall be added to provide uniform bedding and support for the pipe. The pipe shall not rest on any rock at any point, including joints. ()

023. Section 316.1.6 Solvent Cement Plastic Pipe Joints. PVC DWV may be joined by the use of one-step solvent cement listed or labeled per U.P.C. Section 301.1.1. (4-6-05)()

~~**03. Section 402.3.1. Nonwater Urinals.** Where nonwater urinals are installed they shall be listed and comply with the applicable standards referenced in Table 14-1. Nonwater urinals shall have a barrier liquid sealant to maintain a trap seal. Nonwater urinals shall permit the unimpeded flow of waste through the urinal to the sanitary drainage system. Nonwater urinals shall be cleaned and maintained in accordance with the manufacturer’s instructions. Where nonwater urinals are installed they shall have a water distribution line rough in to the urinal location to allow for the installation of an approved backflow prevention device in the event of a retrofit.~~ (5-8-09)

04. Section 402.4 Metered Faucets. Self-closing or self-closing metering faucets may be installed on lavatories intended to serve the transient public, such as those in, but not limited to, service stations, train stations, airports, restaurants, convention halls, and rest stops. Installed metered faucets shall deliver a maximum of zero point two six (0.26) gallons (one point zero (1.0) liter) of water per use. ()

05. Section 412.0 Minimum Number of Required Fixtures. Delete Section 412.0 and all subsections contained thereunder and replace with the following: ()

a. 412.1 Fixture Count. Plumbing fixtures shall be provided for the type of building occupancy and in the minimum number shown in Table 412.1. The total occupant load and

occupancy classification shall be determined in accordance with the building code. Occupancy classification not shown in Table 412.1 shall be considered separately by the Authority Having Jurisdiction. The minimum number of fixtures shall be calculated at fifty percent (50%) male and fifty percent (50%) female based on the total occupant load. Where information submitted indicates a difference in distribution of the sexes such information shall be used in order to determine the number of fixtures for each sex. Once the occupancy load and occupancy are determined, Table 412.1 shall be applied to determine the minimum number of plumbing fixtures required. Where applying the fixture ratios in Table 412.1 results in fractional numbers, such numbers shall be rounded to the next whole number. For multiple occupancies, fractional numbers shall be first summed and then rounded to the next whole number. ()

b. 412.1.1 Family or Assisted-Use Toilet and Bathing Facilities. Where family or assisted-use toilet and bathing rooms are required, in applicable building regulations, the facilities shall be installed in accordance with those regulations. ()

c. 412.2 Separate Facilities. Separate toilet facilities shall be provided for each sex, with the following exceptions: ()

i. Residential installations. ()

ii. In occupancies with a total occupant load of ten (10) or less, including customers and employees, one (1) toilet facility, designed for use by no more than one (1) person at a time, shall be permitted for use by both sexes. ()

iii. In business and mercantile occupancies with a total occupant load of fifty (50) or less including customers and employees, one (1) toilet facility, designed for use by no more than one (1) person at a time, shall be permitted for use by both sexes. ()

d. 412.3 Fixture Requirements for Special Occupancies. Additional fixtures shall be permitted to be required where unusual environmental conditions or referenced activities are encountered. In food preparation areas, fixture requirements shall be permitted to be dictated by health codes. ()

e. 412.4 Toilet Facilities Serving Employees and Customers. Each building or structure shall be provided with toilet facilities for employees and customers. Requirements for customers and employees shall be permitted to be met with a single set of restrooms accessible to both groups. Required toilet facilities for employees and customers located in shopping malls or centers shall be permitted to be met by providing a centrally located toilet facility accessible to several stores. The maximum travel distance from entry to any store to the toilet facility shall not exceed three hundred (300) feet (91.4 m). Required toilet facilities for employees and customers in other than shopping malls or centers shall have a maximum travel distance not to exceed five hundred (500) feet (152.4 m). ()

f. 412.4.1 Access to Toilet Facilities. In multi-story buildings, accessibility to the required toilet facilities shall not exceed one (1) vertical story. Access to the required toilet facilities for customers shall not pass through areas designated as for employee use only such as kitchens, food preparation areas, storage rooms, closets, or similar spaces. Toilet facilities accessible only to private offices shall not be counted to determine compliance with this section.

()

g. 412.5 Toilet Facilities for Workers. Toilet facilities shall be provided and maintained in a sanitary condition for the use of workers during construction. ()

06. Table 4-1 Minimum Plumbing Facilities. Delete Table 4-1 and replace with the following Table 412.1:

TABLE 412.1
MINIMUM PLUMBING FACILITIES¹

Each building shall be provided with sanitary facilities, including provisions for persons with disabilities as prescribed by the Department Having Jurisdiction. Table 412.1 applies to new buildings, additions to a building, and changes of occupancy or type in an existing building resulting in increased occupant load.

TYPE OF OCCUPANCY ²	WATER CLOSETS (FIXTURES PER PERSON) ³		URINALS (FIXTURES PER PERSON)	LAVATORIES (FIXTURES PER PERSON)		BATHTUBS OR SHOWERS (FIXTURES PER PERSON)	DRINKING FOUNTAINS / FACILITIES (FIXTURES PER PERSON)	OTHER
	Male	Female	Male	Male	Female			
<u>A-1 Assembly occupancy (fixed or permanent seating)- theatres, concert halls and auditoriums</u>	<u>1: 1-100</u> <u>2: 101-200</u> <u>3: 201-400</u>	<u>1: 1-25</u> <u>2: 26-50</u> <u>3: 51-100</u> <u>4: 101-200</u> <u>6: 201-300</u> <u>8: 301-400</u>	<u>1: 1-200</u> <u>2: 201-300</u> <u>3: 301-400</u> <u>4: 401-600</u>	<u>1: 1-200</u> <u>2: 201-400</u> <u>3: 401-600</u> <u>4: 601-750</u>	<u>1: 1-100</u> <u>2: 101-200</u> <u>4: 201-300</u> <u>5: 301-500</u> <u>6: 501-750</u>		<u>1: 1-250</u> <u>2: 251-500</u> <u>3: 501-750</u>	<u>1 service sink or laundry tray</u>
	<u>Over 400, add 1 fixture for each additional 500 males and 1 fixture for each additional 125 females.</u>		<u>Over 600, add 1 fixture for each additional 300 males.</u>	<u>Over 750, add 1 fixture for each additional 250 males and 1 fixture for each additional 200 females.</u>			<u>Over 750, add 1 fixture for each additional 500 persons.</u>	

<u>TYPE OF OCCUPANCY</u> ²	<u>WATER CLOSETS (FIXTURES PER PERSON)</u> ³		<u>URINALS (FIXTURES PER PERSON)</u>	<u>LAVATORIES (FIXTURES PER PERSON)</u>		<u>BATHTUBS OR SHOWERS (FIXTURES PER PERSON)</u>	<u>DRINKING FOUNTAINS / FACILITIES (FIXTURES PER PERSON)</u>	<u>OTHER</u>
	<u>Male</u>	<u>Female</u>		<u>Male</u>	<u>Female</u>			
<u>A-2 Assembly occupancy- restaurants, pubs, lounges, night clubs and banquet halls</u>	<u>1: 1-50</u> <u>2: 51-150</u> <u>3: 151-300</u> <u>4: 301-400</u>	<u>1: 1-25</u> <u>2: 26-50</u> <u>3: 51-100</u> <u>4: 101-200</u> <u>6: 201-300</u> <u>8: 301-400</u>	<u>1: 1-200</u> <u>2: 201-300</u> <u>3: 301-400</u> <u>4: 401-600</u>	<u>1: 1-150</u> <u>2: 151-200</u> <u>3: 201-400</u>	<u>1: 1-150</u> <u>2: 151-200</u> <u>4: 201-400</u>		<u>1: 1-250</u> <u>2: 251-500</u> <u>3: 501-750</u>	<u>1 service sink or laundry tray.</u>
	<u>Over 400, add 1 fixture for each additional 250 males and 1 fixture for each 125 females.</u>		<u>Over 600, add 1 fixture for each additional 300 males.</u>	<u>Over 400 add 1 fixture for each additional 250 males and 1 fixture for each additional 200 females.</u>			<u>Over 750, add 1 fixture for each additional 500 persons.</u>	
<u>A-3 Assembly occupancy (typical without fixed or permanent seating)- arcades, places of worship, museums, libraries, lecture halls, gymnasiums (without spectator seating), indoor pools (without spectator seating)</u>	<u>1: 1-100</u> <u>2: 101-200</u> <u>3: 201-400</u>	<u>1: 1-25</u> <u>2: 26-50</u> <u>3: 51-100</u> <u>4: 101-200</u> <u>6: 201-300</u> <u>8: 301-400</u>	<u>1: 1-100</u> <u>2: 101-200</u> <u>3: 201-400</u> <u>4: 401-600</u>	<u>1: 1-200</u> <u>2: 201-400</u> <u>3: 401-600</u> <u>4: 601-750</u>	<u>1: 1-100</u> <u>2: 101-200</u> <u>4: 201-300</u> <u>5: 301-500</u> <u>6: 501-750</u>		<u>1: 1-250</u> <u>2: 251-500</u> <u>3: 501-750</u>	<u>1 service sink or laundry tray.</u>
	<u>Over 400 add 1 fixture for each additional 500 males and 1 fixture for each additional 125 females.</u>		<u>Over 600, add 1 fixture for each additional 300 males.</u>	<u>Over 750, add 1 fixture for each additional 250 males and 1 fixture for each additional 200 females.</u>			<u>Over 750, add 1 fixture for each additional 500 persons.</u>	

<u>TYPE OF OCCUPANCY</u> ²	<u>WATER CLOSETS (FIXTURES PER PERSON)</u> ³		<u>URINALS (FIXTURES PER PERSON)</u>	<u>LAVATORIES (FIXTURES PER PERSON)</u>		<u>BATHTUBS OR SHOWERS (FIXTURES PER PERSON)</u>	<u>DRINKING FOUNTAINS / FACILITIES (FIXTURES PER PERSON)</u>	<u>OTHER</u>
<u>A-4 Assembly occupancy (indoor activities or sporting events with spectator seating)- swimming pools, skating rinks, arenas and gymnasiums</u>	<u>Male</u> 1: 1-100 2: 101-200 3: 201-400	<u>Female</u> 1: 1-25 2: 26-50 3: 51-100 4: 101-200 6: 201-300 8: 301-400	<u>Male</u> 1: 1-100 2: 101-200 3: 201-400 4: 401-600	<u>Male</u> 1: 1-200 2: 201-400 3: 401-750	<u>Female</u> 1: 1-100 2: 101-200 4: 201-300 5: 301-500 6: 501-750		1: 1-250 2: 251-500 3: 501-750	<u>1 service sink or laundry tray</u>
<u>A-5 Assembly occupancy (outdoor activities or sporting events)- amusement parks, grandstands and stadiums</u>	<u>Male</u> 1: 1-100 2: 101-200 3: 201-400	<u>Female</u> 1: 1-25 2: 26-50 3: 51-100 4: 101-200 6: 201-300 8: 301-400	<u>Male</u> 1: 1-100 2: 101-200 3: 201-400 4: 401-600	<u>Male</u> 1: 1-200 2: 201-400 3: 401-750	<u>Female</u> 1: 1-100 2: 101-200 4: 201-300 5: 301-500 6: 501-750		1: 1-250 2: 251-500 3: 501-750	<u>1 service sink or laundry tray</u>
	<u>Over 400, add 1 fixture for each additional 500 males and 1 fixture for each additional 125 females.</u>		<u>Over 600, add 1 fixture for each additional 300 males.</u>	<u>Over 750, add 1 fixture for each additional 250 males and 1 fixture for each additional 200 females.</u>			<u>Over 750, add 1 fixture for each additional 500 persons.</u>	

<u>TYPE OF OCCUPANCY</u> ²	<u>WATER CLOSETS (FIXTURES PER PERSON)</u> ³		<u>URINALS (FIXTURES PER PERSON)</u>	<u>LAVATORIES (FIXTURES PER PERSON)</u>		<u>BATHTUBS OR SHOWERS (FIXTURES PER PERSON)</u>	<u>DRINKING FOUNTAINS / FACILITIES (FIXTURES PER PERSON)</u>	<u>OTHER</u>	
	Male	Female		Male	Female				
<u>B Business occupancy (office, professional or service type transactions)- banks, vet clinics, hospitals, car wash, banks, beauty salons, ambulatory health care facilities, laundries and dry cleaning, educational institutions (above high school), or training facilities not located within school, post offices and printing shops</u>	Male 1: 1-50 2: 51-100 3: 101-200 4: 201-400	Female 1: 1-15 2: 16-30 3: 31-50 4: 51-100 8: 101-200 11: 201-400	Male 1: 1-100 2: 101-200 3: 201-400 4: 401-600	Male 1: 1-75 2: 76-150 3: 151-200 4: 201-300 5: 301-400	Female 1: 1-50 2: 51-100 3: 101-150 4: 151-200 5: 201-300 6: 301-400		1 per 150	1 service sink or laundry tray	
	Over 400, add 1 fixture for each additional 500 males and 1 fixture for each additional 150 females.		Over 600, add 1 fixture for each additional 300 males.	Over 400, add 1 fixture for each additional 250 males and 1 fixture for each additional 200 females.					
<u>E Educational occupancy-private or public schools</u>	Male 1 per 50	Female 1 per 30	Male 1 per 100	Male 1 per 40	Female 1 per 40		1 per 150	1 service sink or laundry tray	
<u>F1, F2 Factory or Industrial occupancy-fabricating or assembly work</u>	Male 1: 1-50 2: 51-75 3: 76-100	Female 1: 1-50 2: 51-75 3: 76-100		Male 1: 1-50 2: 51-75 3: 76-100	Female 1: 1-50 2: 51-75 3: 76-100	1 shower for each 15 persons exposed to excessive heat or to skin contamination with poisonous, infectious or irritating material.	1: 1-250 2: 251-500 3: 501-750	Over 750 add 1 fixture for each additional 500 persons.	1 service sink or laundry tray
	Over 100 add 1 fixture for each additional 40 persons.			Over 100 add 1 fixture for each additional 40 persons.					
<u>I-1 Institutional occupancy (houses more than 16 persons on a 24-hour basis)- substance abuse centers, assisted living, group homes, or residential facilities</u>	Male 1 per 15	Female 1 per 15		Male 1 per 15	Female 1 per 15	1 per 8	1 per 150	1 service sink or laundry tray	

TYPE OF OCCUPANCY²		WATER CLOSETS (FIXTURES PER PERSON)³		URINALS (FIXTURES PER PERSON)	LAVATORIES (FIXTURES PER PERSON)		BATHTUBS OR SHOWERS (FIXTURES PER PERSON)	DRINKING FOUNTAINS / FACILITIES (FIXTURES PER PERSON)	OTHER
I-2 Institutional occupancy- medical, psychiatric, surgical or nursing homes	Hospitals and nursing homes- individual rooms and ward room	1 per room			1 per room		1 per room		
		1 per 8 patients			1 per 10 patients		1 per 20 patients	1 per 150	
	Hospital Waiting or Visitor Rooms	1 per room			1 per room			1 per room	1 service sink or laundry tray
	Employee Use	Male 1: 1-15 2: 16-35 3: 36-55	Female 1: 1-15 3: 16-35 4: 36-55		Male 1 per 40	Female 1 per 40			
	Over 55, add 1 fixture for each additional 40 persons.								
I-3 Institutional occupancy (houses more than 5 people)	Prisons	1 per cell			1 per cell		1 per 20	1 per cell block/floor	
	Correctional facilities or juvenile center	1 per 8			1 per 10		1 per 8	1 per floor	1 service sink or laundry tray
	Employee Use	Male 1: 1-15 2: 16-35 3: 36-55	Female 1: 1-15 3: 16-35 4: 36-55		Male 1 per 40	Female 1 per 40		1 per 150	
	Over 55, add 1 fixture for each additional 40 persons.								
I-4 Institutional occupancy (any age that receives care for less than 24 hours)		Male 1: 1-15 2: 16-35 3: 36-55	Female 1: 1-15 3: 16-35 4: 36-55		Male 1 per 40	Female 1 per 40		1 per 150	1 service sink or laundry tray
	Over 55, add 1 fixture for each additional 40 persons.								

<u>TYPE OF OCCUPANCY</u> ²	<u>WATER CLOSETS (FIXTURES PER PERSON)</u> ³		<u>URINALS (FIXTURES PER PERSON)</u>	<u>LAVATORIES (FIXTURES PER PERSON)</u>		<u>BATHTUBS OR SHOWERS (FIXTURES PER PERSON)</u>	<u>DRINKING FOUNTAINS / FACILITIES (FIXTURES PER PERSON)</u>	<u>OTHER</u>
	<u>Male</u>	<u>Female</u>		<u>Male</u>	<u>Female</u>			
<u>M Mercantile occupancy (the sale of merchandise and accessible to the public)</u>	<u>1: 1-100</u>	<u>1: 1-100</u>	<u>0: 1-200</u>	<u>1: 1-200</u>	<u>1: 1-200</u>		<u>1: 1-250</u>	<u>1 service sink or laundry tray</u>
	<u>2: 101-200</u>	<u>2: 101-200</u>	<u>1: 201-400</u>	<u>2: 201-400</u>	<u>2: 201-400</u>		<u>2: 251-500</u>	
	<u>3: 201-400</u>	<u>4: 201-300</u>			<u>3: 301-400</u>		<u>3: 501-750</u>	
	<u>Over 400 add 1 fixture for each additional 500 males and 1 fixture for each 200 females.</u>		<u>Over 400 add 1 fixture for each additional 500 males.</u>	<u>Over 400 add 1 fixture for each additional 500 males and 1 fixture for each 400 females.</u>			<u>Over 750 add 1 fixture for each additional 500 persons.</u>	
<u>R-1 Residential occupancy (minimal stay)- hotels, motels, bed and breakfast homes</u>	<u>1 per sleeping room</u>			<u>1 per sleeping room</u>		<u>1 per sleeping room</u>		<u>1 service sink or laundry tray</u>

<u>TYPE OF OCCUPANCY</u> ²		<u>WATER CLOSETS (FIXTURES PER PERSON)</u> ³		<u>URINALS (FIXTURES PER PERSON)</u>	<u>LAVATORIES (FIXTURES PER PERSON)</u>		<u>BATHTUBS OR SHOWERS (FIXTURES PER PERSON)</u>	<u>DRINKING FOUNTAINS / FACILITIES (FIXTURES PER PERSON)</u>	<u>OTHER</u>
		<u>Male</u>	<u>Female</u>		<u>Male</u>	<u>Female</u>			
<u>R-2 Residential occupancy (long-term or permanent)</u>	<u>Dormitories</u>	<u>Male 1 per 10</u>	<u>Female 1 per 8</u>	<u>1 per 25</u>	<u>Male 1 per 12</u>	<u>Female 1 per 12</u>	<u>1 per 8</u>	<u>1 per 150</u>	<u>1 service sink or laundry tray</u>
		<u>Add 1 fixture for each additional 25 males and 1 fixture for each additional 20 females.</u>		<u>Over 150, add 1 fixture for each additional 50 males.</u>	<u>Add 1 fixture for each additional 20 males and 1 fixture for each additional 15 females.</u>				
	<u>Employee Use</u>	<u>Male 1: 1-15 2: 16-35 3: 36-55</u>	<u>Female 1: 1-15 3: 16-35 4: 36-55</u>			<u>Male 1 per 40</u>	<u>Female 1 per 40</u>		
	<u>Over 55, add 1 fixture for each additional 40 persons</u>								
	<u>Apartment house/unit</u>	<u>1 per apartment</u>			<u>1 per apartment</u>		<u>1 per apartment</u>		<u>1 kitchen sink per apartment . 1 laundry tray or 1 automatic clothes washer connection per unit or 1 laundry tray or 1 automatic clothes washer connection for each 12 units</u>
<u>R-3 Residential occupancy (long-term or permanent in nature) for more than 5 but does not exceed 16 occupants)</u>		<u>Male 1 per 10</u>	<u>Female 1 per 8</u>		<u>Male 1 per 12</u>	<u>Female 1 per 12</u>	<u>1 per 8</u>	<u>1 per 150</u>	<u>1 service sink or laundry tray</u>
		<u>Add 1 fixture for each additional 25 males and 1 fixture for each additional 20 females.</u>			<u>Add 1 fixture for each additional 20 males and 1 fixture for each additional 15 females.</u>				

<u>TYPE OF OCCUPANCY</u> ²	<u>WATER CLOSETS (FIXTURES PER PERSON)</u> ³	<u>URINALS (FIXTURES PER PERSON)</u>	<u>LAVATORIES (FIXTURES PER PERSON)</u>	<u>BATHTUBS OR SHOWERS (FIXTURES PER PERSON)</u>	<u>DRINKING FOUNTAINS / FACILITIES (FIXTURES PER PERSON)</u>	<u>OTHER</u>								
<u>R-3 Residential occupancy (one and two family dwellings)</u>	<u>1 per one and two family dwelling</u>		<u>1 per one and two family dwelling</u>	<u>1 per one and two family dwelling</u>		<u>1 kitchen sink and 1 automatic clothes washer connection per one and two family dwelling</u>								
<u>R-4 Residential occupancy (residential care or assisted living)</u>	<table border="1"> <tr> <td><u>Male</u> <u>1 per 10</u></td> <td><u>Female</u> <u>1 per 8</u></td> </tr> <tr> <td colspan="2"><u>Add 1 fixture for each additional 25 males and 1 fixture for each additional 20 females.</u></td> </tr> </table>	<u>Male</u> <u>1 per 10</u>	<u>Female</u> <u>1 per 8</u>	<u>Add 1 fixture for each additional 25 males and 1 fixture for each additional 20 females.</u>			<table border="1"> <tr> <td><u>Male</u> <u>1 per 12</u></td> <td><u>Female</u> <u>1 per 12</u></td> </tr> <tr> <td colspan="2"><u>Add 1 fixture for each additional 20 males and 1 fixture for each additional 15 females.</u></td> </tr> </table>	<u>Male</u> <u>1 per 12</u>	<u>Female</u> <u>1 per 12</u>	<u>Add 1 fixture for each additional 20 males and 1 fixture for each additional 15 females.</u>		<u>1 per 8</u>	<u>1 per 150</u>	<u>1 service sink or laundry tray</u>
<u>Male</u> <u>1 per 10</u>	<u>Female</u> <u>1 per 8</u>													
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<u>Add 1 fixture for each additional 20 males and 1 fixture for each additional 15 females.</u>														
<u>S-1, S-2 Storage occupancy-storage of goods, warehouse, aircraft hanger, food products, appliances</u>	<table border="1"> <tr> <td><u>Male</u> <u>1: 1-100</u> <u>2: 101-200</u> <u>3: 201-400</u></td> <td><u>Female</u> <u>1: 1-100</u> <u>2: 101-200</u> <u>3: 201-400</u></td> </tr> <tr> <td colspan="2"><u>Over 400, add 1 fixture for each additional 500 males and 1 fixture for each additional 150 females.</u></td> </tr> </table>	<u>Male</u> <u>1: 1-100</u> <u>2: 101-200</u> <u>3: 201-400</u>	<u>Female</u> <u>1: 1-100</u> <u>2: 101-200</u> <u>3: 201-400</u>	<u>Over 400, add 1 fixture for each additional 500 males and 1 fixture for each additional 150 females.</u>			<table border="1"> <tr> <td><u>Male</u> <u>1: 1-200</u> <u>2: 201-400</u> <u>3: 401-750</u></td> <td><u>Female</u> <u>1: 1-200</u> <u>2: 201-400</u> <u>3: 401-750</u></td> </tr> <tr> <td colspan="2"><u>Over 750, add 1 fixture for each additional 500 persons.</u></td> </tr> </table>	<u>Male</u> <u>1: 1-200</u> <u>2: 201-400</u> <u>3: 401-750</u>	<u>Female</u> <u>1: 1-200</u> <u>2: 201-400</u> <u>3: 401-750</u>	<u>Over 750, add 1 fixture for each additional 500 persons.</u>			<u>1: 1-250</u> <u>2: 251-500</u> <u>3: 501-750</u> <u>Over 750, add 1 fixture for each additional 500 persons.</u>	<u>1 service sink or laundry tray</u>
<u>Male</u> <u>1: 1-100</u> <u>2: 101-200</u> <u>3: 201-400</u>	<u>Female</u> <u>1: 1-100</u> <u>2: 101-200</u> <u>3: 201-400</u>													
<u>Over 400, add 1 fixture for each additional 500 males and 1 fixture for each additional 150 females.</u>														
<u>Male</u> <u>1: 1-200</u> <u>2: 201-400</u> <u>3: 401-750</u>	<u>Female</u> <u>1: 1-200</u> <u>2: 201-400</u> <u>3: 401-750</u>													
<u>Over 750, add 1 fixture for each additional 500 persons.</u>														

Notes:

- ¹ The figures shown are based upon one fixture being the minimum required for the number of persons indicated or any fraction thereof.
- ² A restaurant is defined as a business that sells food to be consumed on the premises.
 - a. The number of occupants for a drive-in restaurant shall be considered as equal to the number of parking stalls.
 - b. Hand-washing facilities shall be available in the kitchen for employees.
- ³ The total number of required water closets for females shall be not less than the total number of required water closets and urinals for males.

()

047. Section 42018.0. Pressure balance or thermostatic mixing valves are not required for high flow (over eight (8) g.p.m.) tub filler valves with hand shower sets attached.

(3-15-02)()

~~05.~~ ~~Section 421.0. Delete.~~ (4-6-05)

08. **Section 504.1 Inspection of Chimneys or Vents.** Add the following to the end of section 504.1: Water heating appliances using Category 3 or 4 exhaust venting shall be tested in its entirety with five (5) pounds of air for fifteen (15) minutes. Plastic vents shall be constructed using manufacturer's instructions. ()

09. **Section 505.1 Location.** Add the following paragraph at the end of section 505.1: (3) Water heaters shall not be located in a crawl space. ()

10. **Section 508.14 Installation in Residential Garages.** Replace 508.14 (1) with the following: Any plumbing appliance or appurtenance in residential garages and in adjacent spaces that open to the garage and are not part of the living space of a dwelling unit shall be installed so that burners, burner-ignition devices or other sources of ignition are located not less than eighteen (18) inches (450 mm) above the floor unless listed as flammable vapor ignition resistant. ()

11. **Section 603.4.16.5 Residential Sprinkler System.** Add the following to the end of section 603.4.16.5: and the requirements of the Authority Having Jurisdiction (AHJ). ()

~~06~~**12.** **Section 604.1. Materials.** Crosslinked Polyethylene (PEX) Tubing manufactured to ASTM – F876/F877 and tested, approved, and listed to ANSI/NSF 14 and 61, for potable water along with all applicable installation standards may be used for hot and cold water distribution systems within a building or cold water distribution systems outside of a building. Listed PE (polyethylene) water service and yard piping may be installed within a building (above ground and below ground) with one (1) joint, provided that only listed and approved metallic transition fittings shall be used. (4-6-05)

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

~~07~~**14.** **Section 609.4 Testing.** Testing. Deleting the phrase “Except for plastic piping,” at the beginning of the third sentence and add the following sentence at the end of the section: Plastic piping is to be tested in accordance with manufacturer's installation standards. (4-6-05)()

~~08~~**15.** **Section 609.10- Water ~~h~~Hammer.** Does not apply to residential construction. (7-1-98)()

~~09~~**16.** **Table 6-45 and Appendix Table A-2.** Change fixture unit loading value for both public and private for bathtub or combination bath/shower, and clothes washers to two (2) fixture units. (3-15-02)()

~~10~~**7.** **Section 610.2.** Add the following: All new one (1) and two (2) family residences built slab on grade or that will have a finished basement at the time of final inspection must have a pre-plumbed water softener loop. The kitchen sink must have one (1) hot soft line and one (1)

cold soft line and one (1) cold hard line. Exterior cold hose bibbs intended for irrigation purposes must be piped with hard water. (3-30-07)()

118. ~~Section 611.4.~~ **Table 6-8 Sizing of Residential Softeners.** Amend Footnote 3 to read: Over four (4) bathroom groups, softeners shall be sized according to the manufacturer's standards. (4-6-05)()

129. **Table 7-3 Drainage Fixture Unit Valves (DFU).** ~~Maximum unit loading and maximum length of drainage and vent piping. (EXCEPTION) The building drain and building sewer is not less than four (4) inches extending from its connection with the city or private sewer system and shall run full size to inside the foundation or building lines (ref: Section 717.0).~~ Change fixture unit loading value for clothes washers, domestic **for private** to two (2) fixture units. (3-15-02)()

1320. ~~Section 703.1—Underground Drainage and Vent Piping.~~ **Add the following at the end of section 703.1:** No portion of the drainage or vent system installed underground, underground under concrete or below a basement or cellar shall be less than two (2) inches in diameter. (3-15-02)()

1421. **Section 703.2 and 710.5. Add Exception.** In single family dwellings, one (1) fixture unit may be allowed for each gallon per minute of flow from a pump or a sump ejector. (3-15-02)

1522. **Section 704.2.** Two inch (2") and smaller double sanitary tees may be used for back to back or side by side fixture trap arms without increasing the barrel size. (4-6-05)

1623. **Section 704.3.** Delete. (5-3-03)

1724. **Table 7-5.** Change fixture unit loading value for one and a half (1 1/2) inch horizontal drainage to two (2) fixture units. (7-1-98)

25. **Section 707.0 Cleanouts.** **Add the following: A clean out shall be installed for double sanitary tees two (2) inches (50 mm) or less in diameter that receive the discharge from fixture connections. Exception in Section 707.4 shall not apply.** ()

1826. **Section 707.4 Cleanouts.** A full-sized accessible cleanout shall be installed in the vertical immediately above the floor or at the base of each waste or soil stack. A full-size cleanout extending to or above finished grade line shall be installed at the junction of the building drain and the building sewer (ref.: Section 719.1). Cleanouts shall be installed at fifty (50) foot intervals in horizontal drain lines two (2) inches or smaller. (3-15-02)

27. **Section 710.9.** **Add: Exception: One (1) pump shall be permitted for "public use" occupancies provided that such tank receives the discharge of not more than one (1) water closet and ten (10) fixture units.** ()

1928. **Section 712.1 Media.** In the first sentence, delete the phrase "except that plastic pipe shall not be tested with air." (4-6-05)()

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

30. Section 801.2.3. Add: Food preparation sinks, pot sinks, scullery sinks, dishwashing sinks, silverware sinks, commercial dishwashing machines, silverware-washing machines, steam kettles, potato peelers, ice cream dipper wells, and other similar equipment and fixtures must be indirectly connected to the drainage system by means of an air gap. The piping from the equipment to the receptor must not be smaller than the drain on the unit, but it must not be smaller than one (1) inch (twenty-five and four tenths (25.4) mm). (5-3-03)

31. Section 801.4. ~~Drains~~ Connections from Water Distribution System. Provisions must be made for the discharge of the water softener to terminate in an approved location. The drain line for a water softener must be three-fourths (3/4) inch minimum. A washer box with a dual outlet is an approved location as long as it is on the same floor or one (1) floor below the softener unit and the water softener drain line is a minimum three-fourths (3/4) inch. (~~3-30-07~~)()

32. Section 807.4. A domestic dishwashing machine may be installed without the use of an airgap if the drain hose is looped to the bottom side of the counter top and secured properly. (3-15-02)

33. Section 906.1. Delete the existing provision and replace with the following: (4-2-08)

a. Roof venting. When conventional roof venting is utilized, each vent pipe or stack shall extend through its flashing and shall terminate vertically not less than six (6) inches (one hundred fifty-two (152) mm) above the roof nor less than one (1) foot (three hundred five (305) mm) from any vertical surface. (4-2-08)

b. Sidewall venting. When sidewall venting is utilized, the vent shall extend flush with the eaves/gable end, shall turn down using a ninety (90) degree ell, and shall terminate as close to the roof peak as possible. The vent end must be properly screened. Sidewall venting is acceptable on new or remodel construction on cabins, log homes, and residential or commercial buildings. (4-2-08)

c. Sidewall venting must meet the intent of Section 906.2 of the ~~UP~~ISPC. (~~4-2-08~~)()

34. Section 908. Exception - Vertical Wet Venting. A horizontal wet vent may be created provided it is created in a vertical position and all other requirements of Section 908 of the ~~UP~~ISPC are met. (~~7-1-98~~)()

35. Section 909.0. Add: Parameters for the limited use of Air Admittance Valves (A.A.V.). (4-2-08)

a. An A.A.V. may be used only in residential buildings. (4-2-08)

- b.** In remodels, an A.A.V. may be used with island fixtures or remotely located sinks such as in bar, kitchen, or laundry tray locations. An A.A.V. shall not be used in bathroom groups. (4-2-08)
- c.** In new construction, an A.A.V. may be used on island fixture sinks. (4-2-08)
- d.** Each A.A.V. may be used to vent only one (1) floor. (4-2-08)
- e.** Each A.A.V. must be readily accessible. (4-2-08)
- f.** The cross-sectional area of venting must remain the same and must meet the largest required building drain. (4-2-08)
- g.** An A.A.V. shall only be installed in accordance with the manufacturer's installation standards as per ASSE 1051. (4-2-08)
- h.** An A.A.V. may not be used in an attic, crawl space, outside installation, or in connection with chemical or acid waste systems. (4-2-08)

36. **Section 1002.3.** Trap arms may not exceed one hundred eighty (180) degrees of horizontal turn without the use of a cleanout. (3-15-02)

37. **Section 1007.0 Trap Seal Protection.** Delete section 1007.0 and replace with the following: Floor drains or similar traps directly connected to the drainage system and subject to infrequent use shall be protected with a trap seal primer or other approved trap seal protection device, except where not deemed necessary for safety or sanitation by the Authority Having Jurisdiction. Trap seal primers shall be accessible for maintenance. ()

38. **Section 1016.1 Where Required.** Add the following to the end of section 1016.1: Floor drains installed in residential garages shall be permitted to use the interceptor as the fixture trap. ()

39. **1601.0 Gray Water Systems - General.** Add to this section the following paragraph: (G) Plumbing for a gray water system from any fixture up to, but not to include the exterior irrigation system tank shall be inspected by the Authority Having Jurisdiction. The Idaho Department of Environmental Quality (IDEQ) shall have jurisdiction to inspect and approve the installation of the exterior irrigation system tank and all piping therefrom to the point of disposal in accordance with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." Gray water system location and design criteria requirements related to irrigation and leaching shall be determined in accordance with the requirements as established by the IDEQ. ()

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, **Vol. 12-10, pages 96 through 99**.

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

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

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

DATED this 29th day of October, 2012.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.

P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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

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

Adoption of the 2012 editions of the International Building Code and International Existing Building Code was the result of negotiated rulemaking involving the building industry, local building officials, and other interested stakeholders. Amendment proposals submitted by local building officials through this process resulted in the Board's recognition that amending several provisions could save property owners significant expense without an adverse effect on health and safety. Specifically, that drinking fountains and service sinks should only be required in certain business occupancies with an occupancy load of 30 persons or more, as opposed to the existing provision of 15 persons. Additionally, adoption of the 2012 building code captures the most up to date building code provisions consistent with recent amendments to accessibility standards in commercial facilities and places of public accommodation in accordance with the ADA. This rulemaking would result in the adoption of the 2012 International Building Code (IBC) and 2012 International Existing Building Code (IEBC) as the law in Idaho. Further amendments to the 2012 IBC would require drinking fountains and service sinks only in business occupancies with an occupancy load of more than 30 persons except for restaurants and mercantile establishments.

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

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 7, 2012 Idaho Administrative Bulletin, **Vol. 12-3, page 23**, and in the June 6, 2012 Idaho Administrative Bulletin, **Vol. 12-6, pages 15 and 16**.

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

Adoption of the International Building Code, 2012 Edition, with amendments; and adoption of the International Existing Building Code 2012 Edition.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 28th day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0301-1201

004. ADOPTION AND INCORPORATION BY REFERENCE.

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

**01. International Building Code. 2009~~12~~ Edition- with the following amendments:
(3-29-10)()**

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

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

()

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

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

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

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

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

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

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

(3-29-10)

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

g. Delete the exception contained under IRC section R313.1 -- Townhouse automatic

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

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

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

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

03. International Existing Building Code. 2009~~12~~ Edition. (~~3-29-10~~)()

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

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

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

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

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

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

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

TABLE 402.6
LOG HOME PRESCRIPTIVE THERMAL ENVELOPE REQUIREMENTS BY
COMPONENT

For SI: 1 foot = 304.8 mm.

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

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

(4-7-11)

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

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-1202

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 100 through 103](#).

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:

Approval of the amendments will result in negligible decreases in permit fees due to reductions in the cost of construction, but the changes will significantly reduce the cost of construction which benefits the facility owner. No impact to the general fund.

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

DATED this 29th day of October, 2012.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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

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

Amendment proposals submitted by the public and local building officials through the negotiated rulemaking process resulted in the Board's recognition that amending several provisions could save property owners significant expense without an adverse effect on health and safety. Although this rulemaking amends several provisions of these codes for this purpose, it maintains the 2009 Residential Code and 2009 Energy Code as the law in Idaho. Specifically, this amendment prevents the requirement of carbon monoxide alarms within an existing residential dwelling merely because work is being performed on the exterior of the dwelling, or to other unrelated systems. It also provides energy cost savings in the area of fireplaces. Amendments prevent carbon monoxide alarms from being necessarily required in an existing dwelling unit merely upon the purchase of a permit for work involving the exterior of the dwelling, electrical work, or alteration or repairs of non-combustion plumbing or mechanical work. Additionally, amendment will require new wood-burning fireplaces to have tight-fitting flue dampers as opposed to gasketed doors; a much more workable solution recognized in the 2012 edition of the code.

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

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

Approval of the amendments will result in negligible decreases in permit fees due to reductions in the cost of construction, but the changes will significantly reduce the cost of construction which benefits the facility owner. No impact to the general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 7, 2012 Idaho Administrative Bulletin, **Vol. 12-3, page 23**, and in the June 6, 2012 Idaho Administrative Bulletin, **Vol. 12-6, pages 15 and 16**.

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:

Amendments to the International Residential Code, 2009 Edition; and amendments to the International Energy Conservation Code, 2009 Edition.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 29th day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0301-1202

004. ADOPTION AND INCORPORATION BY REFERENCE.

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

- 01. International Building Code.** 2009 Edition. (3-29-10)
- 02. International Residential Code.** 2009 Edition: with the following amendments:
(3-29-10)()
 - a.** Delete the exception contained under IRC section R101.2 - Scope. (4-7-11)
 - b.** Delete item No. 2 contained under the "Building" subsection of IRC section

R105.2 - Work exempt from permit, and replace with the following: Fences not over six (6) feet (one thousand, eight hundred twenty-nine (1,829) mm) high may be exempted from the requirement for a building permit in the absence of any other applicable land use regulations governing the installation, height, type or other aspect. (4-7-11)

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

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

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

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

(3-29-10)

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

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

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

i. Add the following to IRC section R315.2 - Where required in existing dwellings: Exceptions: 1. Work involving the exterior surfaces of dwellings, such as, but not limited to, replacement of roofing or siding, or the addition or replacement of windows or doors, or the

addition of a porch or deck or electrical permits, are exempt from the requirements of this section; and 2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems are exempt from the requirements of this section. ()

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

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

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

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

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

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

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

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

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

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

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

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

TABLE 402.6
LOG HOME PRESCRIPTIVE THERMAL ENVELOPE REQUIREMENTS BY
COMPONENT

For SI: 1 foot = 304.8 mm.

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

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

(4-7-11)

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

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.05.01 - RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

DOCKET NO. 07-0501-1202

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1907 and 54-1910(4)(e), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2012 Idaho Administrative Bulletin, [Vol. 12-9, pages 27 through 29](#).

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

No financial impact to the Division or applicants for licensure is expected.

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

DATED this 27th day of September, 2012.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1907 and 54-1910(4)(e), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2012.

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:

As part of the application for a public works contractor's license, an applicant must submit an annual financial statement, among other items. The current rule requires the applicant to submit a financial statement that details the financial condition of the applicant. However, the language contained in the rule requires only that the statement was issued within the 12 months prior to submission of the application. Recently, the Division has received statements issued within the past year that reflect financial data significantly more than a year out-of-date. This change requires that the period of time covered by the financial statement ended within the last 12 months prior to submission of the application. Timely financial data plays a prominent role in determining the qualifications of a Public Works Contractor. The rulemaking would clarify that the annual financial statement required with the application for a public works contractor's license covers a period of time ending no more than 12 months prior to the date of submission of the application.

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

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

No financial impact to the Division or applicants for licensure is expected.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature. Current financial information plays a critical role in review of a license application, and the original rule was formulated to address this. The new verbiage simply addresses an unintended administrative loophole that has been exploited by some applicants. The rulemaking amendment has been discussed at three separate Public Works Contractor Licensing Board meetings during 2012. All affected parties

(public entities and licensees) have voiced support for the change.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 9th day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0501-1202

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

01. Application Documentation. To obtain a license, the applicant shall submit to the administrator, on such forms as the administrator shall prescribe, accompanied by the required fee for the class of license applied for, a written, notarized application for such license. All of the information submitted by the applicant shall specifically pertain to work that is similar in scope and value to that for which licensure is being requested or which is being requested in a petition to change or add types of construction. The information contained in such application forms shall include: (3-20-04)

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

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

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

d. An annual financial statement, as herein defined, that *was issued covers a period of time ending* no more than twelve (12) months prior to the date of submission of the application, indicating compliance with such financial requirements as the Board may prescribe by rule. The applicant's financial statement may be supplemented with: *(3-30-07)()*

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

(3-30-07)

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

(3-30-07)

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

(5-8-09)

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

(3-20-04)

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

(4-11-06)

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

(4-11-06)

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

(3-20-04)

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

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

IDAPA 07 - DIVISION OF BUILDING SAFETY

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

DOCKET NO. 07-0701-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 108 through 110](#).

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

No impact on the general or dedicated funds is expected. Some additional costs to installers will result.

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

DATED this 29th day of October, 2012.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 1-877-810-2840

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

EFFECTIVE DATE: The effective date of the temporary rule is **September 1, 2012**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-5001 and 54-5005(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Both DBS and local jurisdictions have encountered installations where the plastic pipe used to vent gas appliances was improperly connected, potentially allowing the release of carbon monoxide into a building. This change requires the contractor to test the piping, assuring that joints and connections are properly made. This rulemaking requires all plastic pipe within a dwelling used for venting flue gases to be tested at five (5) psi for fifteen (15) minutes.

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

A significant health and safety concern can potentially result where the plastic pipe used to vent gas appliances is improperly connected, potentially allowing the release of carbon monoxide into a building. HVAC enforcement jurisdictions have encountered such installations with sufficient frequency to be of concern.

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

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

No impact on the general or dedicated funds is expected. Some additional costs to installers will result.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 2, 2012 Idaho Administrative Bulletin, [Vol. 12-5, page 52](#).

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

Amendment to the International Fuel Gas Code, 2009 Edition; and Amendment to Part V (Mechanical) and Part VI (Fuel Gas) of the International Residential Code for One- and Two-Family Dwellings, 2009 Edition is necessary to prevent the potential release of carbon monoxide into a building.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 21st day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0701-1201

005. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL FUEL GAS CODE, 2009 EDITION.

01. International Fuel Gas Code. The 2009 Edition, including appendixes “A, B, C, and D,” (herein IFGC) is adopted and incorporated by reference with the following amendments: (4-7-11)

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

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

c. All references to the International Code Council Electrical Code (ICC EC) shall be

construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. (4-11-06)

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

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

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

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

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

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

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

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

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

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

a. Where differences occur between the IRC and Title 54, Chapter 50, Idaho Code, and IDAPA 07, Title 07, Chapter 01, the provisions in Idaho Code and IDAPA rules shall apply.

(4-7-11)

b. All references to the International Plumbing Code (IPC) shall be construed as referring to the Uniform Plumbing Code (UPC) as adopted and amended by the Idaho State Plumbing Board. (4-7-11)

c. All references to the International Code Council Electrical Code (ICC EC) shall be construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. (4-7-11)

d. Section M1401.3. Sizing requirements shall be as established by the authority having jurisdiction. (4-7-11)

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

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

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

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

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

IDAPA 07 - DIVISION OF BUILDING SAFETY

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

DOCKET NO. 07-0701-1202

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 111 through 114](#).

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

No impact on the general fund or the dedicated HVAC Board fund is expected. Positive impact on stakeholders is expected by allowing the agency to consider and potentially approve appliances that are not listed; this is particularly applicable to antique stoves. Carbon monoxide detectors are currently required by the portion of the International Residential Code (IRC) enforced by building inspectors; consequently, a negligible fiscal impact on property owners is expected.

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

DATED this 29th day of October, 2012.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.

P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 1-877-810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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

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

Currently the provisions of the International Residential Code adopted by the HVAC Board require appliances to be listed. This change provides a procedure for approval of unlisted appliances and is especially useful when dealing with restored antique stoves. The change requiring carbon monoxide detectors will assure that detectors are installed in areas where there is no local building code enforcement program. This rulemaking incorporates important sections of the IRC into the authority of the DBS and HVAC Board. It allows the DBS to accept the use of alternative materials, designs, or methods of construction if it complies with the intent of the code and is at least equivalent to the requirements prescribed by the code. It also allows the DBS to require tests of installation to ensure compliance with the code whenever there is insufficient evidence of such or to substantiate requests for alternative methods or materials. Finally, it requires the installation of carbon monoxide alarms in dwelling units.

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

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

No impact on the general fund or the dedicated HVAC Board fund is expected. Positive impact on stakeholders is expected by allowing the agency to consider and potentially approve appliances that are not listed; this is particularly applicable to antique stoves. Carbon monoxide detectors are currently required by the portion of the International Residential Code (IRC) enforced by building inspectors; consequently, a negligible fiscal impact on property owners is expected.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 2, 2012 Idaho Administrative Bulletin, [Vol. 12-5, page 52](#).

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

Amendment to Part V (Mechanical) and Part VI (Fuel Gas) of the International Residential Code for One- and Two-Family Dwellings, 2009 Edition, is necessary to provide a procedure for approval of unlisted appliances which is especially useful when dealing with restored antique stoves. The change requiring carbon monoxide detectors will assure that detectors are installed in areas where there is no local building code enforcement program.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 28th day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0701-1202

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

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

a. Where differences occur between the IRC and Title 54, Chapter 50, Idaho Code, and IDAPA 07, Title 07, Chapter 01, the provisions in Idaho Code and IDAPA rules shall apply. (4-7-11)

b. All references to the International Plumbing Code (IPC) shall be construed as referring to the Uniform Plumbing Code (UPC) as adopted and amended by the Idaho State Plumbing Board. (4-7-11)

c. All references to the International Code Council Electrical Code (ICC EC) shall be construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. (4-7-11)

d. Add the following as section M1201.3 and section G2402.4 (201.4): Alternative materials, design and methods of construction equipment. The provisions of this part of the code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the authority having jurisdiction finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code. Compliance with the specific performance-based provisions of this part of the code in lieu of specific requirements of this code shall also be permitted as an alternate. ()

e. Add the following as section M1201.3.1 and section G2402.4.1 (201.4.1): Tests. Whenever there is insufficient evidence of compliance with the provisions of this part of the code, or evidence that a material or method does not conform to the requirements of this part of the code, or in order to substantiate claims for alternative materials or methods, the authority having jurisdiction shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the authority having jurisdiction shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the authority having jurisdiction for the period required for retention of public records. ()

f. Add the following as section M1203.1: Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages. ()

g. Add the following as section M1203.2: Where required in existing dwellings. Where work requiring a permit occurs in existing dwellings that have attached garages or in existing dwellings within which fuel-fired appliances exist, carbon monoxide alarms shall be provided in accordance with Subsection 006.01.f. of these rules. ()

h. Add the following as section M1203.3: Alarm requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions. ()

di. Section M1401.3. Sizing requirements shall be as established by the authority having jurisdiction. (4-7-11)

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

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

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

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

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

The principal place of business of the Division of Building Safety, HVAC ~~Bureau~~ Program is located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is: Division of Building Safety, HVAC ~~Bureau~~ Program, 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The office telephone number is (208) 334-6180 and the facsimile number is (208) 855-0768. (~~4-11-06~~)()

(BREAK IN CONTINUITY OF SECTIONS)

012. DEFINITIONS.

01. Administrator. The administrator of the Idaho Division of Building Safety. (3-16-04)

02. Board. The Idaho Heating, Ventilation, and Air Conditioning (HVAC) Board. (3-16-04)

~~**03. Bureau.** The Idaho Division of Building Safety, Heating, Ventilation, and Air Conditioning Bureau. (3-16-04)~~

043. Division. The Idaho Division of Building Safety. (3-16-04)

054. Additional Definitions. Terms defined in Section 54-5003, Idaho Code, will have the same meaning when utilized in these rules. (3-16-04)

065. Rules. IDAPA 07.07.01, "Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety." (3-16-04)

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

10.01.01 - RULES OF PROCEDURE

DOCKET NO. 10-0101-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

House Bill No. 374 of the 2012 session of the Idaho Legislature restricts the assignment to examination for initial licensing or certification to Idaho residents with some exceptions, but residency is not defined in the statute. This rule defines that status.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the May 2, 2012 Idaho Administrative Bulletin, [Vol. 12-5, pages 53 through 55](#).

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

There will be no impact on either the General Fund of the State of Idaho or the Dedicated Fund of the Board.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact David L. Curtis, P.E. at (208) 373-7210.

DATED this 7th day of June, 2012.

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

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

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2012**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

Tuesday, May 15, 2012 - 10:00 a.m. MDST

**1510 E. Watertower St., Suite 110
Meridian, Idaho 83642**

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

House Bill No. 374 of the 2012 session of the Idaho Legislature restricts the assignment to examination for initial licensing or certification to Idaho residents with some exceptions, but Idaho residency is not defined. The Temporary Rule is needed to define residency at the time the law goes into effect, July 1, 2012.

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

House Bill No. 374 of the 2012 session of the Idaho Legislature restricts the assignment to examination for initial licensing or certification to Idaho residents with some exceptions, but Idaho residency is not defined. The Temporary Rule is needed to define residency at the time the law goes into effect, July 1, 2012.

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

There is no fee or charge associated with this temporary and proposed rule.

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

There will be no impact on either the General Fund of the State of Idaho or the Dedicated Fund of the Board.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need to have the rule in effect on the effective date of House Bill No. 374 of the 2012 session of the Idaho Legislature.

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

No materials cited are incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact David L. Curtis, P.E. at (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 23, 2012.

DATED this 5th day of April, 2012.

THE FOLLOWING TEXT OF DOCKET NO. 10-0101-1201

016. APPLICATION FOR LICENSURE OR CERTIFICATION.

01. Forms. Application forms for licensure as a professional engineer, or professional land surveyor, certification as an engineer intern, land surveyor intern or certificates of authorization to practice or offer to practice engineering or land surveying by a business entity may be obtained from the office of the Executive Director of the Board of Professional Engineers and Professional Land Surveyors. (5-8-09)

02. Completion of Application. Applications shall be made on such forms as may be prescribed by the Board. An application which 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 their 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. (5-8-09)

03. Dates of Submittal and Experience Cutoff Date. Examinations may be given in various formats and different submittal dates apply depending on the examination format. For examinations administered once or twice a year in the Spring and Fall, there is an examination assignment cutoff date that varies depending on the actual date of the examination. For examinations administered once or twice a year in the Spring and Fall, receipt of the applications after October 1 for the Spring exam or after July 1 for the Fall exam, may not provide sufficient time for required credentials to arrive at the Board office and be reviewed by the staff and/or Board prior to the exam assignment cutoff date. If this occurs, the applicant will be assigned to a later examination if all requirements are met. For examinations administered in a computer-based format during testing windows, there is no deadline for submittal of the application and the applicant, if assigned to the exam, will be allowed to test during the current testing window, if open on the date of the letter notifying of assignment, or during the next two (2) available testing windows. Failure to test during these periods will void the assignment. For examinations administered continuously in a computer-based format, there is no deadline for submittal of the application and the applicant, if assigned to the exam, will be allowed to test during a nine (9) month period beginning on the date of the letter notifying of assignment. Failure to test during this period will void the assignment. In order for the Board to be able to verify experience, only experience up to the date of submittal of the application will be considered as valid. Experience anticipated between the date of the application submittal and the date of the examination or issuance of license or certificate will not be considered. For students, the application filing date for the Fundamentals of Engineering and the Fundamentals of Surveying examination may be extended at the discretion of the Board. (3-29-12)

04. Residency Requirement. Except for military personnel stationed in the state of Idaho on military orders, and except for persons employed full-time in the state of Idaho, only Idaho residents of the state of Idaho and students enrolled at an Idaho university ~~will be assigned or college may qualify for assignment to examinations, unless otherwise approved by the Board for initial certification or licensure.~~ The board will accept as proof of Idaho residency a valid Idaho issued driver's license, a utility bill issued within the last sixty (60) days with an Idaho address in the name of the applicant, a statement from a financial institution issued within the last sixty (60) days to the applicant at an Idaho address, proof of current voter registration in Idaho, or current Idaho vehicle registration in the name of the applicant. The board will accept as proof of full-time employment in the state of Idaho an affidavit from the Idaho employer stating employment status. The Board will accept a valid student identification card as proof of enrollment at an Idaho university or college. (5-8-09)()

05. Confidentiality of References. All information received from references named by the applicant shall be held in confidence by the Board except as provided by Section 9-342, Idaho Code. Neither members of the Board nor relatives of the applicant by blood or marriage shall be named or accepted as references. (5-8-09)

06. Minimum Standards -- References. An applicant may not be admitted to the examination until satisfactory replies have been received from a minimum of five (5) of his references for professional engineers or land surveyors. It shall be the responsibility of each applicant to furnish their references with the forms prescribed by the Board. (3-29-12)

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

10.01.04 - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT

DOCKET NO. 10-0104-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

Docket No. 10-0104-1101 inadvertently exempted permanent non-residents of the United States from compliance with the Rules of Continuing Professional Development. This Rule amendment would eliminate that inadvertent exemption.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the May 2, 2012 Idaho Administrative Bulletin, [Vol. 12-5, pages 56 through 58](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact David L. Curtis, P.E. at (208) 373-7210.

DATED this 7th day of June, 2012.

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

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

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2012**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

Tuesday, May 15, 2012 - 10:00 a.m. MDST

**1510 E. Watertower St., Suite 110
Meridian, Idaho 83642**

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Docket No. 10-0104-1101 inadvertently exempted permanent non-residents of the United States from compliance with the Rules of Continuing Professional Development. This Rule amendment would eliminate that inadvertent exemption. The Temporary Rule is needed to require permanent non-residents of the United States to comply with the Rules of Continuing Professional Development just as residents and temporary non-residents of the United States must.

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

Docket No. 10-0104-1101 inadvertently exempted permanent non-residents of the United States from compliance with the Rules of Continuing Professional Development. This Rule amendment would eliminate that inadvertent exemption. The Temporary Rule is needed to require permanent non-residents of the United States to comply with the Rules of Continuing Professional Development just as residents and temporary non-residents of the United States must.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee or charge associated with this temporary and proposed rule.

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

There will be no impact on either the General Fund of the State of Idaho or the Dedicated Fund of the Board.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need to have the rule in effect to close an inadvertent loophole.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No materials cited are incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact David L. Curtis, P.E. at (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 23, 2012.

DATED this 5th day of April, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0104-1201

009. EXEMPTIONS.

A Licensee may be exempt from the continuing professional development requirements for one (1) of the following reasons: (7-1-99)

01. First Renewal Period. New Licensees by way of examination or comity shall be exempt from compliance with these rules during the time between issuance of the license and the due date of their first renewal following the issuance of the license. (5-8-09)

02. Active Duty in the Armed Forces. A Licensee serving on active duty in the armed forces of the United States, or a civilian deployed with the military, and temporarily assigned duty at a location other than their normal home station for a period of time exceeding one hundred twenty (120) consecutive days in a renewal period or the two (2) calendar year period closest to the renewal biennium shall be exempt from obtaining the professional development hours required during that renewal period or the two (2) calendar year period closest to the renewal biennium. (3-29-12)

03. Extenuating Circumstances. A Licensee experiencing physical disability, serious illness, or other extenuating circumstances accepted by the board. (7-1-99)

04. Retired and Receiving No Remuneration. A Licensee who has chosen and qualified for the “Retired” status and who further certifies that they are no longer receiving any remuneration from providing professional engineering or professional land surveying services shall be exempt from the professional development hours required. In the event such a person elects to return to active practice of professional engineering or professional land surveying, professional development hours must be earned before returning to active practice for each biennium or the two (2) calendar year period closest to the renewal biennium exempted not to exceed the requirement for two (2) bienniums or four (4) calendar years. (5-8-09)

05. Expired License. A Licensee who has chosen to allow his license to expire shall be exempt from the professional development hours required. In the event such a person elects to reactivate the license, professional development hours must be earned and documented before reinstating the license for each biennium or two (2) calendar years exempted not to exceed the requirement for two (2) bienniums or four (4) calendar years. (5-8-09)

06. Renewal Period Following Adoption of These Rules as They are Amended to Include Professional Engineers. All professional engineers shall be exempt from compliance with these rules during the time between the effective date of this subsection and the due date of their first renewal following the effective date of this subsection. (5-8-09)

07. Licensees Residing Outside the United States of America. Licensees employed and residing outside the United States may delay the time required for fulfilling the continuing professional development requirements for a maximum of two (2) biennia or four (4) calendar years until the end of the six (6) month period beginning upon their return to the United States. This subsection shall not apply to permanent non-residents of the United States. (~~3-29-12~~)()

IDAPA 12 - DEPARTMENT OF FINANCE

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 26-31-103(2)(b), 26-31-204(5), and 26-31-302(2), Idaho Code.

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

The pending rule updates references to federal laws and regulations from “January 1, 2011” to “January 1, 2013,” to correct references to federal regulations. Even though there are no changes to the pending rule as published, the Department inadvertently included the date of “January 1, 2012” instead of “January 1, 2013” in the descriptive summary portion of the Notice of Rulemaking. The proposed rule also included a definition of the Nationwide Mortgage Licensing System and Registry Policy Guidebook.

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 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 211 through 213](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael Larsen, Idaho Department of Finance, (208) 332-8000.

DATED this 8th day of November, 2012.

Michael Larsen
Consumer Finance Bureau Chief
Idaho Department of Finance
800 Park Blvd., Suite 200, Boise, ID 83712
(208) 332-8000 (Phone) / (208) 332-8096 (Fax)

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections, 26-31-103(2)(b), 26-31-204(5), and 26-31-302(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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 the proposed rulemaking is to update references to federal laws and regulations from “January 1, 2011” to “January 1, 2012,” to correct references to federal regulations, and to include a definition of the Nationwide Mortgage Licensing System and Registry Policy Guidebook.

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

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

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

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:

For effective supervision of mortgage practices in Idaho, the following are incorporated by reference: federal Real Estate Settlement Procedures Act; federal Truth in Lending Act; federal Regulation X; federal Regulation Z; and the NMLS Policy Guidebook.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michael Larsen, Idaho Department of Finance, (208)-332-8000.

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 24, 2012.

DATED this 23rd day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 12-0110-1201

005. INCORPORATION BY REFERENCE (RULE 5).

The “Rules Pursuant to the Idaho Residential Mortgage Practices Act,” incorporate by reference the full text of the following ~~federal laws and regulations as defined in these rules: the Real Estate Settlement Procedures Act, Regulation X, the Truth in Lending Act, and Regulation Z.~~ ()

01. The Real Estate Settlement Procedures Act. As set forth in 12 U.S.C. 2601, et seq., as amended to and including January 1, 2013. The Real Estate Settlement Procedures Act is available for viewing online at: <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title12/html/USCODE-2011-title12-chap27.htm> ()

02. Regulation X. As issued by the federal Bureau of Consumer Financial Protection and codified at 12 CFR 1024, et seq., as amended to and including January 1, 2013. Regulation X is available for viewing online at: <http://www.gpo.gov/fdsys/pkg/CFR-2012-title12-vol8/xml/CFR-2012-title12-vol8-part1024.xml> ()

03. The Truth in Lending Act. As set forth in 15 U.S.C. 1601, et seq., as amended to and including January 1, 2013. The Truth in Lending Act is available for viewing online at: <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/html/USCODE-2011-title15-chap41.htm> ()

04. Regulation Z. As issued by the federal Bureau of Consumer Financial Protection and codified at 12 CFR 1026, et seq., as amended to and including January 1, 2013. Regulation Z is available for viewing online at: <http://www.gpo.gov/fdsys/pkg/CFR-2012-title12-vol8/xml/CFR-2012-title12-vol8-part1026.xml> ()

05. NMLS Policy Guidebook. The Conference of State Bank Supervisors/American Association of Residential Mortgage Regulators NMLS Policy Guidebook for Licensees, published by the Nationwide Mortgage Licensing System and Registry as of July 23, 2012, and available at <http://mortgage.nationwidelicingsystem.org/slr/common/policy/Pages/default.aspx> ()

06. Availability of Documents. Unless otherwise available, the documents incorporated by reference may be viewed at the central office of the Idaho Department of Finance, as noted in Section 002 of these rules. (3-29-10)()

006. DEFINITIONS (RULE 6).

As used in the Idaho Residential Mortgage Practices Act and these rules, the following definitions apply: (3-29-10)

01. Act. Means the Idaho Residential Mortgage Practices Act, Title 26, Chapter 31, Idaho Code. (3-30-06)

02. Application. In relation to a “residential mortgage loan” or “loan modification” as defined in the Act, an “application” means a request for a residential mortgage loan or loan modification and any form or document representing such request. The term “application” does not include the processing of such request. (3-29-10)

03. Closing. Means the process of executing legally binding documents regarding a lien on property that is subject to a residential mortgage loan and includes the day agreed upon by a borrower and a licensee or person required to be licensed under the Act to complete such process. (3-29-10)

04. Director. Means the director of the Idaho Department of Finance. (3-30-06)

~~**05. Real Estate Settlement Procedures Act.** Means the act set forth in 12 U.S.C.A 2601, et seq., as amended to and including January 1, 2011. (3-29-12)~~

~~**06. Regulation X.** Means Regulation X as promulgated by the Department of Housing and Urban Development and codified in 24 CFR 3500 et seq., as amended to and including January 1, 2011. (3-29-12)~~

~~**07. Regulation Z.** Means Regulation Z as promulgated by the Board of Governors of the Federal Reserve System and codified in 12 CFR 226 et seq., as amended to and including January 1, 2011. (3-29-12)~~

~~**08. Truth in Lending Act.** Means the act set forth in 15 U.S.C.A 1601 et seq., as amended to and including January 1, 2011. (3-29-12)~~

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.09 - CONSUMER PROTECTION IN ANNUITY TRANSACTIONS

DOCKET NO. 18-0109-1201 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-1940 Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2012 Idaho Administrative Bulletin, [Vol. 12-9 page 135](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tom Donovan, (208) 334-4214 or tom.donovan@doi.idaho.gov.

DATED this 5th day of October, 2012.

William Deal
Idaho Department of Insurance
700 West State Street, 3rd Floor
Boise, ID 837290-0043
Phone: (208) 334-4250

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1940, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2012.

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

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

IDAPA rule 18.01.09 concerns suitability standards applicable to insurers and insurance producers in recommending annuities to consumers. The Department of Insurance proposes to repeal the existing rule in Docket No. 18-0109-1201, "Consumer Protection in Annuity Transactions" and replace it with the proposed rule, 18-0109-1202, "Suitability in Annuity Transactions" in this bulletin.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under Docket No. 18-0109-1201. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012, Idaho Administrative Bulletin, [Vol. 12-7, page 100](#). A public meeting as provided in the notice was held on July 19, 2012.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tom Donovan, (208) 334-4214 or tom.donovan@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 26th day of July, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0109-1201

IDAPA 18.01.09 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.09 - SUITABILITY IN ANNUITY TRANSACTIONS
DOCKET NO. 18-0109-1202 (CHAPTER REWRITE)
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-1940 Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2012 Idaho Administrative Bulletin, [Vol. 12-9 pages 136 through 144](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tom Donovan, (208) 334-4214 or tom.donovan@doi.idaho.gov.

DATED this 5th day of October, 2012.

William Deal
Idaho Department of Insurance
700 West State Street, 3rd Floor
Boise, ID 837290-0043
Phone: (208) 334-4250

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1940, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2012.

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

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

IDAPA 18.01.09 concerns suitability standards applicable to insurers and insurance producers in recommending annuities to consumers. The Department of Insurance proposes to repeal the existing rule in Docket No. 18-0109-1201, and replace it with the proposed rule in this rulemaking.

The proposed rulemaking is based on the 2010 NAIC Model Regulation 275 Suitability in Annuity Transactions. The new rule requires the producer or insurer to have reasonable grounds to believe an annuity is suitable based on specific information of the consumer prior to making a recommendation to the consumer. The rule also requires producers engaged in the sale of annuity products to complete a one-time, four-credit training course.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under Docket No. 18-0109-1201. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012, Idaho Administrative Bulletin, [Vol. 12-7, page 100](#). A public meeting as provided in the notice was held on July 19, 2012.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Provisions of federal law, namely, the Employee Retirement and Income Security Act and the Internal Revenue Code, and FINRA Rule 2111.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tom Donovan, (208) 334-4214 or tom.donovan@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 26th day of July, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0109-1202

IDAPA 18
TITLE 01
CHAPTER 09

18.01.09 - SUITABILITY IN ANNUITY TRANSACTIONS

000. LEGAL AUTHORITY.

This rule is promulgated pursuant to authority granted by Sections 41-211 and 41-1940, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 18.01.09, "Suitability in Annuity Transactions." ()

02. Scope. This rule applies to any recommendation to purchase or exchange an annuity made to a consumer by a producer, or an insurer where no producer is involved, that results in the purchase or exchange recommended. ()

002. PURPOSE.

01. Purpose. The purpose of this rule is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed. ()

02. Violation of Rule. Nothing herein is construed to create or imply a private cause of action for a violation of this rule. ()

003. WRITTEN INTERPRETATIONS.

There are no written interpretations for these rules. ()

004. ADMINISTRATIVE APPEALS.

All administrative appeals are governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Subchapter B -- Contested Cases.

()

005. INCORPORATION BY REFERENCE.

01. Incorporated Documents. IDAPA 18.01.09, "Suitability in Annuity Transactions," adopts and incorporates by reference parts of the following documents: ()

a. United States Code, Title 29 - Labor, Chapter 18 - Employee Retirement and Income Security Act (ERISA). ()

b. United States Code, Title 26 - Internal Revenue Code. ()

c. FINRA Rule 2111, effective July 9, 2012. ()

02. Availability of Referenced Documents. ()

a. Printed copies of the documents described in Subsections 005.01.a. and 005.01.b. are available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954 as well as from the Department; the telephone number is (202) 512-1800, and electronic copies are available online at <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title29/pdf/USCODE-2011-title29-chap18.pdf> and <http://www.law.cornell.edu/uscode/text/26>. ()

b. A printed copy of the document described in 005.01.c. is available from FINRA, Two Union Square, 601 Union Street, Suite 1616, Seattle, WA 98101-2327, telephone (206) 624-0790, as well as from the Department, and an electronic copy is available online at http://finra.complinet.com/en/display/display_main.html?rbid=2403&element_id=9859. ()

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

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. ()

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

007. PUBLIC RECORDS ACT COMPLIANCE.

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

008. -- 009. (RESERVED)

010. DEFINITIONS.

01. Annuity. An annuity that is an insurance product under State law that is individually solicited, whether the product is classified as an individual or group annuity. ()

02. Continuing Education Credit or CE Credit. One continuing education credit as more particularly described in IDAPA 18.01.53, "Continuing Education". ()

03. Continuing Education Provider or CE Provider. An individual or entity that is approved to offer continuing education courses pursuant to IDAPA 18.01.53, "Continuing Education". ()

04. FINRA. The Financial Industry Regulatory Authority or a succeeding agency. ()

05. Insurer. A company required to be licensed under the laws of this state to provide insurance products, including annuities. ()

06. Producer. A person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities. ()

07. Recommendation. Advice provided by a producer or an insurer to an individual consumer that results in a purchase, exchange or replacement of an annuity in accordance with that advice. ()

08. Replacement. A transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer or to proposing insurer that by reason of the transaction, an existing policy or contract has been or is to be: ()

a. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated; ()

b. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values; ()

c. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid; ()

d. Reissued with any reduction in cash value; or ()

e. Used in a financed purchase. ()

09. Suitability Information. Information that is reasonably appropriate to determine the suitability of a recommendation, including the following: ()

a. Age; ()

- b.** Annual income; ()
- c.** Financial situation and needs, including the financial resources used for the funding of the annuity; ()
- d.** Financial experience; ()
- e.** Financial objectives; ()
- f.** Intended use of the annuity; ()
- g.** Financial time horizon; ()
- h.** Existing assets, including investment and life insurance holdings; ()
- i.** Liquidity needs; ()
- j.** Liquid net worth; ()
- k.** Risk tolerance; and ()
- l.** Tax status. ()

011. TRANSACTION EXEMPTIONS.

Unless otherwise specifically included, this rule does not apply to transactions involving: ()

01. Direct Response Solicitations. A response to a direct solicitation where there is no recommendation made based on information collected from the consumer pursuant to this rule; ()

02. Contracts Used to Fund. Contracts that are used to fund: ()

a. An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA); ()

b. A plan described by Sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the Internal Revenue Code (IRC), as amended, if established or maintained by an employer; ()

c. A government or church plan defined in Section 414 of the IRC, as amended, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC, as amended; ()

d. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor; ()

e. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; ()

- f. Formal prepaid funeral contracts; or ()
- g. Prepaid contracts used to fund funeral and related funeral expenses governed by Sections 54-1131 et seq., Idaho Code. ()

012. -- 014. (RESERVED)

015. DUTIES OF INSURERS AND OF PRODUCERS.

01. General Rule. In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the producer or insurer must have a reasonable basis to believe that the recommendation is suitable for the consumer based on the facts disclosed by the consumer. These facts include the consumer's suitability information and information regarding the consumer's investments and other insurance products, and financial situation and needs. The seller must also have a reasonable basis to believe all of the following: ()

a. The consumer has been reasonably informed of various features of the annuity, including: ()

i. The potential surrender period and surrender charge; ()

ii. The potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity; ()

iii. Mortality and expense fees; ()

iv. Investment advisory fees; ()

v. Potential charges for and features of riders; ()

vi. Limitations on interest returns; ()

vii. Insurance and investment components; and ()

viii. Market risk; ()

b. The consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization, or death or living benefit; ()

c. The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable for the particular consumer based on his suitability information; and ()

d. In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable and the producer or insurer has considered whether the consumer: ()

i. Will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death, living or other contractual benefits), or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements; or ()

ii. Would benefit from product enhancements and improvements; or ()

iii. Has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding thirty-six (36) months. ()

02. Collection of Information. Prior to the execution of a purchase, exchange or replacement of an annuity resulting from a recommendation, a producer, or insurer when no producer is involved, shall make reasonable efforts to obtain the consumer's suitability information. ()

03. Reasonable Basis. Except as permitted under Subsection 015.04, an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information. ()

04. Exceptions. ()

a. Except as provided under Paragraph 015.04.b., neither a producer nor an insurer shall have any obligation to a consumer under Subsection 015.01 or 015.03 related to any annuity transaction if: ()

i. No recommendation is made; or ()

ii. A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer; or ()

iii. A consumer refuses to provide relevant suitability information and the annuity transaction is not recommended; or ()

iv. A consumer decides to enter into an annuity transaction that is not based on a recommendation of the insurer or the producer. ()

b. An insurer's issuance of an annuity subject to Paragraph 015.04.a. will be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued. ()

05. Record Keeping. A producer or, when no producer is involved, the responsible insurer representative, shall at the time of sale: ()

a. Make a record of any recommendation subject to Subsection 015.01; ()

b. Obtain a customer signed statement documenting a customer's refusal to provide suitability information, if any; and ()

c. Obtain a customer signed statement that acknowledges that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the producer's or insurer's recommendation. ()

06. Supervision for Compliance. ()

a. An insurer shall establish a supervision system that is reasonably designed to achieve the insurer's and its producers' compliance with this rule. This includes, but is not limited to, the following: ()

i. Establishing and maintaining reasonable procedures to inform its producers of the requirements of this rule and incorporating the requirements of this rule into relevant producer training manuals; ()

ii. Establishing standards for producer product training and establishing and maintaining reasonable procedures to require its producers to comply with the requirements of Section 016 of this rule; ()

iii. Providing product-specific training and training materials that explain all material features of its annuity products to its producers; ()

iv. Establishing and maintaining procedures for review of each recommendation prior to issuance of an annuity that are designed to ensure that there is a reasonable basis to determine that a recommendation is suitable. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria; ()

v. Establishing and maintaining procedures to detect recommendations that are not suitable. These procedures may include confirmation of consumer suitability information, systematic customer surveys, interviews, confirmation letters; or programs of internal monitoring. Nothing in this subparagraph prevents an insurer from complying with this rule by applying sampling procedures, or by confirming suitability information after issuance or delivery of the annuity; and ()

vi. Annually providing a report to senior management, including those responsible for audit functions, that details a review, with appropriate testing designed to determine the effectiveness of the supervision system, and includes any exceptions found and any corrective actions taken or recommended. ()

b. Contracting. ()

i. Nothing in this subsection restricts an insurer from contracting for performance of a function (including establishing and maintaining procedures) required under Paragraph 015.06.a. of this rule. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to Section 025 of this rule regardless of whether the

insurer contracts for performance of a function and regardless of the insurer's compliance with Subparagraph 015.06.a.ii.(2) of this rule. ()

ii. An insurer's supervision system under Paragraph 015.01.a. of this rule must include supervision of contractual performance under Subsection 015.06. This supervision of performance includes, but is not limited to, the following: ()

(1) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and ()

(2) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed. ()

c. An insurer is not required to include in its system of supervision a producer's recommendations to consumers of products other than the annuities offered by the insurer. ()

07. Prohibitions. A producer may not dissuade, or attempt to dissuade, a consumer from: ()

a. Truthfully responding to an insurer's request for confirmation of suitability information; ()

b. Filing a complaint; or ()

c. Cooperating with the investigation of a complaint. ()

08. Compliance With FINRA. ()

a. Sales made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transactions as reflected in FINRA Rule 2111 will satisfy the requirements under this rule. This subsection applies to FINRA broker-dealer sales of variable annuities and fixed annuities if the suitability and supervision is similar to those applied to variable annuity sales. However, nothing in this subsection limits the Director's ability to enforce the provisions of this rule or investigate for compliance. ()

b. For Paragraph 015.08.a. to apply, an insurer must: ()

i. Monitor the FINRA member broker-dealer using information collected in the normal course of an insurer's business; and ()

ii. Provide to the FINRA member broker-dealer information and reports that are reasonably appropriate to assist the FINRA member broker-dealer to maintain its supervision system. ()

016. PRODUCER TRAINING.

01. General Rule. A producer shall not solicit the sale of an annuity product unless

the producer has adequate knowledge of the product to recommend the annuity and the producer is in compliance with the insurer's standards for product training. A producer may rely on insurer-provided, product-specific training standards and materials to comply with this subsection. ()

02. Required Producer Training Courses and Education. ()

a. A producer who engages in the sale of annuity products shall complete a one-time, four-credit training course approved by the Department and provided by the Department-approved education provider. ()

b. Producers who hold a life insurance line of authority on the effective date of this rule and who desire to sell annuities shall complete the requirements of this subsection within six (6) months after the effective date of this rule. Individuals who obtain a life insurance line of authority on or after the effective date of this rule may not engage in the sale of annuities until the annuity training course required under this subsection has been completed. ()

c. The minimum length of the training required under this subsection shall be sufficient to qualify for at least four (4) CE credits, but may be longer. ()

d. The training required under this subsection shall include information on the following topics: ()

i. The types of annuities and various classifications of annuities; ()

ii. Identification of the parties to an annuity; ()

iii. How fixed, variable and indexed annuity contract provisions affect consumers; ()

iv. The application of income taxation of qualified and non-qualified annuities;()

v. The primary uses of annuities; and ()

vi. Appropriate sales practices, replacement and disclosure requirements. ()

e. Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline. ()

f. A provider of an annuity training course intended to comply with this subsection shall register as a CE provider in this State and comply with the rules and guidelines applicable to producer continuing education courses as set forth in IDAPA 18.01.53. ()

g. Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with IDAPA 18.01.53. ()

h. Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with IDAPA 18.01.53. ()

i. The satisfaction of the training requirements of another State that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this State. ()

j. An insurer shall verify that a producer has completed the annuity training course required under this subsection before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subsection by obtaining certificates of completion of the training course or obtaining reports provided by Department-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers. ()

017. -- 020. (RESERVED)

021. RECORDKEEPING.

01. Maintaining Records. Insurers and producers must maintain, and be able to provide to the Director, records of all information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for as long as the insurance transaction remains in force. An insurer is permitted, but shall not be required, to maintain documentation on behalf of a producer. ()

02. Termination. If the producer's appointment with the insurer is terminated or his license is suspended or revoked, the producer must remit copies of all records as described under Subsection 021.01 to the insurer within twenty-one (21) days of termination or change in license status. ()

03. Form. Records required to be maintained by this rule may be maintained on any media and by any process that accurately reproduces the original document. ()

022. -- 024. (RESERVED)

025. COMPLIANCE MITIGATION - VIOLATIONS - PENALTIES.

01. Corrective Action. An insurer is responsible for compliance with this rule. If a violation occurs, either because of the action or inaction of the insurer or its producer, the Director may order: ()

a. An insurer to take reasonably appropriate corrective action for any consumer harmed by the insurer's or producer's violation of this rule; ()

b. A general agency, independent agency or the producer to take reasonably appropriate corrective action for any consumer harmed by the producer's violation of this rule; and ()

c. Appropriate penalties and sanctions. ()

02. Violation. Any violation of this rule will be deemed a violation of Section 41-1940, Idaho Code. ()

03. Reduction of Penalty. Any applicable penalty under Section 41-117, Idaho Code, for a violation of this rule may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice. ()

026. -- 999. (RESERVED)

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.19 - INSURANCE RATES AND CREDIT RATING

DOCKET NO. 18-0119-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-1843, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2012 Idaho Administrative Bulletin, [Vol. 12-9 pages 145 and 146](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tom Donovan, (208) 334-4214, or tom.donovan@doi.idaho.gov.

DATED this 5th day of October, 2012.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1843, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2012.

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 proposed amendment to IDAPA 18.01.19.100 clarifies when and how an insurer's use of consumer credit information will be deemed to be improper and in violation of Section 41-1843, Idaho Code, and permits insurers to use a neutral credit factor or score against which to measure compliance with Section 41-1843, Idaho Code, both at initial rating and upon renewal.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012, Idaho Administrative Bulletin, [Vol. 12-7, page 101](#). A public meeting was held on July 20, 2012 as provided for in the notice.

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 Tom Donovan, (208)334-4214, or tom.donovan@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 26th day of July, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0119-1201

100. USE OF CREDIT FACTORS.

01. Prohibited Acts. An insurer shall not charge a higher premium than would otherwise be charged, or cancel, nonrenew or decline to issue a policy, based in any part upon credit factors unless: (3-20-04)

a. The decision is also based on a noncredit factor or factors; and (3-20-04)

b. The aggregate weight given to the noncredit factors considered in making the decision is at least as great as the aggregate weight given to the credit factors considered in making the decision. (3-20-04)

02. Application of Rule. To determine whether a decision to issue, nonrenew or cancel a policy, or to charge a higher rate than would otherwise be charged, is not improperly based primarily upon a credit factor or factors and in violation of Section 41-1843, Idaho Code, the Department will apply the following criteria: (3-20-04)()

a. If an insurer declines to issue, nonrenews or cancels a policy based in any part upon a credit factor, the insurer must be able to show that it also relied upon a noncredit factor or combination of noncredit factors in making the decision and that the noncredit factor(s) played at least as great a role in the decision as did the credit factor. Nothing in this rule is intended to modify or alter any provisions contained in Title 41, Chapter 25, Idaho Code. (3-20-04)()

b. If an insurer relies in any part upon a credit factor in establishing an initial rate for new business or to impose an increase in premium rate for a customer, the insurer must be able to show that it also considered noncredit factors in establishing the initial rate and that not more than one-half (½) of the initial or renewal premium rate is attributable to the credit factor. To satisfy this requirement, an insurer shall do one (1) of the following: (3-20-04)()

i. Compare the premium rate using the highest credit factor to the premium rate using the lowest credit factor. The difference in the premium rate between the highest and lowest shall be not more than one-half (½) the highest premium rate; or ()

ii. Compare a premium rate calculated using the highest credit factor to a premium rate calculated without using credit. The premium rate calculated without using credit shall be equal to or greater than one-half (½) of the premium rate calculated using the highest credit factor. To calculate the premium rate without using credit, an insurer shall demonstrate that it has applied all the noncredit factors and replaced the actual credit factor with the average credit factor. The average credit factor must be calculated from the actual distribution of Idaho business by credit factor at the time the credit factor rating system was implemented or last revised. For purposes of this Subparagraph, 100.02.b.ii., “last revised” means any subsequent changes to the credit factor system utilized by the insurer as part of its overall rate filing. Under this approach, as long as the

highest rate charged using a credit factor is not more than double the rate using the average credit factor, the rate will be treated as meeting the requirements of Section 41-1843, Idaho Code.()

~~e. If an insurer relies in any part upon a credit factor to impose an increase in premium rate for a customer, the insurer must be able to show that the increase was also based upon a change in at least one noncredit factor and that not more than one-half (1/2) of the increase is attributable to the credit factor. (3-20-04)~~

03. Information Used in Reviewing Insurer's Decision. To evaluate whether an underwriting or rating decision was based primarily upon credit factors, the department may require the insurer to explain in detail the insurer's underwriting or rating process, identify all factors considered in the process, and describe how the process was applied in the case under review. The department may also require the insurer to apply its underwriting or rating process to hypothetical cases submitted to the insurer by the Department. (3-20-04)

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.56 - REBATES AND ILLEGAL INDUCEMENTS TO OBTAINING TITLE INSURANCE BUSINESS

DOCKET NO. 18-0156-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-1314, and 14-2708(3), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2012 Idaho Administrative Bulletin, [Vol. 12-9, pages 150 and 151](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tom Donovan, (208) 334-4214 or tom.donovan@doi.idaho.gov.

DATED this 5th day of October, 2012.

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

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1314, and 14-2708(3), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2012.

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:

Language will be added to permit title agents to provide attorneys and appraisers plat maps and copies of CCRs without charge.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012, Idaho Administrative Bulletin, **Vol. 12-7, page 103**. A public meeting was held on July 18, 2012, pursuant to the notice.

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 Tom Donovan, (208)334-4214 or tom.donovan@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2012.

DATED this 26th day of July, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0156-1201**012. PERMITTED CONSUMER INFORMATION.**

01. Information That May Be Provided. 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: (3-15-02)

02. Listing Package. A single copy of a “listing package,” “property profile,” or similarly named packet of information. (7-1-93)

a. A “listing package” shall consist of information relating to the ownership and status of title to real property, and may include a single copy of only the following six (6) items: (3-15-02)

- i. The last deed appearing of record; (7-1-93)
- ii. Deeds of trust or mortgages which appear to be in full force and effect; (7-1-93)
- iii. A plat map reproduction and/or a locator map; (3-15-02)
- iv. A copy of applicable restrictive covenants; (3-15-02)
- v. Tax information; and (3-15-02)
- vi. Property characteristics such as number of rooms, square footage and year built. (3-15-02)

b. A “listing package” may include no more than the six (6) above described items of information and shall 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. 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 six (6) 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 shall specifically not include any advertising or marketing for the benefit of the recipient. (3-15-02)

c. 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 may be provided, but only upon receipt of a charge commensurate with the actual cost of the work performed and the material furnished (See Exhibit 1, #1).

(3-15-02)

03. Additional Information That May Be Provided. A title entity may provide to licensed attorneys and licensed appraisers only the following documents without charge; ()

- a.** A plat map reproduction; ()
- b.** A copy of applicable restrictive covenants; ()
- c.** A cover letter as described in Paragraph 012.02.b. ()

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.01.01 - RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS

DOCKET NO. 24-0101-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-312, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 543 through 546](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at 208 334-3233.

DATED this 29th day of October, 2012.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
700 W State
Boise, ID 83702
(208) 334-3233 PH. (208) 334-3945 fax

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-312, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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

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

The Board of Architectural Examiners is adding definitions to clarify direct supervision of non-licensed employees and responsible control of architectural drawings to be sealed. The examination section is being updated to address changes to the nationally administered examination. Since registration of interns with the Board is no longer necessary, this requirement is being deleted. The use of an unlicensed individual's name in an architectural firm name and the use of an architect's seal are being clarified. Finally, the Board's rule regarding certain interpretations is being updated to eliminate language no longer applicable.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature and the proposed changes are being made to reflect changes in the industry, including the National Council of Architect Registration Boards (NCARB) standards.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 30th day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0101-1201

010. DEFINITIONS (RULE 10).

01. Board. The Board of Architectural Examiners as prescribed in Section 54-312, Idaho Code. (7-1-93)

02. Bureau. The Bureau of Occupational Licenses as prescribed in Sections 54-605 and 67-2602, Idaho Code. (3-15-02)

03. Direct Supervision. Direct supervision of an unlicensed individual in the practice of architecture means the exercise of management, control, authority, responsibility, oversight and guidance over the unlicensed individuals work, activities and conduct. ()

04. Responsible Control. Responsible control means that amount of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered architects applying the required professional standard of care. Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible control because the reviewer has neither control over nor detailed knowledge of the content of such submissions throughout their preparation. ()

(BREAK IN CONTINUITY OF SECTIONS)

350. REGISTRATION EXAMINATION (RULE 350).

The Board, having found that the content and methodology of the ARE prepared by NCARB is the most practicable and effective examination to test an applicant's qualifications for registration, adopts the ARE as the single, written and/or electronic examination for registration of architects in this state, and further adopts the following rules with respect thereto: (7-1-97)

01. When Taken. The Board will cause the ARE, prepared by NCARB, to be administered to all applicants eligible, in accordance with the requirements of the Board, by their training and education to be examined for registration on dates scheduled by the NCARB. The Board shall cause repeat divisions of the ARE to be administered to qualified candidates on such dates as are scheduled by the NCARB. The ARE examination is a multiple part examination prepared by NCARB. Content of the examination in all of its sections is available from the Board or NCARB. (4-11-06)

02. Grading. The ARE shall be graded in accordance with the methods and

procedures recommended by the NCARB. To achieve a passing grade on the ARE, an applicant must receive a passing grade in each division. Grades from the individual division may not be averaged. Applicants will have unlimited opportunities to retake division which they fail except as set forth in these rules. The Board shall accept passing grades of computer administered divisions of the ARE as satisfying the requirements for said division(s) when such examinations are administered as prescribed by the NCARB. (4-11-06)

03. Passing (ARE). To pass the ARE, an applicant must achieve a passing grade on each division. Effective July 1, 2006, and subject to certain conditions, a passing grade for any division of the ARE shall be valid for five (5) years, after which time the division must be retaken unless all divisions have been passed. The Board may allow a reasonable extension of such period in circumstances where completion of all divisions is prevented by a medical condition, active duty in military service, or other like causes. (4-11-06)

04. Transition. The transitional rules are as follows: (4-11-06)

a. For applicants who have passed all divisions of the ARE by July, 2006 regardless of the time taken, will have passed the ARE. (4-11-06)

b. For applicants who have passed one (1) or more but not all divisions of the ARE by July 1, 2006, such applicants will have five (5) years to pass all remaining divisions. A passing grade for any remaining division shall be valid for five (5) years, after which time the division must be retaken if the remaining divisions have not been passed. The five (5) year period shall commence after July 1, 2006, on the date when the first passed division is administered. Any division passed prior to January 1, 2006, shall no longer remain valid if all remaining divisions have not been passed by July 1, 2014. (~~4-11-06~~)()

c. For applicants who have passed no divisions of the ARE by July 1, 2006, such applicants shall be governed by the ~~above~~ five (5) year requirement outlined in Subsection 350.04.b of these rules. The five (5) year period shall commence on the date when the first passed division is administered. (~~4-11-06~~)()

d. After July 1, 2014, approval to take the ARE shall terminate unless the applicant have passed or failed a division of the ARE within a period of five (5) years. Any applicant whose approval has so terminated must reapply for approval to take the ARE. ()

(BREAK IN CONTINUITY OF SECTIONS)

375. ARCHITECTURAL INTERN (RULE 375).

An individual may represent themselves as an architectural intern only under the following conditions: (3-15-02)

01. Supervision. Each architectural intern shall be employed by and work under the direct supervision of an Idaho licensed architect. (3-15-02)

02. IDP Enrollment. Each architectural intern shall be enrolled in the National

Council of Architectural Registration Board's (NCARB) Intern Development Program (IDP) and shall maintain a record in good standing. (3-15-02)

03. Record. Each architectural intern shall possess either: (3-15-02)

a. A record with the NCARB establishing that IDP training units are being earned in any of the IDP training settings A, B, C, D or E; or (3-15-02)

b. A record establishing completion of all IDP training regulations as specified by NCARB. (3-15-02)

04. Prohibitions. An architectural intern shall not sign or seal any architectural plan, specification, or other document. An architectural intern shall not engage in the practice of architecture except under the direct supervision of an Idaho licensed architect. (3-15-02)

~~**05. Registration.** Each architectural intern shall register with the Board on forms provided by the Bureau of Occupational Licenses that shall include the names and addresses of their employer, IDP supervisor, and IDP mentor. (3-15-02)~~

376. -- 399. (RESERVED)

400. MISCELLANEOUS REQUIREMENTS (RULE 400).

01. Practice of Architecture. Idaho Law prohibits the practice of architecture by any unlicensed person or firm for any reason. (7-1-93)

02. Corporations. Corporations organized to do general business in the state of Idaho may not practice architecture in the state of Idaho. (7-1-93)

03. Firm Names. Firm names incorporating the use of names of unlicensed individuals are considered in violation of Section 54-310, Idaho Code. A firm may continue to utilize the name of a retired or deceased formerly licensed architect so long as their unlicensed status is clearly disclosed. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

410. USE OF AN ARCHITECT'S SEAL (RULE 410).

An architect's seal shall may be placed on all technical submissions prepared personally by the architect or prepared ~~by his staff~~ under the architect's ~~direction and personal supervision~~ responsible control or as otherwise allowed under the provisions of Section 54-308, Idaho Code. ~~An architect shall only seal those documents prepared by another licensed professional where the architect has both control over and detailed professional knowledge of the work or matters contained in said document.~~ Nothing in this rule shall limit an architect's responsibility to the owner for the work of other licensed professionals to the extent established by contract between the owner and architect. (4-5-00)()

(BREAK IN CONTINUITY OF SECTIONS)

550. INTERPRETATIONS (RULE 550).

The following interpretation of laws relating to architecture in Idaho Code are hereby made by the Board. (7-1-93)

01. Reference to Building. Under Section 54-309, reference to any building wherein the safeguarding of life, health, and property is concerned means any building which public or private sector of population may use or any building into which the public or private sector of the population is invited either as spectators, visitor, student, guest, or employee, or any building where the private or public sector of the population conducts business. (7-1-93)

~~**02. Administration of Construction Contracts.** Under Section 54-309, paragraph 1-e, "Practice of Architecture," Section 54-305, paragraph 1-f, Grounds for Discipline, the words "Administration of Construction Contracts," in accordance with current knowledge and usage in the profession means "Administration of the Contract" as defined in the relevant Contract for Construction or Owner Architect Agreement as published by the American Institute of Architects. (4-5-00)~~

032. Professional Standards. Under Section 54-305, an architect shall be completely objective and truthful in all professional reports, statements, or testimony and shall include therein all relevant and pertinent information known to him. (7-1-93)

~~**043. Direct Supervision Contracts.** Direct supervision is that degree of supervision by a licensed architect overseeing the work of another whereby the architect has both control over, and detailed professional knowledge of, the work prepared under his or her supervision. The primary contract or agreement involving the practice of architecture for the project must be between the an architect of record and the entity for which architectural services are provided, not between the person being supervised and the entity for which the services are provided. (7-1-98)()~~

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD

DOCKET NO. 24-1801-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-4106, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the May 2, 2012 Idaho Administrative Bulletin, [Vol. 12-5, pages 77 through 80](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at 208-334-3233.

DATED this 29th day of October, 2012.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
700 W State
Boise, ID 83702
(208) 334-3233 Ph. (208) 334-3945 fax

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

EFFECTIVE DATE: The effective date of the temporary rule is **March 23, 2012**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-4106, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than May 16, 2012.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Board of Real Estate Appraisers is clarifying its rules to allow for on-line education for pre-licensure and continuing education. The rule also clarifies the process and the approval of on-line provider courses.

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

The changes will confer a benefit to licensees and applicants by greatly expanding the availability of pre-licensure or continuing education courses required for licensure.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule proposal was discussed in a noticed open meeting and will confer a benefit to the applicants and licensees.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 23, 2012.

DATED this 26th day of March, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1801-1201

010. DEFINITIONS (RULE 10).

The definitions numbered one through sixteen (1-16), appearing at Section 54-4104, Idaho Code are incorporated herein by reference as if set forth in full. (3-29-10)

01. Advisory Committee. A committee of state certified or licensed real estate appraisers appointed by the board to provide technical assistance relating to real estate appraisal standards and real estate appraiser experience, education and examination requirements that are appropriate for each classification of state certified or licensed real estate appraiser. (7-1-93)

02. Appraisal Foundation. The Appraisal Foundation means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois. (7-1-97)

03. Appraiser Qualifications Board. Appraiser Qualifications Board of the Appraisal Foundation establishes the qualifications criteria for licensing, certification and recertification of appraisers. (7-1-97)

04. Appraisal Standards Board. The Appraisal Standards Board of the Appraisal Foundation develops, publishes, interprets and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. (7-1-97)

05. Bureau. The Bureau means the Bureau of Occupational Licenses, as prescribed in Sections 54-4106(2)(a) and 67-2601, Idaho Code. (3-13-02)

06. Chief. The Bureau Chief of the Bureau of Occupational Licenses as established by Section 67-2602, Idaho Code. (7-1-93)

07. Classroom Hour. Fifty (50) minutes out of each sixty (60) minute hour in a setting ~~that is set forth in these rules~~ which may include a classroom, conference/seminar, on-line or a virtual classroom. (3-21-12)()

08. Field Real Estate Appraisal Experience. Personal inspections of real property, assembly and analysis of relevant facts, and by the use of reason and the exercise of judgement, formation of objective opinions as to the market or other value of such properties or interests therein and preparation of written appraisal reports or other memoranda showing data, reasoning, and conclusion. Professional responsibility for the valuation function is essential. (4-6-05)

09. FIRREA. Title XI, Financial Institutions Reform, Recovery and Enforcement Act of 1989 was designed to ensure that more reliable appraisals are rendered in connection with federally related transactions. (7-1-93)

10. Nationally Recognized Appraisal Organization. An appraisal organization which is a sponsor of The Appraisal Foundation. (4-2-08)

11. Real Estate. In addition to the previous definition in Section 54-4104(11), Idaho Code, will also mean an identified parcel or tract of land, including improvements, if any. (3-29-10)

12. Real Property. In addition to the previous definition in Section 54-4104(11), Idaho Code, will also mean one or more defined interests, benefits, or rights inherent in the ownership of real estate. (3-29-10)

13. Residential Unit. Real estate with a current highest and best use of a residential nature. A residential unit includes a kitchen and a bathroom. (3-29-10)

14. Specialized Appraisal Services. Services which include situations in which an appraiser is employed or retained to provide appraisal services that do not fall within the defined term "appraisal assignments." Specialized appraisal services relate to the employer's or client's individual needs or investment objectives and commonly include specialized marketing and financing studies as well as analysis, opinions, and conclusions rendered in connection with activities such as real estate brokerage, mortgage banking, and real estate counseling, including real estate tax counseling. (7-1-97)

15. Uniform Standards of Professional Appraisal Practice or USPAP. Those uniform standards adopted by the Appraisal Foundation's Appraisal Standards Board. These standards may be altered, amended, interpreted, supplemented, or repealed by the Appraisal Standards Board (ASB) from time to time. (3-13-02)

16. USPAP Course. For the purposes of licensure and license renewal, any reference to the approved USPAP course shall mean the National USPAP Course provided by Appraisal Qualifications Board Certified USPAP Instructors and Educational Providers. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

401. CONTINUING EDUCATION (RULE 401).

All certified/licensed appraisers must comply with the following continuing education requirements: (7-1-97)

01. Purpose of Continuing Education. The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his skill, knowledge and competency in real estate appraising. (7-1-97)

02. Hours Required. The equivalent of thirty (30) classroom hours of instruction in courses or seminars during the twenty-four (24) months prior to renewal is required. If the licensee completes two (2) or more courses having substantially the same content during any one (1) continuing education cycle, the licensee only will receive continuing education credit for one (1) of the courses. (3-21-12)

a. A classroom hour is defined as fifty (50) minutes out of each sixty (60) minute segment. The educational setting may include a classroom, conference/seminar, on-line or a virtual classroom. (~~7-1-93~~)()

b. Credit toward the classroom hour requirement may be granted only where the length of the educational offering is at least two (2) hours. (7-1-97)

c. Credit for the classroom hour requirement may be obtained by accredited courses which have been approved by the Appraisal Qualification Board and by courses approved by Real Estate Appraiser Boards of states with reciprocity with Idaho. All other courses must have approval of the Board, which shall require the continuing education provider to submit the educational course approval application and application fee as set forth in these rules along with the documentation including the instructors and their qualifications, course content, length of course, and its location. Courses shall be approved for a period of four (4) years. (~~4-6-05~~)()

d. Once every twenty-four (24) months, Idaho State Certified/Licensed Real Estate Appraisers and registered trainees will be required to attend an approved seven (7) hour USPAP update course or the equivalent. The course must cover the most recent USPAP edition. (3-21-12)

03. Credit for Appraisal Educational Processes and Programs. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. Credit for educational processes and programs continuing education shall not exceed one-half (1/2) of the total continuing education credits required for a renewal period. (4-2-08)

04. Credit for Attending the Licensure Board Meetings. Continuing education credit may be granted for a maximum of two (2) hours each continuing education cycle for time spent attending one (1) Board meeting. Members of the board shall not be entitled to continuing education credit for board service. (3-21-12)

05. Requirement When a Certificate/License Is Cancelled. For each year (less than five (5)) in which a license is lapsed, canceled, or otherwise non-renewed, fifteen (15) hours of continuing education must be documented, including a seven (7) hour USPAP update course, prior to reinstatement. The course must cover the most recent USPAP edition. (3-21-12)

06. Special Exemption. The Board shall have authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or other good cause. The appraiser must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. (3-29-10)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.25.01 - RULES OF THE IDAHO DRIVING BUSINESSES LICENSURE BOARD

DOCKET NO. 24-2501-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-5403, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 598 through 600](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at 208-334-3233.

DATED this 29th day of October, 2012.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
700 W State
Boise, ID 83702
(208) 334-3233 Ph. (208) 334-3945 fax

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-5403, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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 Idaho Driving Businesses Licensure Board is changing its rules to clarify the limitations on operating a business out of a secondary location and to limit the hours of student classroom instruction per day to six (6) hours.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature and discussed during a noticed open meeting.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 30th day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-2501-1201

225. DRIVING BUSINESS LICENSE (RULE 225).

A driving business license enables a licensee to operate a driver education business at one (1), principal classroom location as designated in the application. The licensee may also utilize secondary locations for classroom instruction, so long as the business does not conduct driver education at any given secondary location for more than sixty (60) consecutive calendar days in a one-year period. A driving business license is not transferable. The business licensee must conspicuously display the license at the business's principal classroom location. Each applicant must apply as required by Rule 150. ~~(4-7-11)~~()

01. Applicant Identity. The applicant must provide such identifying information as may be requested by the Board including, without limitation, the following: (4-7-11)

a. The applicant's legal name (i.e., the name of the natural person or business entity to be issued the license) and assumed business name(s), if any. (4-7-11)

b. The applicant's social security number, if the applicant has no employees and is a natural person (including a sole proprietor acting under an assumed business name). If the applicant has employees or is not a natural person (e.g., is a general or limited partnership, corporation, limited liability partnership, or limited liability company), then the applicant must provide its employer identification number. (4-7-11)

c. The names and addresses of the applicant's officers and shareholders having a twenty-five percent (25%) or greater ownership interest (if a corporation), members and managers (if a limited liability company), and partners (if a partnership). (4-7-11)

d. The applicant's contact information, including its mailing address, physical address, and telephone number. (4-7-11)

02. Criminal History Background Check. The applicant, if a natural person, and all persons listed under Paragraph 225.01.c. and Subsection 225.05 of these rules, must submit to a current, fingerprint-based criminal history check conducted by an organization approved by the Board. Each applicant must ensure that such persons submit a full set of their fingerprints, and any relevant fees, directly to the organization that conducts the criminal history check, and that the organization delivers the results directly to the Bureau. The Board will not process the application until the Bureau has received all the criminal history checks. (4-7-11)

03. Classroom Locations and Certificates of Occupancy. Each applicant must list all principal and secondary classroom locations to be utilized by the business. The applicant must provide a certificate of occupancy issued to the building/room by the local fire marshal or the fire marshal's designated agent, for each classroom location other than a location in a public or private school building, government building, church, or synagogue. (4-7-11)

04. Certificate of Vehicle Insurance. The certificate of vehicle insurance for each vehicle utilized by the driving business for driver education must accompany the application. The minimum coverage will include: (4-7-11)

- a.** Medical Payment for each person - five thousand dollars (\$5,000); and either (4-7-11)
- b.** Limit of liability (Combined single limit) - five hundred thousand (\$500,000) to apply to bodily injury and/or property damage; or (4-7-11)
- c.** Limit of liability (Split limit). Bodily injury - two hundred-fifty thousand (\$250,000) per person/ five hundred thousand (\$500,000) each accident; Property damage - two hundred-fifty thousand (\$250,000) each accident. (4-7-11)

05. List of Licensed Instructors. Before beginning to offer driver education, and at all times while offering driver education, a driving business must employ or have contracted with one (1) or more licensed driving instructors to teach the classroom instruction phase and behind-the-wheel training phase of the driver education to be provided by the business. The driving business must submit to the Bureau a current list of such licensed instructors with the application, and keep such list current after licensure. (4-7-11)

06. Vehicles. An applicant for a driving business license must submit to the Bureau a list of the vehicles that the business will utilize when offering driver education. A business licensee may not utilize vehicles that do not appear on the list. Each vehicle must have dual control brake pedals, safety restraints for all passengers, a side view mirror on each side of the vehicle, and an additional rear view mirror or compatible viewing device for the exclusive use of the instructor. A driving business must ensure that students are not allowed in a listed vehicle unless the vehicle is in a safe and proper operating condition. (4-7-11)

a. Initial Inspection. An applicant may not include a vehicle on a business's vehicle list unless the vehicle has passed a vehicle inspection performed by an ASE mechanic or vehicle technician within the two (2) month period preceding the application. The inspection must be documented on the Board-approved inspection form included at Appendix A to these rules, or on such other similar forms as may be approved by the Board. The person who inspected the vehicle must sign the form, certifying that the vehicle generally is in a safe and proper operating condition, and that each inspected item passed inspection or, if found to be in need of repair, was repaired on a given date. The application must be accompanied by a separate, signed form for each listed vehicle. (4-7-11)

b. Annual Inspection. A business licensee must ensure that each vehicle passes an inspection every twelve (12) months, and that the inspection is performed by an ASE mechanic or vehicle technician documented on the Board-approved form referenced in Paragraph 225.06.a. of these rules. If a vehicle fails an annual inspection, the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes a subsequent inspection and the business licensee has submitted to the Bureau the inspection form evidencing that the vehicle has passed. (4-7-11)

c. Incident Inspection. If a vehicle incident occurs that requires an investigation and

report by law enforcement, or in which the damage exceeds one thousand five hundred dollars (\$1,500), the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes inspection by an ASE mechanic or vehicle technician and the business licensee has submitted to the Bureau the inspection form evidencing that the vehicle has passed. (4-7-11)

d. Signage. The business licensee must ensure that the outside of each vehicle is equipped with safely secured signs. Signs must include “Student Driver,” “Driver Education,” “Driver Training,” “Driving School,” or similar language that clearly designates the vehicle as a driver training vehicle. (4-7-11)

07. Course of Instruction. Each applicant, for an original business license, must provide with its application the course of instruction the applicant will use when instructing students. The applicant must demonstrate, to the Board’s satisfaction, that the course of instruction is designed to produce safe and effective drivers and is educationally sound. The course of instruction must be based on the minimum curriculum components outlined in Rule 226, and shall consist of: (4-7-11)

a. Not less than thirty (30) hours of classroom instruction with no more than six (6) hours per day in any twenty-four (24) hour period; and ~~(4-7-11)~~()

b. Not less than six (6) hours of behind-the-wheel practice driving; and (4-7-11)

c. Not less than six (6) hours of student, in-vehicle observation of other persons (e.g., parents, other student drivers, etc.) driving the vehicle. (4-7-11)

08. On-line Instruction. In addition to, or in lieu of offering classroom instruction at a physical classroom location, a business licensee may offer classroom instruction to students via the internet if the instruction content meets the requirements of these rules and is approved by the Board. (4-7-11)

09. Instructor Apprenticeship Training Program. A driving business may offer a Board-approved instructor apprenticeship training program under the conditions specified in Rule 275. (4-7-11)