

IDAHO ADMINISTRATIVE BULLETIN

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Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a monthly compilation of all administrative rulemaking documents in Idaho. The Bulletin publishes the official rulemaking notices and administrative rule text of state agency rulemakings and other official documents as necessary.

State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Notice of Rulemaking published in the Bulletin. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rule-making activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin 07-1 refers to the first Bulletin issued in calendar year 2007; Bulletin 08-1 refers to the first Bulletin issued in calendar year 2008. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 08-1 refers to January 2008; Volume No. 08-2 refers to February 2008; and so forth. Example: The Bulletin published in January 2008 is cited as Volume 08-1. The December 2007 Bulletin is cited as Volume 07-12.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

The **Idaho Administrative Code** is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are only published in the Bulletin and **not** printed in the Administrative Code.

To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Rulemaking Index of Idaho Administrative Rules**, printed in each Bulletin.

TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN

The state of Idaho administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises five distinct activities: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings involve all five. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of administrative rule.

NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested parties and the agency seek consensus on the content of a rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a "Notice of Intent to Promulgate" a rule in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed and/or temporary rule.

PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a "Notice of Proposed Rulemaking" in the Bulletin. This notice must include:

- a) *the specific statutory authority (from Idaho Code) for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) *a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) *the text of the proposed rule prepared in legislative format;*
- d) *the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) *the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) *the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and*
- g) *the deadline for public (written) comments on the proposed rule.*

As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date, even when published in conjunction with a temporary rule, and therefore, is not enforceable. An agency may vacate a proposed rulemaking if it decides not to proceed beyond the proposed rulemaking step, and stops the formal rulemaking process.

TEMPORARY RULEMAKING

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) *protection of the public health, safety, or welfare; or*
- b) *compliance with deadlines in amendments to governing law or federal programs; or*
- c) *conferring a benefit;*

If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule. However, a temporary rule that imposes a fee or charge may be adopted only if the Governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.

A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.

State law requires that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. In cases where the text of the temporary rule is the same as the proposed rule, the rulemaking can be done concurrently as a proposed/temporary rule. Combining the rulemaking allows for a single publication of the text.

An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rule that is being vacated, the agency, in most instances, should rescind the temporary rule.

PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it becomes a final, enforceable rule.

When a pending rule is published in the Bulletin, the agency is required to include certain information in the "Notice of Pending Rulemaking". This includes:

- a) *a statement giving the reasons for adopting the rule;*
- b) *a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;*
- c) *the date the pending rule will become final and effective;*
- d) *an identification of any portion of the rule imposing or increasing a fee or charge.*

Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the "Notice of Pending Rulemaking" is published.

FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is in effect and enforceable.

No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that an agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution may be adopted to reject the rulemaking or any part thereof. A "Notice of Final Rule" must be published in the Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule reviewed by the legislature and not rejected, amended or modified becomes final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule that is final and effective may be applied retroactively, as provided in the rule.

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls, Twin Falls, Lewiston and East Bonner County Library.

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0306, telephone (208) 332-1820.

The Idaho Administrative Bulletin is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.

The Idaho Administrative Code, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes a table of contents, reference guides, and a subject index.

Individual Rule Chapters and Individual RuleMaking Dockets, are specific portions of the Bulletin and Administrative Code produced on demand.

Internet Access - The Administrative Code and Administrative Bulletin are available on the Internet at the following address: <http://adm.idaho.gov/adminrules/>

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

*Rulemaking documents produced by state agencies and published in the **Idaho Administrative Bulletin** are organized by a numbering system. Each state agency has a two-digit identification code number known as the “IDAPA” number. (The “IDAPA” Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit “TITLE” number is assigned. There are “CHAPTER” numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:*

IDAPA 38.05.01.200.02.c.ii.

“IDAPA” refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

“38.” refers to the Idaho Department of Administration

“05.” refers to Title 05, which is the Department of Administration’s Division of Purchasing

“01.” refers to Chapter 01 of Title 05, “Rules of the Division of Purchasing”

“200.” refers to Major Section 200, “Content of the Invitation to Bid”

“02.” refers to Subsection 200.02.

“c.” refers to Subsection 200.02.c.

“ii.” refers to Subsection 200.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a “DOCKET NUMBER.” The “Docket Number” is a series of numbers separated by a hyphen “-”, (38-0501-0801). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket number:

“DOCKET NO. 38-0501-0801”

“38-” denotes the agency's IDAPA number; in this case the Department of Administration.

“0501-” refers to the TITLE AND CHAPTER numbers of the agency rule being promulgated; in this case the Division of Purchasing (TITLE 05), Rules of the Division of Purchasing (Chapter 01).

“0801” denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rule-making action published in calendar year 2008. A subsequent rulemaking on this same rule chapter in calendar year 2008 would be designated as “0802”. The docket number in this scenario would be 38-0501-0802.

Within each Docket, only the affected sections of chapters are printed. (See Sections Affected Index in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section “200” appears before Section “345” and so on). Whenever the sequence of the numbering is broken the following statement will appear:

(BREAK IN CONTINUITY OF SECTIONS)

INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection of a rule that is part of the same rule, a typical internal citation may appear as follows:

“...as found in Section 201 of this rule.” OR “...in accordance with Subsection 201.06.c. of this rule.”

The citation may also include the IDAPA, Title, or Chapter number, as follows”

“...in accordance with IDAPA 38.05.01.201...”

“38” denotes the IDAPA number of the agency.

“05” denotes the TITLE number of the rule.

“01” denotes the Chapter number of the rule.

“201” denotes the main Section number of the rule to which the citation refers.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

“...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, “Rules Governing Capitol Mall Parking.”

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2008

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
08-1	January 2008	*November 14, 2007	January 2, 2008	January 23, 2008
08-2	February 2008	January 4, 2008	February 6, 2008	February 27, 2008
08-3	March 2008	February 8, 2008	March 5, 2008	March 26, 2008
08-4	April 2008	March 7, 2008	April 2, 2008	April 23, 2008
08-5	May 2008	April 4, 2008	May 7, 2008	May 28, 2008
08-6	June 2008	May 2, 2008	June 4, 2008	June 25, 2008
08-7	July 2008	May 30, 2008	July 2, 2008	July 23, 2008
08-8	August 2008	July 3, 2008	August 6, 2008	August 27, 2008
08-9	September 2008	August 1, 2008	September 3, 2008	September 24, 2008
08-10	October 2008	**August 20, 2008	October 1, 2008	October 22, 2008
08-11	November 2008	October 3, 2008	November 5, 2008	November 26, 2008
08-12	December 2008	October 31, 2008	December 3, 2008	December 24, 2008

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2009

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
09-1	January 2009	*November 14, 2008	January 7, 2009	January 28, 2009
09-2	February 2009	January 9, 2009	February 4, 2009	February 25, 2009
09-3	March 2009	February 6, 2009	March 4, 2009	March 25, 2009
09-4	April 2009	March 6, 2009	April 1, 2009	April 22, 2009
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09-6	June 2009	May 1, 2009	June 3, 2009	June 24, 2009
09-7	July 2009	May 29, 2009	July 1, 2009	July 22, 2009
09-8	August 2009	July 3, 2009	August 5, 2009	August 26, 2009
09-9	September 2009	July 31, 2009	September 2, 2009	September 23, 2009
09-10	October 2009	**August 28, 2009	October 7, 2009	October 28, 2009
09-11	November 2009	October 2, 2009	November 4, 2009	November 25, 2009
09-12	December 2009	November 6, 2009	December 2, 2009	December 23, 2009

***Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rules to be reviewed by the legislature.**

****Last day to submit proposed rules in order to complete rulemaking for review by legislature.**

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IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-0702

NOTICE OF RULEMAKING - RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Section 71-111, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for rescinding the temporary rule:

This rule was adopted effective November 1, 2007 and approved by the 2008 legislature. Subsection 004.03, Incorporation By Reference, was overwritten by a pending rule that also contained a Subsection 004.03 in the Incorporation By Reference section. This rescinded temporary rule is being replaced with a temporary and proposed rule containing the exact text, other than numbering of the paragraphs in Section 004 and update to the 2008 edition of NIST Handbook 44.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the rescission of this temporary rule, contact Tom Schafer, Section Manager at 332-8690.

DATED this 15th day of May, 2008.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
PO Box 790
Boise, Idaho 83701-0790
Phone 332-8500
Fax 334-4062

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-0801

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 2, 2008.

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 71-111, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2008.

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:

1. To adopt by reference the date specific standard ASTM D 4814-07a, "Standard Specification for Automotive Spark-Ignition Engine Fuel";
2. To state in rule that the specifications for gasoline blended with ethanol be no more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency; and
3. To adopt by reference the 2008 edition of NIST Handbook 44, Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices.

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

To confer a benefit to have gasoline and gasoline-oxygenate blend specifications and exceptions to those specifications adopted under the rules, regulations and Clean Air Act waivers of the EPA in IDAPA to facilitate refiners, distributors and retailers in the use of ethanol in the state of Idaho.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

There is no fiscal impact associated with this rule change.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule replaces a temporary rule docket number 02-0214-0702 that was approved by the 2008 Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tom Schafer, at 332-8690.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2008.

DATED this 15th day of May, 2008.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701-0790
Phone 332-8500, Fax 334-4062

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0214-0801

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 200~~78~~ edition of Handbook No. 44 of the National Institute of Standards and Technology, United States Department of Commerce, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," hereby incorporated by reference, shall be the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in these rules. ~~(4-2-08)(7-2-08)T~~

02. Required Reference Materials for Checking Prepackaged Commodities. The 4th Edition of Handbook No. 133 of the National Institute of Standards and Technology, United States Department of Commerce, "Checking the Net Contents of Packaged Goods," hereby incorporated by reference, shall be the authority in checking packaged commodities, unless otherwise stated in these rules. ~~(2-13-04)~~

03. Specifications for Diesel Fuel and Biodiesel Fuel. American Society of Testing and Materials (ASTM) D975-07a, "Standard Specification for Diesel Fuel Oils," and ASTM D6751-07a, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels," intended for blending with diesel fuel are hereby incorporated by reference and are the specifications for diesel fuel and biodiesel fuel blend stock (B100 biodiesel). ~~(4-2-08)~~

04. Specifications for Gasoline. American Society of Testing and Materials (ASTM) D 4814-07a, "Standard Specification for Automotive Spark-Ignition Engine Fuel", dated October 17, 2007, is hereby incorporated by reference and is the specification for gasoline. ~~(7-2-08)T~~

045. Local Availability. Copies of ~~Handbook No. 44 and Handbook No. 133~~ the incorporated documents are on file with the *State Law Library and the* Idaho State Department of Agriculture, 2216 Kellogg Lane, Boise, Idaho 83712, or may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies are available for downloading on the internet by going to <http://nist.gov>. Copies of ~~ASTM D975 and ASTM D6751~~ specifications are on file with the *State Law Library and the* Idaho State Department of Agriculture or may be purchased from ASTM. ~~(4-2-08)(7-2-08)T~~

(BREAK IN CONTINUITY OF SECTIONS)

350. SALE AND LABELING OF GASOLINE WHICH CONTAINS OXYGENATES.

01. Definitions. For purposes of this rule, the following definitions shall apply: ~~(7-1-93)~~

a. Spark-Ignition Motor Fuel. The terms "spark-ignition motor fuel" or "spark-ignition engine fuel" mean gasoline and its blends with oxygenates such as co-solvent and ethers. ~~(10-26-94)~~

b. Gasoline-Oxygenate Blend. For labeling purposes, the term "gasoline-oxygenate blend" means any

spark-ignition motor fuel containing one percent (1%) or more by volume of oxygenates or combination of oxygenates, such as but not restricted to ethanol, methanol, or methyl-tertiary-butyl ether. (10-26-94)

c. Alcohol. A volatile flammable liquid having the general formula C_nH (2n+1) OH used or sold for the purpose of blending or mixing with gasoline for use in motor vehicles, and commonly or commercially known or sold as an alcohol, including ethanol and methanol. (7-1-93)

d. Co-solvent. An alcohol or any other chemical with higher molecular weight than methanol or ethanol which is blended with either or both to prevent phase separation in gasoline. (7-1-93)

e. Ethanol. Ethyl alcohol, a flammable liquid having the formula C₂H₅OH used or sold for the purpose of blending or mixing with gasoline for use in motor vehicles, and commonly or commercially known or sold as ethanol or ethyl alcohol. (7-1-93)

f. Gasoline. Any fuel sold for use in motor vehicles and commonly or commercially known or sold as gasoline whether leaded or unleaded. (7-1-93)

g. Methanol. Methyl alcohol, a flammable liquid having the formula CH₃OH used or sold for the purpose of blending or mixing with gasoline for use in motor vehicles, and commonly or commercially known or sold as methanol or methyl alcohol. (7-1-93)

h. Motor vehicles. Include all vehicles, vessels, watercraft, engines, machines, or mechanical contrivances that are propelled by internal combustion engines or motors. (7-1-93)

i. Person. The word "person" shall be construed to import both the plural and singular, as the case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this rule, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society or association as well as that of the person. (7-1-93)

j. Retail dealer. Any person who owns, operates, controls, or supervises an establishment at which gasoline is sold or offered for sale to the public. (7-1-93)

k. Wholesale dealer. Any person engaged in the sale of gasoline to others who the seller knows or has reasonable cause to believe intends to resell the gasoline in the same or an altered form to another. (7-1-93)

02. Pump Labeling Requirements. (7-1-93)

a. All spark ignition engine fuel kept, offered, or exposed for sale, or sold, at retail containing at least one percent (1%) by volume of any oxygenate or combination of oxygenates shall be identified as "with" or "containing" (or similar wording) the specific type of oxygenate(s) in the engine fuel. For example, the label may read "contains ethanol" or "with MTBE/ETBE." This information shall be posted on the upper fifty percent (50%) of the dispenser front panel in a position clear and conspicuous from the driver's position, in a type at least one half (1/2) inch in height, one-sixteenth (1/16) inch stroke (width of type). (10-26-94)

b. The labels shall be furnished by the retail owner or operator. (7-1-93)

03. Oxygenates Content Labels. (10-26-94)

a. The label shall have letters in bold face, block not less than one-half (1/2) inch high. The lettering shall be in black on a contrasting background. Both colors shall be non-fade. (10-26-94)

b. The label shall be displayed on both faces of the dispenser on the upper one-half (1/2) of the dispenser as near the unit price display as practical. (10-26-94)

04. Documentation for Dispenser Labeling Purposes. The retailer must be provided, at the time of

delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of any oxygenate or combination of oxygenates present in concentrations of at least one percent (1%) by volume of the fuel. This documentation is only for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygen content of the engine fuel before blending. (10-26-94)

05. Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends. (7-2-08)T

a. The version of ASTM D 4814 "Standard Specification for Automotive Spark-Ignition Engine Fuel" incorporated by reference in this rule is the standard for gasoline and gasoline oxygenate blends, except the volatility standards for unleaded gasoline blended with ethanol shall not be more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency. Gasoline blended with ethanol shall be blended under any of the following three (3) options. (7-2-08)T

i. The base gasoline used in such blends shall meet the requirements of ASTM D 4814, or (7-2-08)T

ii. The blend shall meet the requirements of ASTM D 4814, or (7-2-08)T

iii. The base gasoline used in such blends shall meet all the requirements for gasoline of ASTM D 4814 except distillation, and the blend shall meet the distillation requirements of the ASTM specification. (7-2-08)T

b. Blends of gasoline and ethanol shall not exceed the ASTM D 4814 vapor pressure standard by more than one point zero (1.0) psi. (7-2-08)T

056. Penalties. Any person who shall violate any provisions of these rules shall be punished as provided for in Section 37-2501 and Section 37-2520, Idaho Code. (7-1-93)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-0802

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 71-121, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Thursday - July 10, 2008 - 3:00 to 5:00 p.m.

**Idaho State Department of Agriculture
Lower Conference Room 1&2
2270 Old Penitentiary Road
Boise, Idaho 83712**

METHOD OF PARTICIPATION: Persons wishing to participate in the informal negotiated rulemaking must do the following:

Attend the scheduled negotiation meeting or submit written comments on the proposed rule change.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The rule change would increase the annual device license fees to enable the Bureau to meet annual device testing goals and to fund replacement equipment.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Tom Schafer, Section Manager at 332-8690.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 14, 2008.

DATED this 15th day of May, 2008.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701-0790
Phone 332-8500
Fax 334-4062

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.09 - INVASIVE SPECIES RULES

DOCKET NO. 02-0609-0801 (NEW CHAPTER)

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 22-1907, 22-2006 and 22-2015, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled as required:

Friday - July 11, 2008 - 9:00 a.m.

**Idaho State Department of Agriculture
2270 Old Penitentiary Road
Room A
Boise, Idaho**

METHOD OF PARTICIPATION: Persons wishing to participate in the informal negotiated rulemaking must do the following:

Attend the initial negotiated rulemaking meeting, or notify the Idaho State Department of Agriculture, in writing, of the desire to participate in the negotiated rulemaking. Written notification should include all contact information and an electronic mail or mailing address. Those providing written notification will be contacted regarding any additional scheduled negotiated rule making meetings.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The rule would determine which species are invasive in Idaho and establish procedures for testing, sampling, inspection, certification, permitting, compliance verification and recordkeeping.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Amy Ferriter, (208) 332-8686 or Thomas E. Dayley (208) 332-8620.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before the first scheduled negotiated rulemaking meeting. As the process moves forward, written comments may be accepted after that date.

DATED this 30th day of May, 2008.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701-0790
Phone 332-8500, Fax 334-2170

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.03 - RULES OF THE CUSTODY REVIEW BOARD

DOCKET NO. 05-0103-0701

NOTICE OF RULEMAKING - FINAL RULE

AUTHORITY: In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on this rulemaking under Docket No. 05-0103-0701. This agency action for this final rulemaking is authorized pursuant to Sections 20-520(1)(q), 20-532, 20-504(11), Idaho Code.

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

Pursuant to House Concurrent Resolution No. 38, Docket No. 05-0103-0701 is not consistent with legislative intent and is being amended accordingly. In accordance with the concurrent resolution the following changes are being made to the final rule:

The original text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 115 through 120. The pending rule was published in the December 5, 2007 Idaho Administrative Bulletin, Vol. 07-12, page 39. IDAPA 05.01.03, Rules of the Custody Review Board, Section 102, relating to Structure and Composition of the Custody Review Board, Subsection 102.01.a., and Subsection 102.02.c., amended language only, are rejected.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Nancy Bishop, Deputy Attorney General, Idaho Department of Juvenile Corrections, 334-5100.

DATED this 16th day of May, 2008.

Nancy Bishop
Deputy Attorney General
954 W. Jefferson St.
P.O. Box 83720
Boise, ID 83720-0285
Phone: (208) 334-5100
Fax: (208) 334-5120

THE FOLLOWING IS THE FINAL TEXT OF DOCKET NO. 05-0103-0701

Section 102 is being reprinted in its entirety

102. STRUCTURE AND COMPOSITION OF THE CUSTODY REVIEW BOARD.

01. Board Members.

(5-3-03)

- a.** The board is composed of four (4) members, each of whom shall be appointed by the director of the department. (5-3-03)

b. The director shall select appointees who represent a variety of juvenile justice experiences and victim perspectives, or who are otherwise qualified. (5-3-03)

02. Terms of Appointment. (5-3-03)

a. The first term of appointment shall be staggered as follows: (5-3-03)

i. An appointee shall serve for a term of one (1) year; (5-3-03)

ii. An appointee shall serve for a term of two (2) years; (5-3-03)

iii. An appointee shall serve for a term of three (3) years; and (5-3-03)

iv. An appointee shall serve for a term of four (4) years. (5-3-03)

b. The terms of these initial board members shall be identified in each appointment. (5-3-03)

c. The director shall fill each succeeding vacancy for terms of four (4) years. Vacancies in the board for unexpired terms shall be by appointment by the director for the remainder of the term. All appointees may be reappointed. (5-3-03)

03. Compensation of Board Members. Members shall be compensated as provided by Section 59-509(b), Idaho Code. They shall serve without honorarium or compensation but shall be reimbursed for actual and necessary expenses, subject to the limits provided in Section 67-2008, Idaho Code. (5-3-03)

04. Removal from Board. The director may remove any member from the board for neglect of duty required by law, for incompetence, for breaches of confidence or for unprofessional or dishonorable conduct. (5-3-03)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.05 - RULES GOVERNING EXAMINATIONS -- BUILDING SAFETY

DOCKET NO. 07-0105-0801

NOTICE OF RULEMAKING - 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 54-1003, 54-1005, and 54-1006, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2008.

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:

Statistics for the past two years show an unusually high pass rate for persons taking the Electrical Contractor examination, including 100% on several occasions. These statistics demonstrate that the minimum pass percentage may be too low. To remedy this situation, the Electrical Board has approved an increase in the minimum pass rate. This proposed rulemaking increases the minimum pass percentage for the Electrical Contractor examination from 70% to 75%.

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 IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the very minor and simple nature of the proposed change.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2008.

DATED this 6th day of May, 2008.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0105-0801

011. EXAMINATIONS.

The Electrical Board shall review and approve all versions of examinations prior to administration. (4-5-00)

01. Frequency of Conducting of Examinations. Examinations for all classifications under the Electrical Laws and Rules will be given a minimum of four (4) times each year in at least three (3) locations: One (1) to be in northern Idaho, one (1) to be in central Idaho, and one (1) to be in southern Idaho. The applicant will be notified in writing of the date, time, and location at which the examination will be given, following approval of the application. (4-5-00)

02. Professional Testing Services. In lieu of the administration by the Electrical Board of the examination for licenses pursuant to this rule, the Electrical Board may contract with a professional testing service to administer the examination and require license applicants to pay to the testing service the fee that they have set for the examination and to take such examination at the time set by such service. After taking such examination, an official copy of the test score shall be provided by the applicant to the Electrical Board before the license will be granted. If the examination is conducted in this fashion, the Electrical Board may charge and retain the application fee provided for by Section 54-1014, Idaho Code, to cover the cost of reviewing the applicant's application. (4-5-00)

03. Required Scores. The following scores are considered minimum for passing and are required to be achieved by the applicant prior to issuance of the appropriate license or certification.

J Journeyman Electrician - 70%
S Specialty Journeyman Electrician - 70%
E Electrical Contractor - 70%
SE Specialty Electrical Contractor - 70%
EI Electrical Inspector - 70%
ME Master Electrician - 75%

(4-6-05)()

04. Failed Examinations.

(4-6-05)

a. An applicant receiving less than a passing score on a first or second examination may be reexamined at the expiration of thirty (30) days after the date of the failed examination. (4-6-05)

b. Before being reexamined after failing an examination the third time, an applicant must: (4-6-05)

i. Wait until the expiration of one (1) year from the date of the failed third examination; or (4-6-05)

ii. Provide proof, satisfactory to the Electrical Board, of completion of a minimum of twenty-four (24) hours of Board-approved, related electrical training or continuing education since the date of the failed third examination. (4-6-05)

c. Before being reexamined after any further failures, an applicant for reexamination must: (4-6-05)

i. Wait until the expiration of an additional one (1) year from the date of the failed examination; or (4-6-05)

ii. Provide proof, satisfactory to the Electrical Board, of completion of thirty-two (32) hours of Board-approved, related electrical training or continuing education since the date of the failed examination. (4-6-05)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.05.01 - RULES OF THE PUBLIC CONTRACTORS LICENSE BOARD

DOCKET NO. 07-0501-0801 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2008.

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 54-1907, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2008.

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:

Sections 54-1910 and 54-1911, Idaho Code, authorize the Public Works Contractors License Board to establish, by rule, such written or oral examinations it deems necessary to administer to applicants for public works contractor licenses. Currently, the Board has no such rule. This rulemaking is intended to address this deficiency and come into compliance with the controlling statute. The rulemaking establishes requirements and procedures for licensing examinations and it establishes a licensing and renewal fee for a new classification of license.

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

The 2008 Legislature passed House Bill No. 476 adding an “unlimited” class public works contractor license and authorizing the Public Works Contractors License Board to promulgate rules setting the initial licensing fee and renewal fee for this license. Temporary rulemaking is necessary to meet the July 1, 2008 effective date of the legislation.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

The rulemaking sets a fee of five hundred fifty dollars (\$550) for a Class Unlimited license.

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

Since licensing fees for the Division of Building Safety are dedicated funds, there will be no impact on the General Fund. Because it is anticipated that few contractors will apply for the “unlimited” class license, the fiscal impact on the dedicated funds should be negligible.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2008.

DATED this 28th day of May, 2008.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0501-0801

112. EXAMINATION.

The Board shall approve all subject areas and topics to be included in the examinations to become licensed as a public works contractor. (7-1-08)T

01. Frequency of Conducting of Examinations. (7-1-08)T

a. Examinations for all classes of licenses under the Public Contractors laws and rules will be given a minimum of four (4) times each year in at least three (3) locations: (7-1-08)T

- i. One (1) to be in north Idaho; (7-1-08)T
- ii. One (1) to be in southwest Idaho; and (7-1-08)T
- iii. One (1) to be in southeast Idaho. (7-1-08)T

b. The applicant will be notified in writing of the date, time, and location at which the examinations will be given, following approval of the application. (7-1-08)T

02. Professional Testing Services. In lieu of the administration by the administrator of the examination for licenses pursuant to this rule, the administrator may contract with a professional testing service to administer the examination, and require license applicants to pay to the testing service the fee that they have set for the examination and to take such examination at the time set by such service with the exception of Class D applicants. After taking such examination, an official copy of the applicant's test score must be provided to the administrator before the license will be granted. If the examination is conducted in this fashion, the Division of Building Safety may charge and retain the application fee provided for by Section 54-1911, Idaho Code, to cover the cost of reviewing the applicant's application. (7-1-08)T

a. Class D applicants will utilize the existing in-house, open-book examination. (7-1-08)T

b. Class D licensees pursuing an upgrade must reapply and pass the examination administered by the professional testing service. (7-1-08)T

03. Required Score. The applicant must receive a final grade of seventy percent (70%) or higher prior to issuance of the appropriate license. (7-1-08)T

04. Failed Examinations. (7-1-08)T

a. An applicant receiving less than a passing score on a first or second examination may be reexamined without reapplication. (7-1-08)T

b. Before being reexamined after failing an examination the third time, an applicant must resubmit the application and fee. (7-1-08)T

c. Before being reexamined after any further failures, an applicant for reexamination must wait until the expiration of sixty (60) days from the date of the failed examination and resubmit the application and fee for each subsequent examination. (7-1-08)T

1123. -- 198. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

201. FEES.

01. Public Works Contractor Licensing Fees. Initial licensing and renewal fees for each class of public works contractor and construction manager licenses shall be, in accordance with Sections 54-1904 and 54-4510, Idaho Code, as follows: (3-19-07)(7-1-08)T

- a.** The fee for a Class Unlimited license shall be five hundred and fifty dollars (\$550). (7-1-08)T
- ab.** The fee for a Class A license shall be two hundred and fifty dollars (\$250). (3-19-07)
- bc.** The fee for a Class AA license shall be three hundred and fifty dollars (\$350). (3-19-07)
- cd.** The fee for a Class AAA license shall be four hundred and fifty dollars (\$450). (3-19-07)
- de.** The fee for a Class B license shall be one hundred and fifty dollars (\$150). (3-19-07)
- ef.** The fee for a Class C license shall be one hundred dollars (\$100). (3-19-07)
- fg.** The fee for a Class D license shall be fifty dollars (\$50). (3-19-07)

042. Construction Manager Licensing Fees. Initial licensing and renewal fees for construction manager licenses shall be, in accordance with Section 54-4510, Idaho Code, as follows: (3-19-99)(7-1-08)T

- a.** The fee for initial examination and licensing shall be two hundred dollars (\$200). (3-19-99)
- b.** The fee for license renewal shall be two hundred dollars (\$200). (3-19-99)
- c.** The fee for an inactive license shall be fifty dollars (\$50). (3-19-99)
- d.** The fee for license reinstatement shall be two hundred dollars (\$200). (3-19-99)
- e.** The fee for administering the examination shall be the standard fee established for taking that examination. (3-19-99)
- f.** The fee for issuing and for reinstating a certificate of authority shall be one hundred dollars (\$100). (3-19-99)

023. Payment of Fees. Fees shall be payable to "Division of Building Safety -- Public Works Contractors." (3-20-04)

034. Application Filed With Fees. Required fees shall accompany all applications. An application filed without the required fees shall be deemed incomplete and returned to the applicant. (3-20-04)

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0803

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 33-1501 through 33-1514 and 33-1006, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Tuesday - July 8, 2008 - 12:00 p.m. to 4:00 p.m.

**Idaho State Department of Education
LBJ Building - 2nd Floor
Lewis & Clark Conference Room
650 W. State Street
Boise, ID 83720-0027**

METHOD OF PARTICIPATION: Persons wishing to participate in the informal negotiated rulemaking must do the following:

Interested persons may submit written comments through July 8, 2008. Requests to give oral presentation during the July 8, 2008, public hearing must be submitted prior to July 7, 2008. Interested individuals will have an additional opportunity to participate during the proposed rulemaking phase.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Current administrative rules related to Idaho's pupil transportation support program became effective secondary to State Board of Education and legislative review on March 30, 2007. Changes in Standards for Idaho School Buses and Operations (SISBO) related to new school bus construction and operation standards are anticipated subsequent to revisions to the 2005 National Congress on School Transportation (see Section 33-1511(2), Idaho Code, and IDAPA 08.02.02.150-190). Changes in SISBO related to operations, bus purchasing, and reimbursements will be reviewed and modified subsequent to public hearings, Idaho School Boards Association, stakeholders, Steering Committee meetings, and clarification of a current referenced document (SISBO).

The goal of the State Department of Education is to clarify standards language where appropriate and continue in its support of rules and procedures designed to promote school transportation safety, equity, accountability and efficiency.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Ray Merical, State Department of Education, Finance and Transportation, P.O. Box 83720, Boise, Idaho 83720-0027 or by calling (208) 332-6851 or fax to (208) 334-2228.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 8, 2008.

DATED this 30th day of May, 2008.

Tom Luna, Superintendent of Public Instruction
State Department of Education
650 West State Street - P.O. Box 83720
Boise, Idaho 83720-0027
(208) 332-6815 - (208) 334-2228 fax

IDAPA 10 - PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

10.01.01 - RULES OF PROCEDURE

DOCKET NO. 10-0101-0801

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 54-1208, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

Monday - July 14, 2008 - 8:00 a.m.

North Idaho College
Student Union Building
Room To Be Posted At Entrance
Coeur d'Alene, Idaho

Friday - July 18, 2008 - 8:00 a.m.

Idaho Transportation Department
Auditorium
3311 W. State Street
Boise, Idaho

Monday - July 28, 2008 - 1:00 p.m.

ISU Student Union Building
Wood River Room
Pocatello, Idaho

Tuesday - July 15, 2008 - 8:00 a.m.

Fish and Game Department
Hunter Education Room
3316 16th Street
Lewiston, Idaho

Monday - July 28, 2008 - 8:00 a.m.

ISU University Place
Room To Be Posted At Entrance
1784 Science Center Dr.
Idaho Falls, Idaho

Tuesday - July 29, 2008 - 8:00 a.m.

College of Southern Idaho
Taylor Building, Room 277
Twin Falls, Idaho

METHOD OF PARTICIPATION: Persons wishing to participate in the informal negotiated rulemaking must appear at one of the hearings and make an oral presentation or ask questions or they may submit written comments.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The purpose of the intended negotiated rulemaking is to amend the Administrative Rules to:

1. Comply with updated terminology as incorporated in House Bill No. 380 passed by the 2008 session of the Idaho Legislature;
2. Include recognition of a Doctor of Philosophy degree as an exemption from the need to have an independent evaluation of engineering education obtained outside the United States;
3. Clarify that the Board will not ask another jurisdiction to proctor examinations; and
4. Clarify that an applicant who fails an examination a second or subsequent time must comply with the requirements contained in House Bill No. 380 passed by the 2008 session of the Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact David L. Curtis, P.E., Executive Director at dave.curtis@ipels.idaho.gov or (208) 373-7210. Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 10, 2008.

DATED this 22nd day of May, 2008.

David L. Curtis, P.E., Executive Director
Board of Professional Engineers and Land Surveyors
5535 W. Overland Road, Boise, Idaho 83705

Voice (208) 373-7210, Fax (208) 373-7213
email: dave.curtis@ipels.idaho.gov

IDAPA 10 - PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY

DOCKET NO. 10-0102-0801

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 54-1208, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

Monday - July 14, 2008 - 8:00 a.m.	Tuesday - July 15, 2008 - 8:00 a.m.
North Idaho College Student Union Building <i>Room To Be Posted At Entrance</i> Coeur d'Alene, Idaho	Fish and Game Department Hunter Education Room 3316 16th Street Lewiston, Idaho
Friday - July 18, 2008 - 8:00 a.m.	Monday - July 28, 2008 - 8:00 a.m.
Idaho Transportation Department Auditorium 3311 W. State Street Boise, Idaho	ISU University Place <i>Room To Be Posted At Entrance</i> 1784 Science Center Dr. Idaho Falls, Idaho
Monday - July 28, 2008 - 1:00 p.m.	Tuesday - July 29, 2008 - 8:00 a.m.
ISU Student Union Building Wood River Room Pocatello, Idaho	College of Southern Idaho Taylor Building, Room 277 Twin Falls, Idaho

METHOD OF PARTICIPATION: Persons wishing to participate in the informal negotiated rulemaking must appear at one of the hearings and make an oral presentation or ask questions or they may submit written comments.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The purpose of the intended negotiated rulemaking is to amend the Administrative Rules to:

1. Comply with updated terminology as incorporated in House Bill No. 380 passed by the 2008 session of the Idaho Legislature;
2. Remove an ambiguity relating to sealing of documents; and
3. Allow the Board to take disciplinary action if a licensee surrenders their license in another jurisdiction for reasons or causes which would constitute a violation of Idaho laws or rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact David L. Curtis, P.E., Executive Director at dave.curtis@ipels.idaho.gov or (208) 373-7210. Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 10, 2008.

DATED this 22nd day of May, 2008.

David L. Curtis, P.E., Executive Director
Board of Professional Engineers and Land Surveyors
5535 W. Overland Road, Boise, Idaho 83705

Voice (208) 373-7210, Fax (208) 373-7213
email: dave.curtis@ipels.idaho.gov

IDAPA 10 - PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

10.01.03 - RULES OF CORNER PERPETUATION AND FILING

DOCKET NO. 10-0103-0801

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 54-1208, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

Monday - July 14, 2008 - 8:00 a.m.

North Idaho College
Student Union Building
Room To Be Posted At Entrance
Coeur d'Alene, Idaho

Friday - July 18, 2008 - 8:00 a.m.

Idaho Transportation Department
Auditorium
3311 W. State Street
Boise, Idaho

Monday - July 28, 2008 - 1:00 p.m.

ISU Student Union Building
Wood River Room
Pocatello, Idaho

Tuesday - July 15, 2008 - 8:00 a.m.

Fish and Game Department
Hunter Education Room
3316 16th Street
Lewiston, Idaho

Monday - July 28, 2008 - 8:00 a.m.

ISU University Place
Room To Be Posted At Entrance
1784 Science Center Dr.
Idaho Falls, Idaho

Tuesday - July 29, 2008 - 8:00 a.m.

College of Southern Idaho
Taylor Building, Room 277
Twin Falls, Idaho

METHOD OF PARTICIPATION: Persons wishing to participate in the informal negotiated rulemaking must appear at one of the hearings and make an oral presentation or ask questions or they may submit written comments.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The purpose of the intended negotiated rulemaking is to amend the Administrative Rules to:

1. Comply with updated terminology as incorporated in House Bill No. 380 passed by the 2008 session of the Idaho Legislature;
2. Correct the address of the Board office; and
3. Clarify that the corner record must include a sketch of the marks on a found monument.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact David L. Curtis, P.E., Executive Director at dave.curtis@ipels.idaho.gov or (208) 373-7210. Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 10, 2008.

DATED this 22nd day of May, 2008.

David L. Curtis, P.E., Executive Director
Board of Professional Engineers and Land Surveyors
5535 W. Overland Road, Boise, Idaho 83705

Voice (208) 373-7210, Fax (208) 373-7213
email: dave.curtis@ipels.idaho.gov

IDAPA 10 - PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

10.01.04 - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT

DOCKET NO. 10-0104-0801

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 54-1208, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

Monday - July 14, 2008 - 8:00 a.m.

North Idaho College
Student Union Building
Room To Be Posted At Entrance
Coeur d'Alene, Idaho

Friday - July 18, 2008 - 8:00 a.m.

Idaho Transportation Department
Auditorium
3311 W. State Street
Boise, Idaho

Monday - July 28, 2008 - 1:00 p.m.

ISU Student Union Building
Wood River Room
Pocatello, Idaho

Tuesday - July 15, 2008 - 8:00 a.m.

Fish and Game Department
Hunter Education Room
3316 16th Street
Lewiston, Idaho

Monday - July 28, 2008 - 8:00 a.m.

ISU University Place
Room To Be Posted At Entrance
1784 Science Center Dr.
Idaho Falls, Idaho

Tuesday - July 29, 2008 - 8:00 a.m.

College of Southern Idaho
Taylor Building, Room 277
Twin Falls, Idaho

METHOD OF PARTICIPATION: Persons wishing to participate in the informal negotiated rulemaking must appear at one of the hearings and make an oral presentation or ask questions or they may submit written comments.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The purpose of the intended negotiated rulemaking is to amend the Administrative Rules to:

1. Comply with updated terminology as incorporated in House Bill No. 380 passed by the 2008 session of the Idaho Legislature;
2. Include professional engineers in the requirement of continuing professional development as a condition of license renewal;
3. Reduce the number of allowable professional development hours for the activities of "self-study," "membership," and "active participation";
4. Allow a licensee to opt for a two (2) calendar year period of compliance rather than a renewal biennium;
5. Provide for an exemption for a licensee on active duty temporarily assigned to a location other than their normal home station; and
6. Provide for an exemption for professional engineers during the period between the effective date of the rule and their first renewal following that date.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact David L. Curtis, P.E., Executive Director at dave.curtis@ipels.idaho.gov or (208) 373-7210.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 10, 2008.

DATED this 22nd day of May, 2008.

David L. Curtis, P.E.
Executive Director
Board of Professional Engineers
and Professional Land Surveyors
5535 W. Overland Road
Boise, Idaho 83705
Voice (208) 373-7210
Fax (208) 373-7213
email: dave.curtis@ipels.idaho.gov

IDAPA 12 - IDAHO DEPARTMENT OF FINANCE

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-0701

NOTICE OF RULEMAKING - 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 Idaho Code section 26-3105(1)(e) and 26-3105(2)(b).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2008.

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

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

In Section 26-3105(2), Idaho Code, the Idaho Legislature determined that a uniform multistate administration of an automated licensing system for mortgage brokers, mortgage lenders, and mortgage loan originators is consistent with both the public interest and the purposes of the Idaho Residential Mortgage Practices Act, chapter 31, title 26, Idaho Code (the Act). In Section 26-3105(2)(b) of the Act, the Legislature authorized the Director of the Idaho Department of Finance to establish by rule such new requirements as are necessary for the state of Idaho to participate in a uniform multistate licensing system upon the Director's finding that such new requirements are consistent with both the public interest and the purposes of the Act. The Director found that the requirements set forth in the proposed rules are consistent with the public interest and the purposes of the Act, and that they establish requirements necessary for the state of Idaho to participate in the Nationwide Mortgage Licensing System (NMLS), which became operative on January 1, 2008. The proposed rules also include amendments to existing rules regarding continuing professional education for licensees under the Act, which amendments establish uniformity with continuing professional education standards of other states; extend the time to apply to the Department for continuing education credit after course completion; and add a category of approved courses. The Director found that the proposed rules concerning continuing professional education standards for licensees under the Act were necessary to execute, enforce, and effectuate the purposes of the Act. The proposed rules were adopted as temporary rules, effective January 1, 2008. Such temporary rules were approved by the 2008 Idaho Legislature. The Department now seeks to make such temporary rules permanent rules, which is the purpose of this proposed rulemaking.

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

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

There is no anticipated fiscal impact to the State General Fund related to this rulemaking.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted for the following reasons. A Notice of Rulemaking - Adoption of Temporary Rule and a copy of the text of the temporary rule were published in the December 5, 2007 edition of the Idaho Administrative Bulletin, Volume 07-12. The temporary rule became effective on January 1, 2008. The temporary rule, which confers a benefit, was reviewed and approved by the 2008 Idaho Legislature. The purpose of this rulemaking is to make permanent such temporary rule, including certain minor changes.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2008.

DATED this 29th day of May, 2008.

Michael Larsen
Consumer Finance Bureau Chief
Idaho Department of Finance
800 Park Boulevard, Suite 200
P.O. Box 83720, Boise, Idaho 83720-0031
Telephone: (208) 332-8000
Fax: (208) 332-8096
mlarsen@finance.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 12-0110-0701

006. DEFINITIONS (RULE 6).

Except where otherwise stated, terms used in these rules which are defined in the Idaho Residential Mortgage Practices Act shall have the same meaning as set forth in that Act. As used in these rules: (3-30-06)

01. Accredited Instruction. Means a course, video, motion picture, sound recording, or dissemination through electronic means of instructional material, which has been approved by the director for continuing professional education credit. (3-30-06)

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

03. Certificate of Completion. Means written documentation issued by an education provider to a participant, in a manner approved by the director, evidencing the completion of a specific amount of credit hours of accredited instruction. (3-30-06)

04. 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 to complete such process. (3-30-06)

05. Credit Hour. Means sixty fifty (650) minutes of accredited instruction attained through actual course attendance of a course or an allotted increment of time of accredited instruction through independent study, as predetermined by the director. (3-30-06)()

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

07. Education Provider. Means a provider of accredited instruction. (3-30-06)

08. Participant. Means a person who attends accredited instruction for the purpose of accruing credit hours. (3-30-06)

09. Real Estate Settlement Procedures Act. Means the act set forth in 12 USCA 2601, et seq., as amended to and including January 1, 2007. (3-30-07)()

10. 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, 2007. (3-30-07)()

11. 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, 2007. (3-30-07)()

12. Reporting Period. Means a two (2) year period of time commencing on November 1st and ending on October 31st unless otherwise specified by order of the director. (3-30-06)

13. Truth in Lending Act. Means the act set forth in 15 USCA 1601, et seq., as amended to and including January 1, 2007. (3-30-07)()

007. -- 009. (RESERVED).

010. REQUIREMENTS FOR CONTINUING PROFESSIONAL EDUCATION (RULE 10).

01. Licensee. For purposes of the "Requirements for Continuing Professional Education" provisions of this rule, the term "licensee" means a person: (3-30-06)

a. Who is a loan originator licensed under the Act; or (3-30-06)

b. Who is designated pursuant to Section 26-3108, Idaho Code, as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act. (3-30-06)

02. Minimum Requirements. (3-30-06)

a. A loan originator licensed under the Act shall attain sixteen (16) credit hours within each reporting period. (3-30-06)

b. Persons designated in the director's files, as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act shall attain sixteen (16) credit hours within each reporting period. (3-30-06)

c. Credit hours accrued in excess of the required sixteen (16) credit hours in any reporting period shall not carry over nor be credited to any subsequent reporting period. (3-30-06)

03. Accrual of Credit Hours. (3-30-06)

a. For the purpose of accruing credit hours within any reporting period, a licensee shall attain no less than two (2) credit hours directly related to the Act and these rules. (3-30-06)

b. For the purpose of accruing credit hours within any reporting period, a licensee shall attain no less than fourteen two (142) credit hours directly related to the following: ethics. (3-30-06)()

c. For the purpose of accruing credit hours within any reporting period, a licensee shall attain no less than twelve (12) credit hours related to the following: ()

i. Basics of home purchase and ownership; (3-30-06)

ii. The mortgage industry generally; (3-30-06)

iii. Loan evaluation and documentation; (3-30-06)

iv. Features of various loan products; (3-30-06)

v. State and federally required disclosures; (3-30-06)

vi. Ethical considerations; (3-30-06)

vii. The Idaho Credit Code; (3-30-06)

viii. The Idaho Mortgage Company Act; (3-30-06)

- ix. The Idaho Escrow Act; (3-30-06)
- x. ~~The Uniform Commercial Credit Code~~ The Idaho Residential Mortgage Practices Act; (3-30-06)()
- xi. Law related to mortgages, deeds of trust, liens, and pledges; (3-30-06)
- xii. Real estate and appraisal law; (3-30-06)
- xiii. Principal and agency law; (3-30-06)
- xiv. Contract law; (3-30-06)
- xv. The Real Estate Settlement Procedures Act; or (3-30-06)
- xvi. Truth in Lending and the federal Consumer Credit Protection Act. (3-30-06)

c. Accredited instruction shall be of a minimum duration of one (1) credit hour and shall contribute to the goal of maintaining or increasing the knowledge, skill and competence of licensees. The principal focus of accredited instruction shall not be sales, marketing, commercial lending or commercial loan brokering, motivational, or skills pertaining to running a business. (3-30-06)

d. A participant who successfully completes a course of accredited instruction may not repeat that course for credit hours with the same education provider within the same reporting period. (3-30-06)

e. A participant may accrue credit hours within ninety (90) days prior to initial submission of an application for a loan originator license under the Act. Such credit hours shall not accrue to the participant unless the initial license application is subsequently approved by the director and a license is issued. Credit hours shall not be granted to a participant under this provision unless the participant provides the director with a copy of the certificate of completion for such accredited instruction within sixty (60) days of initial licensure. (3-30-06)

f. Persons designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act may accrue credit hours for accredited instruction attended within ninety (90) days prior to the date of approval by the director of such designation. (3-30-06)

g. Persons who, as of January 1, 2006, are designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act may accrue credit hours for accredited instruction completed on or after October 1, 2005. (3-30-06)

04. Recordkeeping and Reporting of Accrued Credit Hours. (3-30-06)

a. Every licensee shall maintain copies of certificates of completion for a period of no less than three (3) years following completion of the accredited instruction. (3-30-06)

b. The initial reporting period for a loan originator licensed under the Act shall commence on November 1st immediately succeeding his initial licensure. (3-30-06)

c. The initial reporting period for persons who are not loan originators, but who have been designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act shall commence:

i. On November 1, 2006, if the person has been so designated prior to November 1, 2006; or (3-30-06)

ii. On November 1st immediately following the director's approval of the person's designation, if the person is so designated on or after November 1, 2006. (3-30-06)

d. Within thirty (30) days following the expiration of each reporting period a licensee shall deliver copies of certificates of completion to the director demonstrating the licensee's completion of the credit hours required under these rules. (3-30-06)

e. A licensee who fails to attain the credit hours required by these rules, or fails to maintain records as required in Section 010 of these rules, or fails to timely report compliance with the credit hour requirements of these rules shall be subject to license revocation or suspension as prescribed in Section 26-3109, Idaho Code. (3-30-06)

f. Upon revocation or suspension of a license issued under the Act for failure to complete or report credit hour requirements, no person shall obtain a new license or a reinstated license in the case of a license suspension, as a loan originator, mortgage broker or mortgage lender without first satisfying the credit hour requirements, which, having been previously incomplete or not reported, were the cause of the license revocation or suspension. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

012. PRESUMPTIVE ACCREDITATION (RULE 12).

01. Instructional Courses Presumptively Accredited. Instructional courses that cover subject matter set forth in Subsection 010.03 of these rules, that are provided by the following listed organizations, or by such other organizations as may be determined by the director, are presumptively accredited and no request for accreditation of an instructional course offered by these organizations is required, unless the director determines otherwise. (3-30-06)

- a.** The Idaho Department of Finance. (3-30-06)
- b.** The National Association of Mortgage Brokers. (3-30-06)
- c.** The Mortgage Bankers Association. (3-30-06)
- d.** The National Association of Professional Mortgage Women. (3-30-06)
- e.** The Idaho Housing and Finance Association. (3-30-06)
- f.** Federal National Mortgage Association. (3-30-06)
- g.** Federal Home Loan Mortgage Corporation. (3-30-06)
- h.** The American Bankers Association. (3-30-06)
- i.** Regulatory agencies of any state or of the United States that have regulatory authority over mortgage related activity. (3-30-06)

j. Institutions of higher education accredited by the Idaho State Board of Education or by similar accrediting agencies of any other state. (3-30-06)

- k.** The Conference of State Bank Supervisors. (3-30-06)
- l.** The American Association of Residential Mortgage Regulators. (3-30-06)

02. Acceptance of Credit Hours for Presumptively Accredited Instruction. Credit hours for presumptively accredited instruction may be credited to participants in the following manner: (3-30-06)

- a.** Upon timely submission of a copy of a certificate of completion as set forth in Subsection 010.04 of

these rules; or

(3-30-06)

b. By written application by the participant, in a form prescribed by the director, within ~~thirty~~ ninety (~~390~~) days of successful course completion. The application shall be accompanied by a non-refundable fee of twenty-five dollars (\$25).
~~(3-30-06)()~~

(BREAK IN CONTINUITY OF SECTIONS)

091. -- 9099. (RESERVED).

100. LEGAL AUTHORITY (RULE 100).

In Section 26-3105(2), Idaho Code, the Idaho Legislature determined that a uniform multistate administration of an automated license system for mortgage brokers, mortgage lenders and mortgage loan originators is consistent with both the public interest and the purposes of the Residential Mortgage Practices Act, Chapter 31, Title 26, Idaho Code (the Act). In Section 26-3105(2)(b), Idaho Code, the Legislature authorized the Director of the Idaho Department of Finance to establish by rule such new requirements as are necessary for the state of Idaho to participate in a uniform multistate automated licensing system upon the Director's finding that such new requirements are consistent with both the public interest and the purposes of the Act. The Director finds that the requirements set forth in Sections 100 and 101 of these rules are consistent with the public interest and the purposes of the Act, and therefore promulgates such rules pursuant to Section 26-3105(2)(b), Idaho Code. ()

101. NATIONWIDE MORTGAGE LICENSING SYSTEM (RULE 101).

01. The Nationwide Mortgage Licensing System (NMLS). The NMLS is an internet-based filing depository operated by the State Regulatory Registry, LLC (SRR), a wholly-owned operating subsidiary of the Conference of State Bank Supervisors (CSBS). The NMLS is designed to accept license applications and license renewal applications electronically from mortgage brokers, mortgage lenders, and mortgage loan originators; collect associated statutory filing fees on behalf of participating jurisdictions; and provide the public with Internet-based access to information concerning state-regulated mortgage brokers, mortgage lenders, and mortgage loan originators. The NMLS began accepting electronic filings of applications from state-regulated mortgage brokers, mortgage lenders, and mortgage loan originators from Idaho on January 2, 2008. ()

02. Reasonable Access to NMLS. All mortgage brokers, mortgage lenders, and mortgage loan originators with reasonable access to NMLS via the Internet who seek a license under the Act, or who wish to retain a license previously issued under the Act, must do so through the NMLS. Applicants for a license or licensees who wish to retain a license under the Act who lack reasonable access to NMLS via the Internet may, upon prior approval of the Director and good cause shown, be excused from participation in the NMLS and may apply for a license or for license renewal through an alternative method designated by the Director. ()

03. Licensing. Mortgage brokers, mortgage lenders and mortgage loan originators who seek to obtain or retain a license under the Act through the NMLS must pay the charge imposed and retained by NMLS to fund the costs of NMLS associated with an applicant's or licensee's participation in the system. ()

04. Statutory Fees. NMLS shall collect on the Department's behalf any statutory fees required to be paid to the Department by license applicants and licensees pursuant to the Residential Mortgage Practices Act. NMLS is required to forward to the Department all statutory fees it collects on the Department's behalf pursuant to the terms of a written agreement between the Department and SRR. ()

102. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.02 - RULES OF THE IDAHO EMERGENCY MEDICAL SERVICES PHYSICIAN COMMISSION

DOCKET NO. 16-0202-0801

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2008.

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 56-1013A and 56-1017, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2008.

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

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

To best protect the public's health and safety, the Emergency Medical Services (EMS) Physician Commission is amending their standards manual which is incorporated by reference in this chapter of rules. Included in the manual is the definition of EMS "scope of practice" which lists the medications, devices, and clinical interventions that EMS personnel can use to treat patients at emergency scenes and in ambulances. The updated version of the manual adds several important medications and clinical interventions that can be used by EMS personnel after additional training and permission of their medical director.

Section 004 (Incorporation by Reference) of these rules is being revised with the updated edition number (2008-1) of the EMS Physician Commission Standards Manual. This revision will ensure the updated manual has the force and effect of law. Copies of the 2008-1 edition of the EMS Physician Commission Standards Manual will be available to the public on the effective date of this rulemaking.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate since it is necessary for the protection of the public health, safety, or welfare of Idahoans.

FEE SUMMARY: There is no fee or charge being imposed or increased in this docket.

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

There is no impact to the State General Fund as result of this rulemaking.

NOTE: The EMS Physician Commission is funded entirely by receipts from initial and renewal EMS certifications in accordance with Section 56-1013A(6), Idaho Code.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the content of the proposed updates to the EMS Physician Commission Standards Manual already represents extensive input from stakeholders gathered during 2007 and 2008.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dia Gainor at (208) 334-4000.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2008.

DATED this 12th day of May, 2008.

Sherri Kovach
Program Supervisor
DHW - Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0202-0801

004. INCORPORATION BY REFERENCE.

The Idaho Emergency Medical Services (EMS) Physician Commission has adopted the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 20078-1, and hereby incorporates this Standards Manual by reference. Copies of the manual may be obtained from the EMS Bureau located at 590 W. Washington Street, Boise, Idaho, 83702, whose mailing address is P.O. 83720, Boise, Idaho 83720-0036. (4-2-08)(7-1-08)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-0707

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is September 1, 2007. This pending rule has been adopted by the agency and is now pending review by the 2009 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code; also Title XIX and Title XXI of the Social Security Act, as amended, and the companion federal regulations.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary 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:

At the recommendation of the Legislative Services Office (LSO), the Department has amended the rule to clarify that pregnant women participating in Medicaid's Pregnant Women program are eligible for certain benefits under Medicaid's Basic Plan, including dental.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the Wednesday, November 7, 2007, Idaho Administrative Bulletin, Vol. 07-11, pages 46 through 73.

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

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Arla Farmer at (208) 364-1958.

DATED this 27th day of May, 2008.

Sherri Kovach
Program Supervisor
DHW - Administrative Procedures Section
450 West State Street - 10th Floor
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Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@dhw.idaho.gov e-mail

**DOCKET NO. 16-0309-0707 - ADOPTION OF PENDING RULE
AND AMENDMENT TO TEMPORARY RULE**

Substantive changes have been made to the pending rule.

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, **Volume 07-11, November 7, 2007, pages 46 through 73.**

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0309-0707

Section 399

399. COVERED SERVICES UNDER BASIC PLAN BENEFITS.

Individuals who are eligible for Medicaid Basic Plan Benefits are eligible for the following benefits, *described in this chapter of subject to the coverage limitations contained in these rules*. Those individuals eligible for services under IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” are also eligible for the services covered under this chapter of rules, unless specifically exempted. *(3-30-07)(9-1-07)T*

Subsetion 800.01

800. SELECTIVE CONTRACT FOR DENTAL COVERAGE UNDER THE BASIC PLAN.

01. Dental Coverage Under the Selective Contract. Children and adults under the Medicaid Basic Plan, *including pregnant women in the Low Income Pregnant Women coverage group*, are covered under a selective contract with Blue Cross of Idaho for preventative dental visits, treatments, and restorative services. For more details on covered dental services, go to http://www.bcidaho.com/about_us/idaho_smiles.asp. *(9-1-07)T(9-1-07)T*

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0705

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 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 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code; also Title XIX and Title XXI of the Social Security Act, as amended, and the companion federal regulations.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the Wednesday, November 7, 2007, Idaho Administrative Bulletin, Vol. 07-11, pages 76 through 102.

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

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Arla Farmer at (208) 364-1958.

DATED this 27th day of May, 2008.

Sherri Kovach
Program Supervisor
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kovachs@dhw.idaho.gov e-mail

DOCKET NO. 16-0310-0705 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-11, November 7, 2007, pages 76 through 102.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.14 - RULES AND MINIMUM STANDARDS FOR HOSPITALS IN IDAHO
DOCKET NO. 16-0314-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-1307, 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 January 2, 2008, Idaho Administrative Bulletin, Vol. 08-1, pages 117 through 124.

FISCAL IMPACT: The following is a specific 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 Debby Ransom, Bureau Chief, Facility Standards at (208) 334-6626.

DATED this 26th day of February, 2008.

Sherri Kovach
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DOCKET NO. 16-0314-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-1, January 2, 2008, pages 117 through 124.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.06. - CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-0801 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2008.

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 56-1004A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2008.

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 Department conducts criminal history and background checks. The actual cost to complete these checks is the responsibility of the applicant, under Section 56-1004A(5), Idaho Code. The Department is increasing the fee amount for a criminal history and background check to cover current costs in compliance with statute. These rules are also being amended to add two additional 5-year disqualifying crimes to better protect vulnerable adults and children.

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:

These rules are necessary to protect the public health, safety, or welfare, and to comply with governing law under Section 56-1004A, Idaho Code.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

The fee amount for providing criminal history and background checks is based on costs incurred to complete these checks. This temporary fee rule increases the fee an applicant must pay to cover current costs.

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

The fiscal impact of this change will prevent an increase in the state general fund costs by approximately \$67,600 for fiscal year 2009. Any shortfall the Department incurs from providing criminal history and background checks would need to be paid by general fund money. An analysis of the Department's costs shows that, based on the current volume, the fee needs to be increased to \$55.00 per criminal history check.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule change is necessary to protect the public health, safety, or welfare, and to comply with governing law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Bellomy (208) 334-0609.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2008.

DATED this 30th day of May, 2008.

Sherri Kovach
Program Supervisor
DHW - Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@dhw.idaho.gov e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0506-0801

050. FEES AND COSTS FOR CRIMINAL HISTORY AND BACKGROUND CHECKS.

The fee for a Department fingerprint-based criminal history and background check is *forty eight dollars (\$48)* ~~fifty-five dollars (\$55)~~ for an individual. The applicant is responsible for the cost of the criminal history and background check except where otherwise provided by Department rules. ~~(3-26-08)(7-1-08)T~~

(BREAK IN CONTINUITY OF SECTIONS)

210. DISQUALIFYING CRIMES RESULTING IN AN UNCONDITIONAL DENIAL.

An individual is not available to provide direct care or services when the individual discloses or the criminal history and background check reveals a conviction for a disqualifying crime on his record as described in Subsections 210.01 and 210.02 of this rule. ~~(3-26-08)~~

01. Disqualifying Crimes. The disqualifying crimes described in Subsections 210.01.a through 210.01.v. of these rules will result in an unconditional denial being issued. ~~(3-26-08)~~

- a. Abuse, neglect, or exploitation of a vulnerable adult, as defined in Section 18-1505, Idaho Code; ~~(3-26-08)~~
- b. Aggravated, first-degree and second-degree arson, as defined in Sections 18-801 through 18-803, and 18-805, Idaho Code; ~~(3-26-08)~~
- c. Crimes against nature, as defined in Section 18-6605, Idaho Code; ~~(3-26-08)~~
- d. Forceable sexual penetration by use of a foreign object, as defined in Section 18-6608, Idaho Code; ~~(3-26-08)~~
- e. Incest, as defined in Section 18-6602, Idaho Code; ~~(3-26-08)~~
- f. Injury to a child, felony or misdemeanor, as defined in Section 18-1501, Idaho Code; ~~(3-26-08)~~
- g. Kidnapping, as defined in Sections 18-4501 through 18-4503, Idaho Code; ~~(3-26-08)~~
- h. Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code; ~~(3-26-08)~~

- i. Mayhem, as defined in Section 18-5001, Idaho Code; (3-26-08)
- j. Murder in any degree, voluntary manslaughter, assault, or battery with intent to commit a serious felony, as defined in Sections 18-4001, 18-4003, 18-4006, and 18-4015, Idaho Code; (3-26-08)
- k. Poisoning, as defined in Sections 18-4014 and 18-5501, Idaho Code; (3-26-08)
- l. Possession of sexually exploitative material, as defined in Section 18-1507A, Idaho Code; (3-26-08)
- m. Rape, as defined in Section 18-6101, Idaho Code; (3-26-08)
- n. Robbery, as defined in Section 18-6501, Idaho Code; (3-26-08)
- o. Felony stalking, as defined in Section 18-7905, Idaho Code; (3-26-08)
- p. Sale or barter of a child, as defined in Section 18-1511, Idaho Code; (3-26-08)
- q. Sexual abuse or exploitation of a child, as defined in Sections 18-1506 and 18-1507, Idaho Code; (3-26-08)
- r. Video voyeurism, as defined in Section 18-6609, Idaho Code; (3-26-08)
- s. Enticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code; (3-26-08)
- t. Inducing individuals under eighteen (18) years of age into prostitution or patronizing a prostitute, as defined in Sections 18-5609 and 18-5611, Idaho Code; (3-26-08)
- u. Any felony punishable by death or life imprisonment; or (3-26-08)
- v. Attempt, conspiracy, or accessory after the fact, as defined in Sections 18-205, 18-306, and 18-1701, Idaho Code, to commit any of the disqualifying designated crimes. (3-26-08)

02. Disqualifying Five-Year Crimes. The Department will issue an unconditional denial for an individual who has been convicted of the following crimes for five (5) years from the date of the conviction for the crimes listed in Subsections 210.02.a. through 210.02.tn. of this rule: ~~(3-26-08)(7-1-08)T~~

- a. Aggravated assault, as defined in Section 18-905, Idaho Code; (3-26-08)
- b. Aggravated battery, as defined in Section 18-907(1), Idaho Code; (3-26-08)
- c. Arson in the third degree, as defined in Section 18-804, Idaho Code; (3-26-08)
- d. Burglary, as defined in Section 18-1401, Idaho Code; (3-26-08)
- e. A felony involving a controlled substance; (3-26-08)
- f. Felony theft, as defined in Section 18-2403, Idaho Code; (3-26-08)
- g. Forgery of and fraudulent use of a financial transaction card, as defined in Sections 18-3123 and 18-3124, Idaho Code; (3-26-08)
- h. Forgery and counterfeiting, as defined in Sections 18-3601 through 18-3620, Idaho Code; (3-26-08)
- i. Grand theft, as defined in Section 18-2407(1), Idaho Code; (3-26-08)

j. Identity theft, as defined in Section 18-3126, Idaho Code: (7-1-08)T

jk. Insurance fraud, as defined in Sections 41-293 and 41-294, Idaho Code; (3-26-08)

kl. Public assistance fraud, as defined in Sections 56-227 and 56-227A, Idaho Code; *or*
~~(3-26-08)~~(7-1-08)T

m. Attempted strangulation, as defined in Section 18-923, Idaho Code; or (7-1-08)T

ln. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, and 18-1701, Idaho Code, to commit any of the disqualifying five (5) year crimes. (3-26-08)

03. Underlying Facts and Circumstances. The Department may consider the underlying facts and circumstances of felony or misdemeanor conduct including a guilty plea or admission in determining whether or not to issue a clearance, regardless of whether or not the individual received one (1) of the following: (3-26-08)

a. A withheld judgment; (3-26-08)

b. A dismissal, suspension, deferral, commutation, or a plea agreement where probation or restitution was or was not required; (3-26-08)

c. An order according to Section 19-2604, Idaho Code, or other equivalent state law; or (3-26-08)

d. A sealed record. (3-26-08)

IDAPA 17 - INDUSTRIAL COMMISSION

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

DOCKET NO. 17-0204-0801

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, 72-723, and 72-1104, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2008.

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:

Section 72-1104, Idaho Code, part of the Peace Officer and Detention Officer Temporary Disability Act enacted in 2007, requires the Industrial Commission to adopt rules governing reimbursements under this law. The amendments provide for application procedures for eligible employers to seek reimbursement from the fund. Required sections are being added.

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:

Compliance with deadlines in amendments to governing law.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

NEGOTIATED RULEMAKING: In compliance with IDAPA 04.11.04.811, negotiated rulemaking was not conducted because it is not considered controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary rule and proposed rule, contact Nancy Beeson, Commission Secretary, 208-334-6017.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2008.

DATED this 22nd day of May, 2008.

Mindy Montgomery, Director
317 Main Street
P.O. Box 83720
Boise, ID 83720-0041
Phone: 208/334-6059; Fax: 208/334-2321

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0204-0801

004. RULE GOVERNING APPLICATIONS FOR REIMBURSEMENT FROM THE PEACE OFFICER AND DETENTION OFFICER TEMPORARY DISABILITY FUND.

01. **Eligibility.** An employer who has paid the full base salary due to a peace officer or detention officer, as defined in Section 72-1103, Idaho Code, may apply for reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund under the provisions of Section 72-1104, Idaho Code, for the amount of that salary not covered by the workers' compensation income benefit payments remitted to the employer during the time that such officer is: (7-1-08)T

- a.** Temporarily incapacitated and unable to perform employment duties: (7-1-08)T
- b.** Is otherwise eligible to receive workers' compensation benefits; and (7-1-08)T
- c.** Is one whose incapacitating injury was incurred in the performance of employment duties on or after July 1, 2008, either: (7-1-08)T
 - i.** When responding to an emergency; or (7-1-08)T
 - ii.** When in the pursuit of an actual or suspected violator of the law. (7-1-08)T

02. **Application.** An employer eligible to seek reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund shall make application on the form provided by the Commission for that purpose. Applications shall be sent to: Idaho Industrial Commission, ATTN: Peace Officer Fund, PO Box 83720, Boise, Idaho 83720-0041. (7-1-08)T

03. **Payments.** Payments to employers requesting reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund shall be made within thirty (30) days of receipt of an approved request for reimbursement, subject to the availability of money in that fund. (7-1-08)T

04. **Disputes.** Disputes regarding eligibility for reimbursement from The Peace Officer and Detention Officer Temporary Disability Fund will be decided by the Commission upon written request by the employer. There is no appeal from the reimbursement dispute decisions of the Commission under this section. Disputes regarding eligibility of an injured peace officer or detention officer for workers' compensation benefits, including the continuation of salary benefit set out in Section 72-1104, Idaho Code, will be decided in accordance with the Commission's current rules and procedures governing disputes in all other workers' compensation claims. (7-1-08)T

005. OFFICE -- OFFICE HOURS -- STREET AND MAILING ADDRESSES -- PHONE AND FACSIMILE NUMBERS -- WEB ADDRESS.

01. **Office Address.** The Industrial Commission office is located at 700 S. Clearwater Lane, Boise, Idaho, 83712. (7-1-08)T

02. **Mailing Address.** The correspondence mailing address is P.O. Box 83720, Boise, Idaho, 83720-0041. (7-1-08)T

03. **Office Hours.** This office is open from 8:00 a.m. to 5:00 p.m. Monday through Friday except for legal holidays. (7-1-08)T

04. **Website.** The Industrial Commission's Web site address is <http://www.iic.idaho.gov>. (7-1-08)T

05. **Telephone and Fax.** The telephone number is (208) 334-6000, or toll free 1-800-950-2110, and the facsimile number is (208) 334-2321. (7-1-08)T

0046. -- 190. (RESERVED).

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-0801

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 2, 2008 and July 1, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, and 72-723, Idaho Code, and Section 72-803 of the Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2008.

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 purpose of the proposed rulemaking is to amend the Administrative Rule to:

1. Clarify that these rules are applicable to all entities providing services to injured workers even as agents;
2. Change the definition of a medical "provider" to include any person or entity acting on behalf of a provider with respect to medical charges payable under this rule;
3. Make a required adjustment each fiscal year, mandated by Section 72-803, Idaho Code, by the amount determined by the Director of Health and Welfare in accordance with the procedure set out in Section 56-136, Idaho Code; and
4. Adjust the conversion factors paid to medical providers by the inflation factor percentage determined by the Director of Health and Welfare for Medicaid covered services.

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:

Necessary to protect the public health, safety, or welfare and compliance with deadlines in amendments to governing law.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

NEGOTIATED RULEMAKING: In compliance with IDAPA 04.11.04.811, negotiated rulemaking was not conducted because this rule is simply a clarification of an existing rule that required immediate implementation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary rule and proposed rule, contact Nancy Beeson, Commission Secretary, 208-334-6017.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2008.

DATED this 22nd day of May, 2008.

Mindy Montgomery, Director
317 Main Street
P.O. Box 83720
Boise, ID 83720-0041
Phone: 334-6059; Fax: 334-2321

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0208-0801

031. ACCEPTABLE CHARGES FOR MEDICAL SERVICES UNDER THE IDAHO WORKERS' COMPENSATION LAW.

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission (hereinafter "the Commission") hereby adopts the following rule for determining acceptable charges for medical services provided under the Idaho Workers' Compensation Law: (3-12-07)

01. Definitions. Words and terms used in this rule are defined in the subsections which follow. (6-1-92)

a. "Acceptable charge" means the lower of the charge for medical services calculated in accordance with this rule or as billed by the provider, or the charge agreed to pursuant to written contract. (3-12-07)

b. "Ambulatory Surgery Center (ASC)" means a facility providing surgical services on an outpatient basis only. (4-2-08)

c. "Hospital" is any acute care facility providing medical or hospital services and which bills using a Medicare universal hospital billing form. (4-2-08)

i. Large hospital is any hospital with more than one hundred (100) acute care beds. (4-2-08)

ii. Small Hospital is any hospital with one hundred (100) acute care beds or less. (4-2-08)

d. "Provider" means any person, firm, corporation, partnership, association, agency, institution or other legal entity providing any kind of medical service related to the treatment of an industrially injured patient which ~~are~~ is compensable under Idaho's Workers' Compensation Law. This includes any person or entity acting for, on behalf of, or in place of a provider, or one that has acquired or succeeded to the interests of a provider with respect to charges payable under this rule. (3-12-07)(5-2-08)T

e. "Payor" means the legal entity responsible for paying medical benefits under Idaho's Workers' Compensation Law. (6-1-92)

f. "Medical Service" means medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicine, apparatus, appliance, prostheses, and related service, facility, equipment and supply. (3-12-07)

g. "Reasonable," means a charge does not exceed the Provider's "usual" charge and does not exceed the "customary" charge, as defined below. (3-12-07)

h. "Usual" means the most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. (3-12-07)

i. "Customary" means a charge which shall have an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. (3-12-07)

02. Acceptable Charge. Payors shall pay providers the acceptable charge for medical services. (3-12-07)

a. Adoption of Standard. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the acceptable charge for medical services provided under the Idaho Workers' Compensation Law by providers other than hospitals and ASCs. The standard for determining the acceptable charge for hospitals and ASCs shall be: (4-2-08)

- i. For large hospitals: Eighty-five percent (85%) of the appropriate inpatient charge. (4-2-08)
- ii. For small hospitals: Ninety percent (90%) of the appropriate inpatient charge. (4-2-08)
- iii. For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of the appropriate charge. (4-2-08)
- iv. Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%). (4-2-08)

v. Paragraph 031.02.e., shall not apply to hospitals or ASCs. The Commission shall determine the appropriate charge for hospital and ASC services that are disputed based on all relevant evidence in accordance with the procedures set out in Subsection 032.10. (4-2-08)

b. Conversion Factors. The following conversion factors shall be applied to the fully-implemented facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR
Anesthesia	00000 - 09999	Anesthesia	\$58.19 <u>60.05</u>
Surgery - Group One	22000 - 22999 23000 - 24999 25000 - 27299 27300 - 27999 29800 - 29999 61000 - 61999 62000 - 62259 63000 - 63999	Spine Shoulder, Upper Arm, & Elbow Forearm, Wrist, Hand, Pelvis & Hip Leg, Knee, & Ankle Endoscopy & Arthroscopy Skull, Meninges & Brain Repair, Neuroendoscopy & Shunts Spine & Spinal Cord	\$1404.48
Surgery - Group Two	28000 - 28999 64550 - 64999	Foot & Toes Nerves & Nervous System	\$1259.00
Surgery - Group Three	13000 - 19999 20650 - 21999	Integumentary System Musculoskeletal System	\$1103.52
Surgery - Group Four	20000 - 20615 30000 - 39999 40000 - 49999 50000 - 59999 60000 - 60999 62260 - 62999 64000 - 64549 65000 - 69999	Musculoskeletal System Respiratory & Cardiovascular Digestive System Urinary System Endocrine System Spine & Spinal Cord Nerves & Nervous System Eye & Ear	\$857.72

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR
Surgery - Group Five	10000 - 12999 29000 - 29799	Integumentary System Casts & Strapping	\$6 <u>79</u> .14
Radiology	70000 - 79999	Radiology	\$8 <u>57</u> .72
Pathology & Laboratory	80000 - 89999	Pathology & Laboratory	To Be Determined
Medicine - Group One	90000 - 90799 94000 - 94999 97000 - 97799 97800 - 98999	Immunization, Injections, & Infusions Pulmonary / Pulse Oximetry Physical Medicine & Rehabilitation Acupuncture, Osteopathy, & Chiropractic	\$4 <u>56</u> .44
Medicine - Group Two	90800 - 92999 96040 - 96999 99000 - 99607	Psychiatry & Medicine Assessments & Special Procedures E / M & Miscellaneous Services	\$64. <u>50</u> 6.56
Medicine - Group Three	93000 - 93999 95000 - 96020	Cardiography, Catheterization, & Vascular Studies Allergy / Neuromuscular Procedures	\$7 <u>02</u> .24

(4-2-08)(7-1-08)T

c. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. (4-2-08)

d. Adjustment of Conversion Factors. The conversion factors set out in this rule shall be adjusted each fiscal year (FY), starting with FY 2009, as determined by the director of the Department of Health and Welfare using the methodology set forth in section 56-136, Idaho Code, pursuant to Section 72-803, Idaho Code. (4-2-08)

e. Services Without CPT Code, RVU or Conversion Factor. The acceptable charge for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 031.02.b., determine the acceptable charge for that service, based on all relevant evidence in accordance with the procedures set out in Subsection 032.10. (4-2-08)

f. Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will be reimbursed as follows: (3-12-07)

i. Modifier 50: Additional fifty percent (50%) for bilateral procedure. (3-12-07)

ii. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (3-12-07)

iii. Modifier 80: Twenty-five percent (25%) of coded procedure. (3-12-07)

iv. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (3-12-07)

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.29 - RESTRICTIONS ON DISCRETIONARY CLAUSES AND MAXIMUM BENEFIT LIMITS IN HEALTH INSURANCE CONTRACTS

DOCKET NO. 18-0129-0801 (NEW CHAPTER)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 41-211 and Title 41, Chapters 13 and 18, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2008.

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 rule defines and prohibits the use of discretionary clauses in health insurance contracts and prohibits insurers from reducing the lifetime maximum benefit available under a health insurance contract by amounts paid under a separate health insurance contract. Discretionary clauses are clauses in insurance contracts that purport to give the insurer the sole discretion to determine an insured's eligibility for benefits under the insurance contract.

FEE SUMMARY: The following is a descriptive summary of the fee or charge being imposed or increased: The rule does not impose or increase a fee.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because an advance draft of the rule was circulated to the trade organization representing health insurers doing business in Idaho and the resulting comments from insurers were taken into consideration in preparing the proposed rule.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2008.

DATED this 29th day of May, 2008.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0129-0801**IDAPA 18
TITLE 01
CHAPTER 29****18.01.29 - RESTRICTIONS ON DISCRETIONARY CLAUSES AND MAXIMUM
BENEFIT LIMITS IN HEALTH INSURANCE CONTRACTS****000. LEGAL AUTHORITY.**

This rule is promulgated and adopted pursuant to the authority vested in the director under Title 41, Chapters 2, 13 and 18, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rule IDAPA 18.01.29, "Restrictions on Discretionary Clauses and Maximum Benefit Limits in Health Insurance Contracts". ()

02. Scope. This rule sets forth uniform requirements regarding the use of discretionary clauses and maximum benefit limitations to be followed by health carriers transacting insurance in Idaho. ()

002. WRITTEN INTERPRETATIONS.

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

003. ADMINISTRATIVE APPEALS.

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

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference. ()

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

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

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

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

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

006. PUBLIC RECORDS ACT COMPLIANCE.

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

007. -- 009. (RESERVED).**010. DEFINITIONS.**

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

()

01. Director. "Director" means the Director of the Idaho Department of Insurance.

()

02. Discretionary Clause. "Discretionary clause" means any health insurance contract provision that provides the health carrier with sole discretionary authority to determine eligibility for benefits or to interpret the terms and provisions of the health insurance contract.

()

03. Health Care Services. "Health care services" means services for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury, or disease.

()

04. Health Carrier. "Health carrier" means an entity subject to regulation under Title 41, Chapters 21, 22, 32, 34, 39, 40, 41, 47, 52 or 55, Idaho Code.

()

05. Health Insurance Contract. "Health insurance contract" means any policy, contract, certificate, agreement, or other form or document providing, defining, or explaining coverage for health care services that is offered, delivered, issued for delivery, continued, or renewed in this state by a health carrier.

()

011. DISCRETIONARY CLAUSES.

01. Discretionary Clauses Prohibited. No health insurance contract may contain a discretionary clause.

()

02. Required Filing. By the first day of the second month following the effective date of this rule, each health carrier transacting insurance in this state shall submit to the director a list of all health insurance contracts in effect in Idaho that contain discretionary clauses and shall submit a certification that the list is complete and accurate. If a health carrier has no health insurance contracts in effect, the health carrier shall submit a letter to the director reporting and certifying that fact.

()

012. MAXIMUM BENEFIT LIMITS.

01. Limitation of Benefits. A health insurance contract that imposes a limitation on the maximum amount of benefits that may be paid under the health insurance contract shall not take into consideration benefits paid to or on behalf of the covered person under a separate health insurance contract for the purpose of determining whether the maximum benefit limit has been met.

()

02. Separate Health Insurance Contracts. For the purposes of Section 012, the following shall not be considered a separate health insurance contract when there is no change in the health carrier providing the health insurance contract:

()

a. A renewal, continuation or replacement of an individual health insurance contract where renewal, continuation or replacement is at the request of the insured and the insurer is prohibited by contract or by law from imposing underwriting criteria whereby coverage of a person currently insured could be cancelled, nonrenewed or denied in whole or in part because of the person's age, health, or medical or claims history;

()

b. Moving from one health insurance contract within a multiple employer welfare arrangement as defined in Section 41-4002, Idaho Code, to another health insurance contract within the same multiple employer welfare arrangement; or

()

c. A change in group benefits or product under an employer-sponsored health insurance contract offered through the same employer.

()

013. EFFECTIVE DATE; EXISTING CONTRACTS; GROUNDS FOR DISAPPROVAL.

01. **Effective Date of Rule.** This rule is applicable to every health insurance contract that is issued or renewed on or after May 1, 2009. ()

02. **Contract Compliance.** A health insurance contract that was issued before the effective date of this rule shall be brought into compliance with this rule by the anniversary date or renewal date of the plan following the effective date of this rule. ()

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

014. -- 999. (RESERVED).

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.77 - ACTUARIAL OPINION AND MEMORANDUM RULE
DOCKET NO. 18-0177-0801
NOTICE OF RULEMAKING - 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 41-612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2008.

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

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

Section 41-612(12)(d)(iv), Idaho Code, permits the Director to rely on a foreign or alien insurer's home state regulator regarding the preparation and filing of an actuarial report. This proposed rule amends IDAPA 18.01.77 to provide an exemption from filing with Idaho a report known as the Regulatory Asset Adequacy Issues Summary (the "RAAIS") for a foreign or alien insurer whose state of domicile imposes reporting requirements substantially similar to those imposed by Idaho. The RAAIS is not part of the NAIC's electronic filings due to its confidential nature. Therefore, insurers must file a paper copy with the Idaho Department of Insurance, or an electronic copy, which is printed. The Department does not utilize an actuary to review RAAIS reports filed by non-domestic insurers, thus this filing requirement is largely perfunctory. The rule change is proposed to take effect December 31, 2008 so the exemption can be implemented for the 2008 annual financial filing period, thus reducing the use and cost of paper and expense of mailing for affected insurers.

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 RULE MAKING: In compliance with IDAPA 04.11.01.811, negotiated rule making was not conducted because this change simply eliminates an unnecessary filing requirement for certain insurers and is therefore unlikely to generate comments or controversy.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Martha Smith, Senior Financial Examiner, Idaho Department of Insurance, at 208/334-4315.

Anyone may submit written comments regarding this proposed rule making. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2008.

DATED this 30th day of May, 2008.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0177-0801

024. DESCRIPTION OF ACTUARIAL MEMORANDUM INCLUDING AN ASSET ADEQUACY ANALYSIS AND REGULATORY ASSET ADEQUACY ISSUES SUMMARY.

01. General.

(7-1-97)

a. In accordance with Section 41-612(12), Idaho Code, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his opinion regarding the reserves under a Section 022 opinion. The memorandum shall be made available for examination by the Director upon his request but shall be returned to the company after such examination and shall not be considered a record of the insurance department or subject to automatic filing with the Director. (3-30-07)

b. In preparing the memorandum, the appointed actuary may rely on, and include as a part of his own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of Subsection 021.02 of this chapter, with respect to the areas covered in such memoranda, and so state in their memoranda. (3-30-07)

c. If the Director requests a memorandum and no such memorandum exists or if the Director finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements, the Director may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the Director. (7-1-97)

d. The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the Director; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as examination workpapers and shall be kept confidential to the same extent as is prescribed by Section 41-227, Idaho Code. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this rule for any one of the current year or the preceding three (3) years. (7-1-97)

e. In accordance with Section 41-612(12), Idaho Code, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in Subsection 024.03 of this chapter. The regulatory asset adequacy issues summary will be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary will be maintained as confidential and not subject to public disclosure by the director in accordance with Section 41-612(12), Idaho Code, and Section 9-340D(5) of the Idaho Public Records Act. (3-30-07)

f. In accordance with Section 41-612(12)(d)(iv), the director will accept the regulatory asset adequacy issues summary of a foreign or alien company filed by that company with the insurance supervisory official of another state if the director determines that the summary reasonably meets the requirements applicable to a company domiciled in Idaho. Therefore, foreign or alien insurers required to file the regulatory asset adequacy issues summary in their home state are exempt from filing in this state, except upon request of the director, provided the other state has substantially similar reporting requirements and the summary is filed with the director of the other state within the time specified. ()

02. Details of the Memorandum Section Documenting Asset Adequacy Analysis (Section 022).

When an actuarial opinion under Section 022 of this chapter is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in Subsection 021.04 of this chapter and any additional standards under this rule. It shall specify; (3-30-07)

a. For reserves;

(3-30-07)

i. Product descriptions including market description, underwriting and other aspects of a risk profile

- and the specific risks the appointed actuary deems significant; (7-1-97)
- ii. Source of liability in force; (7-1-97)
 - iii. Reserve method and basis; (7-1-97)
 - iv. Investment reserves; (7-1-97)
 - v. Reinsurance arrangements; and (3-30-07)
- vi. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis. (3-30-07)
- b. Documentation of assumptions to test reserves for the following: (3-30-07)
 - i. Lapse rates (both base and excess); (3-30-07)
 - ii. Interest crediting rate strategy; (3-30-07)
 - iii. Mortality; (3-30-07)
 - iv. Policyholder dividend strategy; (3-30-07)
 - v. Competitor or market interest rate; (3-30-07)
 - vi. Annuitization rates; (3-30-07)
 - vii. Commissions and expenses; and (3-30-07)
 - viii. Morbidity. (3-30-07)
- ix. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions. (3-30-07)
- c. For assets: (7-1-97)
 - i. Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets; (7-1-97)
 - ii. Investment and disinvestment assumptions; (7-1-97)
 - iii. Source of asset data; (7-1-97)
 - iv. Asset valuation bases. (7-1-97)
- d. Documentation of assumptions made for the following assets: (3-30-07)
 - i. Default costs; (3-30-07)
 - ii. Bond call function; (3-30-07)
 - iii. Mortgage prepayment function; (3-30-07)
 - iv. Determining market value for assets sold due to disinvestment strategy; and (3-30-07)
 - v. Determining yield on assets acquired through the investment strategy. (3-30-07)

vi. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions. (3-30-07)

e. Analysis basis: (7-1-97)

i. Methodology; (7-1-97)

ii. Rationale for inclusion/exclusion of different blocks of business and how pertinent risks were analyzed; (7-1-97)

iii. Rationale for degree of rigor in analyzing different blocks of business; (7-1-97)

iv. Criteria for determining asset adequacy; (7-1-97)

v. Effect of federal income taxes, reinsurance and other relevant factors. (7-1-97)

f. Summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis; (3-30-07)

g. Summary of Results; (7-1-97)

h. Conclusion(s). (7-1-97)

03. Details of the Regulatory Asset Adequacy Issues Summary. (3-30-07)

a. The regulatory asset adequacy issues summary shall include: (3-30-07)

i. Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force; (3-30-07)

ii. The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis; (3-30-07)

iii. The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion; (3-30-07)

iv. Comments on any interim results that may be of significant concern to the appointed actuary; (3-30-07)

v. The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested; and (3-30-07)

vi. Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including but not limited to those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis. (3-30-07)

b. The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion. (3-30-07)

04. Conformity to Standards of Practice. The memorandum shall include a statement:

"Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum."

(7-1-97)

05. Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve.

An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, must be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support. The amount of the assets used for the AVR must be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets must be disclosed in the memorandum.

(7-1-97)

06. Documentation. The appointed actuary shall retain on file, for at least seven (7) years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

(7-1-97)

IDAPA 20 - DEPARTMENT OF LANDS - IDAHO BOARD OF SCALING PRACTICES

20.06.02 - GENERAL RULES, LICENSING AND CHECK SCALES OF THE IDAHO BOARD OF SCALING PRACTICES

DOCKET NO. 20-0602-0801

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 38-1208 and 38-1220(a), Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Friday - July 18, 2008 - 9:00 a.m. (PDT)

Idaho Department of Lands
Louise Shadduck Office Building
Sundance Conference Room
3780 Industrial Avenue South
Coeur d'Alene, Idaho

METHOD OF PARTICIPATION: Persons wishing to participate in the informal negotiated rulemaking must do the following:

Interested persons are encouraged to attend and provide oral or written comments at the scheduled informal meeting on July 18, 2008. Written comments may also be submitted to the office of the Idaho Board of Scaling Practices no later than July 25, 2008.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The Idaho Board of Scaling Practices is considering adoption of a new log scaling manual that better describes current Scribner decimal "C" scaling practices for commercial purposes. This would replace multiple references to the outdated National Forest Log Scaling Handbook, Amendment #6 edition, and also eliminate the need for most of the administrative rules currently stated in Chapter 3 Measurement Rules (IDAPA 20.06.03) which would be deleted in its entirety. The new log scaling manual contains a few minor revisions to current scaling practices, but scaling measurement methodology for commercial purposes would remain essentially unchanged from current administrative rules. The purpose of this negotiated rulemaking is to consider any revisions to the new log scaling manual, and the measurement rules that are proposed for inclusion in Chapter 2 Rules (IDAPA 20.06.02).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Ernie Bauer, phone 208-769-1445. The draft of the new log scaling manual and any preliminary drafts of proposed rules are available at: www.ibsp.idaho.gov (the Idaho Board of Scaling Practices website).

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2008.

DATED this 5th day of June, 2008.

Ernest H. Bauer
Executive Director
Department of Lands/Idaho Board of Scaling Practices
3780 Industrial Avenue South

Coeur d'Alene, ID 83815
Phone: 208-769-1445, Fax: 208-769-1524
Email: ebauer@ibsp.idaho.gov
Web: www.ibsp.idaho.gov

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.04 - RULES GOVERNING THE IDAHO STATE VETERANS CEMETERY

DOCKET NO. 21-0104-0801 (FEE RULE)

NOTICE OF RULEMAKING - 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 65-202, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2008.

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:

Defining the fees for interment, disinterment, and reinterment as the amount of reimbursement paid by the United States Department of Veterans Affairs maintains the ability of applicants to determine the fee quickly while allowing the Division to recoup the full amount of federal funds available for its services. The rule changes clarify the fees for interment, disinterment, and reinterment as the amount of reimbursement paid by the United States Department of Veterans Affairs.

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

The fees for interment, disinterment, and reinterment are the amount of reimbursement paid by the United States Department of Veterans Affairs. The Division will receive additional funds to cover the costs of interment, disinterment, and reinterment.

FISCAL IMPACT: The following is a specific 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:

This rule change will not negatively impact the state general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of defining fees as the federal reimbursement for the services.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Adams, Administrative Support Manager, (208) 246-8770.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2008.

DATED this 28th day of May, 2008.

David E. Brasuell, Administrator
Division of Veterans Services
320 Collins Road
Boise, ID 83702
Phone: (208) 334-351
Fax (208) 334-2627

THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0104-0801

024. FEES FOR INTERMENT, DISINTERMENT, AND REINTERMENT.

The Administrator shall charge the following fees:

(3-16-04)

01. Interment.

(3-30-06)

a. The Administrator shall charge a fee *of three hundred dollars (\$300) equal to the then current USDVA reimbursement* for opening and closing an interment site containing a pre-placed crypt. The Administrator shall accept, as full payment the amount of reimbursement by the USDVA to the Division for opening and closing an interment site containing a pre-placed crypt for a qualified veteran. *(3-30-06)()*

b. In addition to the fee charged under Paragraph 024.01.a. *of this rule*, the Administrator shall charge a fee of *three five* hundred dollars (\$~~3~~500) for preparation of an interment site not containing a pre-placed crypt. *(3-30-06)()*

02. Disinterment. The Administrator shall charge a fee *of three hundred dollars (\$300) equal to the then current USDVA reimbursement* for opening and closing an interment site. The expenses of removal, transportation and reinterment of remains, and the expenses of removal, transportation and reinstallation of the grave marker, if any, shall be paid by the applicant for disinterment. *(3-16-04)()*

03. Reinterment. The Administrator shall charge a fee *of three hundred dollars (\$300) equal to the then current USDVA reimbursement* for opening and closing an interment site for reinterment. The expenses of reinterment of remains and reinstallation of the grave marker, if any, shall be paid by the applicant for reinterment. *(3-16-04)()*

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS

DOCKET NO. 24-0201-0801

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2008.

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 54-521, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2008.

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:

Based on changes made to Title 54, Chapter 5, Idaho Code, in the 2008 legislative session, the Board may contract with a third party examination administrator to save costs for the Board and to provide monthly testing for the applicants. Rules requiring student registration are being deleted as there is no statutory authority for registration. High school equivalency is being expanded to include degrees from institutes of higher learning; and a definition for barber instructor is being corrected to comply with statute.

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

The 2008 Legislature passed legislation to allow the Board of Barber Examiners to use a third party to administer its exams. Since the law goes into effect July 1st, these rules need to go into effect on that date to comply with the new law and to allow the third party to start administering exams in July. Currently, exams are administered three times a year in Boise by the Board. With this change, exams will be administered on a monthly basis in three locations (Boise, Pocatello, and Post Falls or Spokane). In addition, these rules also delete the requirement that students register as there is no statutory authority for this requirement. Finally, the educational requirement is being expanded to include degrees from higher institutions and to correct the definition of barber instructor to comply with the statute.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are due to changes in Title 54, Chapter 5, Idaho Code.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2008.

DATED this 3rd day of June, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., STE 220
Boise, ID 83702
(208) 334-3233 phone (208) 334-3945 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0201-0801

010. DEFINITIONS (RULE 10).

01. **Approved or Approval.** Approved by or approval of the Board as evidenced by formal action of the Board by a written instrument signed by the chairman of the Board or its agent. (3-13-02)

02. **Barber College.** A school or college approved by the Board to teach the practice of barbering as required by Section 54-507, Idaho Code, and these rules. (3-13-02)

03. **Board.** The Board of Barber Examiners as prescribed in Section 54-521, Idaho Code. (7-1-93)

04. **First Aid Kit.** First-aid kit means an identifiable assortment of medical supplies, including adhesive bandages, skin antiseptic, disposable gloves, and gauze, which may be used for cleaning and protecting minor emergency traumas of the human body. (3-13-02)

05. **Hospital Grade.** Hospital Grade means a sanitizing agent registered by the Environmental Protection Agency as an effective germicidal/bactericidal, fungicidal, and virucidal disinfectant when used in accordance with the manufacturer's instructions. (7-1-98)

06. **Practice of Barbering.** Practice of barbering as defined by Section 54-502(2), Idaho Code. (3-13-02)

07. **Practice of Barber-Styling.** Practice of Barber-Styling as defined by Section 54-502(1), Idaho Code or under the supervision of an instructor as provided in Section 54-507, Idaho Code. (3-13-02)

08. **Barber.** Any person who holds a valid license authorizing said person to practice as a barber pursuant to Section 54-501, Idaho Code. (3-13-02)

09. **Barber-Stylist.** Any person who holds a valid license authorizing said person to practice as a barber-stylist pursuant to Section 54-501, Idaho Code. (3-13-02)

10. ***Student Barber.*** *Any person who is registered pursuant to Section 54-529, Idaho Code, to receive instruction in any or all phases of the practice of barbering or barber-styling while under the direct personal supervision of an Idaho licensed instructor in an approved school.* (3-13-02)

110. **Barber Teacher or Instructor.** Any person who holds a valid license pursuant to Section 54-5028, Idaho Code, authorizing said person to teach or practice barbering and barber-styling. The words "Teacher" and "Instructor" mean the same and are used synonymously. (3-13-02)(7-1-08)T

121. **Theoretical Scientific Study.** The study of theoretical subjects of instruction in the practice of barbering which shall include the subjects set forth in Section 54-507, Idaho Code. (7-1-93)

132. **Barber Shop.** Any establishment licensed pursuant to Section 54-501, Idaho Code, in which barbering or barber-styling is practiced. (3-13-02)

143. **Access.** For the purpose of licensed establishments, access shall be defined as a minimum three (3) foot wide unobstructed path within a primary establishment that allows passage to and from entrances, common areas, water sources, restrooms, and contiguous establishments and does not encroach on or overlap any contiguous establishment. (3-13-02)

154. **Direct Personal Supervision.** Direct personal supervision shall be defined as supervision by a properly licensed person who is physically present within the licensed area of a school or shop. (3-13-02)

165. **Bureau.** The Bureau of Occupational Licenses as prescribed in Sections 54-605 and 67-2602, Idaho Code. (3-13-02)

(BREAK IN CONTINUITY OF SECTIONS)

100. BOARD MEETINGS AND EXAMINATIONS -- DATES -- PLACES -- TERMINATION OF RECORDS (RULE 100).

01. Board Meetings. Regular Board of Barber Examiners meetings shall be held at the office of the Bureau of Occupational Licenses on the second Monday of each July and at such other times and places as may be determined by the Board. (3-13-02)

02. Examinations. Examinations for licensure *to practice as a barber or a barber-stylist in Idaho are to be held at the office of the Bureau of Occupational Licenses on the second Monday of July and at such other times and places as may be determined by the Board* shall be offered at least two (2) times a year and shall be published annually. (3-13-02)(7-1-08)T

03. Records. All records in the office of the Bureau of Occupational Licenses of applicants who have not qualified for *reexamination licensure* within five (5) years of *notification of failure in any examination receipt of an application for licensure* under the Barber Law will be terminated and destroyed. (7-1-93)(7-1-08)T

(BREAK IN CONTINUITY OF SECTIONS)

150. FEES (RULE 150).

01. Examination/Reexamination Fee. Examination/Reexamination fee of - seventy-five dollars (\$75) shall be required for each examination administered by the Board. The fee for those examinations administered by a third party administrator shall be that fee determined by the examination administrator and shall be paid directly to the administrator by the applicant. (7-1-96)(7-1-08)T

02. Endorsement Fee. Endorsement fee - eighty dollars (\$80). (7-1-93)

03. Original Barber and Barber-Stylist License Fee. Original Barber and Barber-Stylist License Fee - twenty-five dollars (\$25). (3-24-05)

04. Annual Renewal Fee for Barber and Barber-Stylist License. Annual renewal fee for Barber and Barber-Stylist license - twenty-five dollars (\$25). (3-24-05)

05. Original Barbershop License Fee. Original Barbershop license fee - fifty dollars (\$50). (3-18-99)

06. Annual Renewal Fee for Barbershop License. Annual renewal fee for Barbershop license - thirty

dollars (\$30). (3-18-99)

07. Original License and Annual Renewal Fee For Barber College License. Original license and annual renewal fee for Barber College license - two hundred dollars (\$200). (3-13-02)

08. Teacher Certificate Examination. Teacher certificate examination - one hundred dollars (\$100). (7-1-93)

09. Original Teacher License and Annual Renewal For Teacher License. Original teacher license and annual renewal for teacher license - twenty-five dollars (\$25). (3-24-05)

10. ~~Student Registration.~~ *Student registration - twenty dollars (\$20).* (7-1-93)

110. Renewal and Reinstatement of Licenses. See Sections 54-518 and 67-2614, Idaho Code. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

250. EDUCATIONAL REQUIREMENTS AND EQUIVALENCY (RULE 250).

01. High School Education. The Idaho law as amended by the 1959 Session of the Idaho State Legislature requires that an applicant for license under Sections 54-506 and 54-512, Idaho Code, show proof of having at least two (2) years of high school education. This provision has been interpreted as satisfactory completion of the tenth grade - with eligibility to commence the eleventh grade. (3-13-02)

02. Equivalent Tenth Grade Education. The Board will accept any test approved by the United States Department of Education for the purpose of determining equivalent tenth grade education. (4-5-00)

03. Degrees. The Board will accept documents establishing admission to, or an associates, bachelors, or graduate degree from an accredited college or university for the purpose of determining equivalent tenth grade education. (7-1-08)T

034. Test Fees. All fees required for any examinations to determine equivalence are the responsibility of the applicant. If an applicant takes the GED equivalence examination and receives an average cutting score of not less than thirty-five (35), with no category below a cutting score of thirty (30), he or she is considered to have the equivalent of a tenth grade education. (3-13-02)

(BREAK IN CONTINUITY OF SECTIONS)

400. EXAMINATION (RULE 400).

01. Content and Passing Grade on Exam. The examination will consist of three (3) portions: theory, Idaho Jurisprudence and practical. An applicant must obtain at least a seventy-five percent (75%) grade on each portion to pass the examination. (3-13-02)

02. Subjects on Exam. The examination for licensure as a barber or barber-stylist shall consist of a: (3-13-02)

a. Practical demonstration of all or any combination of those services outlined in Section 54-502(2), Idaho Code, for barbers or Section 54-502(1), Idaho Code, for barber-stylists; and (3-13-02)

b. Written theory examination covering those topics outlined in Section 54-507(2), Idaho Code, for

barbers or Section 54-507(1), Idaho Code, for barber-stylists; and (3-13-02)

c. Written jurisprudence examination covering Title 54, Chapter 5, Idaho Code and IDAPA 24.02.01 "Rules of the Board of Barber Examiners." (3-13-02)

~~03. Failure of Exam. An applicant who fails to obtain a grade of at least seventy-five (75%) percent in any portion of the examination is considered to have failed that portion of the examination and is required to file an application for reexamination and pay the required fee and be successfully reexamined on the failed portion(s) prior to licensure. Applicants who fail on their first examination attempt only will not be required to obtain additional training to be eligible for re-examination.~~ (3-13-02)

(BREAK IN CONTINUITY OF SECTIONS)

500. SCHOOLS (RULE 500).

01. **Barber College Instructor Requirements.** A barber college must be under the direct, personal supervision of a registered barber instructor at all times. (7-1-93)

02. **Out of State Barber College Requirements.** Barber colleges from out-of-state applying for approval must have licensed instructors in their schools and provide a course of instruction in those areas required in Section 54-507, Idaho Code. (3-13-02)

03. **Barber College Maximum Student Enrollment.** No barber college shall enroll more students than may be adequately supervised, based on the requirements of Section 54-507, Idaho Code. Students enrolled for instructor training shall not count as instructors for the purpose of the instructor/student ratio. (3-13-02)

04. Identification. (7-1-93)

a. Each barber college shall advertise to the public that it is a barber college by displaying a sign which shall contain in letters not less than six inches (6") in height the words "Barber College" or "Barber School." (7-1-93)

b. Each barber college shall display in a conspicuous place on its premises a sign stating that the work done therein is done exclusively by students. (7-1-93)

c. Each barber college shall be separated completely from and have no connecting entrances with shops or other businesses other than licensed cosmetology schools. (3-13-02)

05. Sanitation. (7-1-93)

a. Each barber college shall post in a conspicuous place on its premises for the public's information a copy of the rules governing sanitary conditions of barber shops and schools adopted by the Board. Each college shall require strict compliance by its students to the barber laws and rules. (3-13-02)

b. Any violation of Section 54-507, Idaho Code, or these rules by a barber college shall be cause for disciplinary action against the school license or, the revocation of approval in the case of an out of state school, by the Board. Any action by the Idaho State Barber Board for the revocation of a barber schools license or approval shall be in accordance with the provisions set forth in Sections 54-507 and 54-521, Idaho Code. (3-13-02)

c. Each barber college shall have adequate space, ventilation and lighting to allow for the safe and sanitary instruction of all phases of barbing and barber-styling as approved by the Board. (3-13-02)

d. Each barber college shall provide one (1) restroom for men and one (1) restroom for women. Each restroom shall include a sink with hot and cold running water and approved drainage system. (3-13-02)

06. Space Required. Each barber college shall have within the premises in which it is located adequate space and facilities to safely accommodate all students, instructors, and customers. (3-13-02)

07. Barber Chair Required. Each barber chair in each such college shall be of such construction that it may be readily cleaned and it shall be mechanically workable and in good working order. Space between barber chairs, and the workstand or wall, shall be adequate so that no student will be hampered in the performance of his work. Compliance with the requirements of this subsection shall be subject to the determination of the Board and its approval. (7-1-93)

08. Equipment Requirements. Each barber college shall have, within the premises in which it is located, adequate equipment, materials, and facilities to provide a complete course of instruction in all phases of barbing and barber-styling. (3-13-02)

a. Classroom and training areas - The classroom and training areas shall be equipped with sufficient seating capacity and work stations for all enrolled students. (3-13-02)

b. Each barber college shall furnish each student upon enrollment, a copy of the Barber Laws and Rules. (3-13-02)

09. Textbooks. Schools shall use texts that cover all phases of barbing and barber-styling. (3-13-02)

10. Curriculum -- Hours -- Theory -- Work Inspected -- Attendance -- School Examination. (7-1-93)

a. Each barber college shall meet the requirements for admission of students as set forth in Sections 54-506 and 54-507, Idaho Code, and in these rules. (7-1-93)

b. Each barber college curriculum shall consist of not less than nine hundred (900) hours for barbers and one thousand eight hundred (1,800) hours for barber-stylists. Barber students must document satisfactory completion of the entire barber curriculum and graduation from a licensed or approved school before being eligible for the Idaho Barber examination. Barber-styling students must document satisfactory completion of the entire barber-styling curriculum and graduation from a licensed or approved school before being eligible for the Idaho barber-styling examination. The daily schedule of each student shall consist of at least one (1) clock hour of theoretical study or one (1) hour of clinical demonstration in a classroom. (3-13-02)

c. Each barber college shall submit complete curriculums for barbing and barber-styling and a school catalog on an annual basis with the application for license renewal to the Board for its approval. If there are no changes in the curriculum or catalog during the previous year, the school may submit a letter of explanation to the Board in place of the curriculum or catalog. (3-13-02)

d. Each barber college shall require attendance in all subjects. No Patron shall be released from a chair after being served by a student until all the work performed by the student has been thoroughly inspected and approved by an instructor. (4-5-00)

e. Each barber college shall issue a certificate of graduation to each student after satisfactory completion of their course of instruction. (3-13-02)

f. *Persons who obtain instruction in an approved school of barbing, but who did not complete the course of instruction and/or did not obtain a license in Idaho, will lose credit for five hundred (500) hours after one (1) year has lapsed since the termination of such instruction, and thereafter an additional two hundred fifty (250) hours for each additional year or portion thereof.* (3-13-02)

11. Records Required of Colleges of Barbing. (7-1-93)

a. Schools shall maintain monthly progress records of instruction for each student as established by school policy and procedures that will show daily attendance and academic grades of instructional progress. (3-13-02)

b. Progress records shall be signed and dated by the student and a school official and a copy of the signed and dated record shall be provided to the student. The school shall maintain these records for a period of ~~two~~ five (25) years following completion or termination of the student's instruction. These records are subject to inspection by the board or its agents at any time. ~~(3-13-02)(7-1-08)T~~

c. The information shown on the progress record forms are to be transferred to a Student Record of Instruction form and filed with the board provided to the student and maintained by the school for five (5) years. ~~(3-13-02)(7-1-08)T~~

d. Each school will be inspected periodically by an agent of the Bureau of Occupational Licenses. (7-1-93)

e. When a student's course of instruction at a school has been completed or terminated, the completed operations, and number of hours of instruction are to be recorded by the school on the Record of Instruction Form. This form ~~or a letter of explanation as to why a student's record of instruction is not being filed with the board by the school~~ shall be filed with the Board within thirty (30) days of the completion or termination of each student's instruction provided to the student and maintained by the school for five (5) years. ~~(3-13-02)(7-1-08)T~~

f. *When a student resumes instruction after they have been terminated, they are required to file a new application, pay an additional fee and become registered to practice as a student.* ~~(3-13-02)~~

gf. A record of the operations completed by each barber student shall be maintained and include all of the following: (3-13-02)

- i. Haircut. (3-13-02)
- ii. Blow dry (does not include haircut). (3-13-02)
- iii. Shampoo. (3-13-02)
- iv. Shave or Beard Trim. (3-13-02)
- v. Facial or Massage. (3-13-02)
- vi. Hair or Scalp Treatment. (3-13-02)
- vii. Curling Iron. (3-13-02)
- viii. Hygiene and Sanitation shall be taught on a continuing basis and indicated on the report form by a grade. (7-1-93)

hg. A record of the operations completed by each barber-styling student shall be maintained and include all of the following: (3-13-02)

- i. Haircut. (3-13-02)
- ii. Style/blow dry (does not include haircut). (3-13-02)
- iii. Shampoo. (3-13-02)
- iv. Permanent Wave. (3-13-02)
- v. Shave or Beard Trim. (3-13-02)
- vi. Facial or Massage. (3-13-02)

- | | | |
|-------|---|-----------|
| vii. | Color/Bleach/Rinse. | (3-13-02) |
| viii. | Hair or Scalp Treatment. | (3-13-02) |
| ix. | Curling Iron. | (3-13-02) |
| x. | Hygiene and Sanitation shall be taught on a continuing basis and indicated on the report form by a grade. | (3-13-02) |

(BREAK IN CONTINUITY OF SECTIONS)

502. STUDENT REGISTRATION REQUIREMENTS (RULE 502).

~~Each barber college shall require each applicant for admission to enrollment to file with the college a written application on a form approved by the Board. Each such application shall be accompanied by the following:~~
~~(3-13-02)~~

01. *Proof of Character.* ~~Satisfactory proof in writing that the applicant is of good moral character.~~
~~(7-1-93)~~

02. *Educational Certification.* ~~A certificate verifying the completion of a tenth grade education or the equivalent as determined by a GED or other approved equivalency examination.~~
~~(3-13-02)~~

03. *Current Photograph.* ~~A current passport style photograph of the applicant, taken within twelve (12) months prior to the application.~~
~~(3-13-02)~~

04. *Submission of Required Documents by Barber College to Board.* ~~Schools are required to register all students with the Board within five (5) days of beginning instruction. Each barber college, before admitting any student to enrollment, shall send an application, together with all documents attached thereto, to the Board. If the Board finds that the applicant fails to meet its requirements, the Board shall at once notify the college and the applicant and state its reasons therefore.~~
~~(3-13-02)~~

5032. -- 549. (RESERVED).

IDAPA 28 - DEPARTMENT OF COMMERCE
28.03.04 - RULES OF THE BUSINESS AND JOBS DEVELOPMENT GRANT FUND
DOCKET NO. 28-0304-0701
NOTICE OF RULEMAKING - RESCISSION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of this rescission is July 1, 2008.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Sections 67-4715, 67-4717, and 67-4718, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for rescinding the temporary rule:

To allow temporary rules governing the Business and Jobs Development Grant Fund to expire to allow maximum grant amount to revert back to \$200,000 per legislative mandate.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the rescission of this temporary rule, contact Pat Madarieta, (208) 334-2650 ext. 2144.

DATED this July 1, 2008.

Pat Madarieta
Community Development Specialist
Idaho Department of Commerce
700 W State St
PO Box 83720
Boise, ID 83720-0093

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - IDAHO PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0801

NOTICE OF RULEMAKING - 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 63-105 and 63-105A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2008.

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:

Rules 205 and 210 are being stricken and replaced with a new Rule 205 to clarify definitions as set forth by House Bill 599A in order to give assessors guidance in distinguishing between real and personal property.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because extensive public discussions were conducted in 2007.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest at (208) 334-7742.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 30th day of May, 2008.

Alan Dornfest
Idaho State Tax Commission
800 Park Blvd. Plaza IV
PO Box 36
Boise, ID 83712
(208) 334-7742 Phone
(208) 334-7844 Fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0801

205. PERSONAL AND REAL PROPERTY -- DEFINITIONS AND GUIDELINES (RULE 205).

~~Sections 63-201, 63-302, and 63-309, Idaho Code. Personal property can be moved without marring or defacing real property to which it may be attached. Personal property includes the following:~~ Sections 39-4105, 39-4301, 63-201, 63-602KK, 63-1703, 63-2801, Idaho Code. (45-00)()

01. ***Equities in State Land.** Land purchased from the state under contract is personal property. Tax can be paid in two (2) installments.* **Real Property.** Real property is defined in Section 63-201(19), Idaho Code. (7-1-93)()

02. ***Reservations and Easements.** Reservations include reserved mineral rights and divided ownership of property rights. Easements convey use but not ownership.* **Personal Property.** Personal property is defined in Section 63-201(15), Idaho Code. (45-00)()

03. ***Machinery, Tools, and Equipment.** Mechanical apparatuses, instruments, or implements not permanently integrated with real property, held as tenant improvements, or held for rent or lease are personal property.* **Improvements.** Improvements are defined in Section 63-201(8), Idaho Code. (7-1-93)()

04. ***Furniture, Fixtures, Libraries, Art, and Coin Collections.** Trade articles used commercially for convenience, decoration, service, or storage, including store counters, display racks, typewriters, office machines, surgical and scientific instruments, paintings, books, coin collections, and all such items held for rent or lease are personal property.* **Fixtures.** Fixtures are defined in Section 63-201(6), Idaho Code. Fixtures does not include machinery, equipment or other articles that are affixed to real property to enable the proper utilization of such articles, however, if removal of a fixture from the real property would cause material injury or damage to the real property then the fixture is presumably real property. (7-1-93)()

05. ***Recreational Vehicles.** Unlicensed recreational vehicles are personal property.* **Operating Property.** Operating Property is defined in Section 63-201(12), Idaho Code. For any purpose for which the distinction between personal property and real property is relevant or necessary for operating property, operating property will be characterized as personal or real based upon the criteria stated in this guideline and the rules of the State Tax Commission. See also Section 63-602KK(1), Idaho Code. (7-1-93)()

06. ***Boats.** Unlicensed watercraft are personal property.* **Guidelines.** The guidelines found in Section 205, are to be used for determining whether property is real or personal. The decision of the assessing authority as to whether property is real or personal property shall be presumed correct. The burden for overcoming the assessing authority's decision is by a preponderance of the evidence. These guidelines are not intended to be all inclusive. (7-1-93)()

07. ***Net Profit of Mines.** That amount of money or its equivalent received from the sale or trade of minerals or metals extracted from the Earth after deduction of allowable expenses as defined in Section 63-2802, Idaho Code, or by State Tax Commission rule is personal property.* **Items and Components Considered Real Property.** The following items and their associated components are generally considered real property whether or not owned separately from the ownership of the real property upon or to which the same may be erected, affixed, or attached. See also Section 63-201(19), Idaho Code. (45-00)()

a. Air handling, heating ventilation air conditioning (HVAC) equipment, and humidifiers including refrigeration equipment. ()

b. Ash handling systems, pits, and superstructures. ()

c. Asphalt mixing plants. ()

d. Beneficiation equipment, foundations and all machinery required to process ore including crushers, grinders and floatation equipment. ()

e. Boilers, stacks and superstructures. ()

f. Bridges, roads, and tunnels. ()

- g. Bucket elevators whether open or enclosed. ()
- h. Buildings and structures. ()
- i. Built-in cold storage systems. ()
- j. Bulkheads and retaining walls. ()
- k. Coal handling systems. ()
- l. Concrete plants. ()
- m. Conveyors. ()
- n. Cooling towers. ()
- o. Crane runways and systems including supporting columns or structures, whether inside or outside of buildings. ()
- p. Dairy barns, milking systems, shelters, and waste systems. ()
- q. Dock levelers. ()
- r. Drying rooms. ()
- s. Dust catchers and filtration systems. ()
- t. Electric power plants (including, but not limited to, generators, lines, towers, and poles). ()
- u. Electrical substations. ()
- v. Fencing. ()
- w. Fire walls and fire alarms. ()
- x. Floating homes as defined in Section 63-201(7), Idaho Code. ()
- y. Fruit, nut-bearing and ornamental trees or vines not of natural growth, growing upon the land, except nursery stock. ()
- z. Gravel plants. ()
- aa. Greenhouses. ()
- bb. Indoor and outdoor lighting. ()
- cc. Irrigation systems. ()
- dd. Kilns. ()
- ee. Manufactured homes, as defined in Section 39-4105(8), Idaho Code, are real property for purposes of the Section 63-602KK, Idaho Code exemption. ()
- ff. Mobile homes as defined in Section 39-4105(9), Idaho Code, are real property for purposes of the Section 63-602KK, Idaho Code exemption. ()
- gg. Modular buildings, as defined in Section 39-4301(7), Idaho Code, are real property for purposes of

the Section 63-602KK, Idaho Code exemption.

- hh. Ovens used for processing.
- ii. Pipelines (including, but not limited to, natural gas, water, and oil pipelines).
- jj. Process piping including foundations and bridges whether above or below ground.
- kk. Pump houses.
- ll. Railroads (including, but not limited to, railroad track and lines).
- mm. Sanitary or septic systems.
- nn. Scale houses, scales, and pit.
- oo. Signs and signboards, their bases and supports.
- pp. Silos and storage units and bins.
- qq. Spray Ponds and masonry reservoir systems.
- rr. Sprinkler systems.
- ss. Stone crushing plants.
- tt. Tanks.
- uu. Telecommunications (including, but not limited to, poles, towers, conduits, vaults, wire and cable).
- vv. Tipple structures.
- ww. Utility meters.
- xx. Vault doors, drive-in windows, automatic tellers and night depositories.
- yy. Water ditches constructed for mining, manufacturing or irrigation purposes.
- zz. Water piping.
- aaa. Well pumps.

08. Signs and Signboards. Signs and signboards, their bases and supports are personal property.
Items Considered Personal Property. The following items are generally considered personal property. (7-1-93)

- a. Cranes, silos, storage bins, tanks, signs, stand alone control booths, welding booths, racks, and shelving and similar items provided they are portable.
- b. Furniture, libraries, art, coin collections, and trade articles used commercially for convenience, decoration, service, or storage, including store counters, display racks, typewriters, office machines, surgical and scientific instruments, paintings, books, and all such items held for rent or lease are personal property.
- c. Inventory of spare parts and supplies.
- d. Machinery, tools and equipment unless they meet the definition of improvement or fixture to real

property, as defined in this rule.

e. Railroad rolling stock.

f. Refrigeration equipment such as walk-in coolers, grocery refrigeration units, and window air conditioning units provided they are portable.

g. Vehicles, including, but not limited to automobiles, recreational vehicles, watercraft, aircraft tractors, trailers and other mobile equipment, whether licensed or not.

09. **Leased Personal Property.** The listing of leased personal property shall also include the name and address of the other party to the lease and the terms of the lease. (4-5-00)

206. -- 20916. (RESERVED).

210. REAL PROPERTY DEFINED (RULE 210).

Sections 63-201, 63-304, and 63-309, Idaho Code. (4-5-00)

01. **Real Property.** Land and whatever is permanently upon or affixed to the land, except for the provisions defined in Section 63-309, Idaho Code. (4-5-00)

02. **Improvements.** Improvements are valuable additions to land, except for the provisions defined in Section 63-309, Idaho Code. (4-5-00)

03. **Manufactured Housing.** Manufactured housing subject to the provision of Section 63-304, Idaho Code, is real property. (4-5-00)

04. **Affixed Property and Other Improvements.** Property affixed to the land in such a manner that it may not be removed without materially damaging the land or attached improvements is real property. Real property includes appurtenances that would normally be expected to be sold together with the land. (4-5-00)

a. Equipment attached only by plug in electrical connection is not affixed. (4-5-00)

b. Equipment permanently situated and adapted to use in one place is affixed. (4-5-00)

c. Vault doors, drive-in windows, automatic tellers, and night depositories are affixed when owned by the owner of the building. (4-5-00)

211. -- 216. (RESERVED).

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
THE BIG WILLOW CREEK TMDLS (LOWER PAYETTE RIVER ADDENDUM HUC 17050122)
DOCKET NO. 58-0000-0809
NOTICE OF FINAL DECISION

AUTHORITY: In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Big Willow Creek Total Maximum Daily Loads (TMDLs) for the Lower Payette River Subbasin.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Big Willow Creek TMDLs for the Lower Payette River Subbasin. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Big Willow Creek TMDLs (Hydrologic Unit Code 17050122) addresses four (4) assessment units (AUs) impaired for temperature, flow and habitat alteration and unknown pollutants. DEQ completed TMDLs for temperature. DEQ has submitted this TMDL document to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

AVAILABILITY OF THE TMDL: Electronic copy of the TMDL can be obtained at www.deq.idaho.gov/water/data_reports/surface_water/tmdls/payette_river_lower/payette_river_lower.cfm#big_willow_creek or by contacting Ms. Marti Bridges, TMDL Program Manager, 208-373-0382, marti.bridges@deq.idaho.gov.

Dated this 16th day of June, 2008.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

*The written comment deadline is July 23, 2008, unless otherwise listed.
(Temp & Prop) indicates the rule is both temporary and proposed.
** Indicates that a public hearing has been scheduled.*

IDAPA 02 - DEPARTMENT OF AGRICULTURE P.O. Box 790, Boise, ID 83701-0790

02-0214-0801, Rules for Weights and Measures. (Temp & Prop) Adopts by reference the date specific standard ASTM D 4814-07a, "Standard Specification for Automotive Spark-Ignition Engine Fuel" and the 2008 edition of NIST Handbook 44, Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices; and states that the specifications for gasoline blended with ethanol be no more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. EPA.

IDAPA 07 - DIVISION OF BUILDING SAFETY 1090 E. Watertower St., Meridian, ID 83642

07-0105-0801, Rules Governing Examinations -- Building Safety. Statistics for the past 2 years show an unusually high pass rate for persons taking the Electrical Contractor examination, including 100% on several occasions. These statistics demonstrate that the minimum pass percentage may be too low. To remedy this situation, the Electrical Board has approved an increase in the minimum pass rate. This proposed rulemaking increases the minimum pass percentage for the Electrical Contractor examination from 70% to 75%.

07-0501-0801, Rules of the Public Contractors License Board. (Temp & Prop) Sections 54-1910 and 54-1911, Idaho Code, authorize the Public Works Contractors License Board to establish, by rule, such written or oral examinations it deems necessary to administer to applicants for public works contractor licenses. Currently, the Board has no such rule. This rulemaking is intended to address this deficiency and come into compliance with the controlling statute. The rulemaking establishes requirements and procedures for licensing examinations and it establishes a licensing and renewal fee for a new classification of license.

IDAPA 12 - DEPARTMENT OF FINANCE PO Box 83720, Boise, ID 83720-0031

12-0110-0801, Rules Pursuant to the Idaho Residential Mortgage Practices Act. In Section 26-3105(2), Idaho Code, the Idaho Legislature determined that a uniform multistate administration of an automated licensing system for mortgage brokers, mortgage lenders, and mortgage loan originators is consistent with both the public interest and the purposes of the Idaho Residential Mortgage Practices Act, chapter 31, title 26, Idaho Code (the Act). In Section 26-3105(2)(b) of the Act, the Legislature authorized the Director of the Idaho Department of Finance to establish by rule such new requirements as are necessary for the state of Idaho to participate in a uniform multistate licensing system upon the Director's finding that such new requirements are consistent with both the public interest and the purposes of the Act. The Director found that the requirements set forth in the proposed rules are consistent with the public interest and the purposes of the Act, and that they establish requirements necessary for the state of Idaho to participate in the Nationwide Mortgage Licensing System (NMLS), which became operative on January 1, 2008. The proposed rules also include amendments to existing rules regarding continuing professional education for licensees under the Act, which amendments establish uniformity with continuing professional education standards of other states; extend the

time to apply to the Department for continuing education credit after course completion; and add a category of approved courses. The Director found that the proposed rules concerning continuing professional education standards for licensees under the Act were necessary to execute, enforce, and effectuate the purposes of the Act. The proposed rules were adopted as temporary rules, effective January 1, 2008. Such temporary rules were approved by the 2008 Idaho Legislature. The Department now seeks to make such temporary rules permanent rules, which is the purpose of this proposed rulemaking.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
PO Box 83720, Boise, ID 83720-0036

16-0202-0801, Rules of the Idaho Emergency Medical Services Physician Commission. (Temp & Prop) To best protect the public's health and safety, the Emergency Medical Services (EMS) Physician Commission is amending their standards manual which is incorporated by reference in this chapter of rules. Included in the manual is the definition of EMS "scope of practice" which lists the medications, devices, and clinical interventions that EMS personnel can use to treat patients at emergency scenes and in ambulances. The updated version of the manual adds several important medications and clinical interventions that can be used by EMS personnel after additional training and permission of their medical director. Section 004 (Incorporation by Reference) of these rules is being revised with the updated edition number (2008-1) of the EMS Physician Commission Standards Manual. This revision will ensure the updated manual has the force and effect of law. Copies of the 2008-1 edition of the EMS Physician Commission Standards Manual will be available to the public on the effective date of this rulemaking.

16-0506-0801, Criminal History and Background Checks. (Temp & Prop) The Department conducts criminal history and background checks. The actual cost to complete these checks is the responsibility of the applicant, under Section 56-1004A(5), Idaho Code. The Department is increasing the fee amount for a criminal history and background check to cover current costs in compliance with statute. These rules are also being amended to add two additional 5-year disqualifying crimes to better protect vulnerable adults and children.

IDAPA 17 - INDUSTRIAL COMMISSION
PO Box 83720, Boise, ID 83720-0041

17-0204-0801, Administrative Rules of the Industrial Commission Under the Workers' Compensation Law - Benefits. (Temp & Prop) Section 72-1104, Idaho Code, part of the Peace Officer and Detention Officer Temporary Disability Act enacted in 2007, requires the Industrial Commission to adopt rules governing reimbursements under this law. The amendments provide for application procedures for eligible employers to seek reimbursement from the fund. Required sections are being added.

17-0208-0801, Miscellaneous Provisions. (Temp & Prop) Clarifies that these rules are applicable to all entities providing services to injured workers even as agents; changes the definition of a medical "provider" to include any person or entity acting on behalf of a provider with respect to medical charges payable under this rule; makes a required adjustment each fiscal year, mandated by Section 72-803, Idaho Code, by the amount determined by the Director of Health and Welfare in accordance with the procedure set out in Section 56-136, Idaho Code; and adjusts the conversion factors paid to medical providers by the inflation factor percentage determined by the Director of Health and Welfare for Medicaid covered services.

IDAPA 18 - DEPARTMENT OF INSURANCE
PO Box 83720, Boise, ID 83720-0043

18-0129-0801, Restrictions on Discretionary Clauses and Maximum Benefit Limits in Health Insurance Contracts. New rule defines and prohibits the use of discretionary clauses in health insurance contracts and prohibits insurers from reducing the lifetime maximum benefit available under a health insurance contract by amounts paid under a separate health insurance contract. Discretionary clauses are clauses in insurance contracts that purport to give the insurer the sole discretion to determine an insured's eligibility for benefits under the insurance contract.

18-0177-0801, Actuarial Opinion and Memorandum Rule. Section 41-612(12)(d)(iv), Idaho Code, permits the Director to rely on a foreign or alien insurer's home state regulator regarding the preparation and filing of an actuarial report. The change provides an exemption from filing with Idaho a report known as the Regulatory Asset Adequacy Issues Summary (the "RAAIS") for a foreign or alien insurer whose state of domicile imposes reporting requirements substantially similar to those imposed by Idaho. The RAAIS is not part of the NAIC's electronic filings due to its confidential nature. Therefore, insurers must file a paper copy with the Idaho Department of Insurance, or an electronic copy, which is printed. The Department does not utilize an actuary to review RAAIS reports filed by non-

domestic insurers, thus this filing requirement is largely perfunctory. The rule change is proposed to take effect December 31, 2008 so the exemption can be implemented for the 2008 annual financial filing period, thus reducing the use and cost of paper and expense of mailing for affected insurers.

IDAPA 21 - DIVISION OF VETERANS SERVICES
320 Collins Road, Boise, ID 83702

21-0104-0801, Rules Governing the Idaho State Veterans Cemetery. Defines the fees for interment, disinterment, and reinterment as the amount of reimbursement paid by the United States Department of Veterans Affairs maintains the ability of applicants to determine the fee quickly while allowing the Division to recoup the full amount of federal funds available for its services. The rule changes clarify the fees for interment, disinterment, and reinterment as the amount of reimbursement paid by the United States Department of Veterans Affairs.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
1109 Main St., Ste. 220, Boise, ID 83702

24-0201-0801, Rules of the Board of Barber Examiners. (Temp & Prop) Based on changes made to Title 54, Chapter 5, Idaho Code, in the 2008 legislative session, the Board may contract with a third party examination administrator to save costs for the Board and to provide monthly testing for the applicants. Rules requiring student registration are being deleted as there is no statutory authority for registration. High school equivalency is being expanded to include degrees from institutes of higher learning; and a definition for barber instructor is being corrected to comply with statute.

IDAPA 35 - STATE TAX COMMISSION
PO Box 36, Boise, ID 83712

35-0103-0801, Idaho Property Tax Administrative Rules. Rules 205 and 210 are being stricken and replaced with a new Rule 205 to clarify definitions as set forth by House Bill 599A in order to give assessors guidance in distinguishing between real and personal property. Comment by: 8/27/08.

NEGOTIATED RULEMAKING MEETINGS ARE SCHEDULED FOR THE FOLLOWING:

DEPARTMENT OF AGRICULTURE

02-0214-0802, Rules for Weights and Measures
02-0609-0801, Invasive Species Rules (New Rule)

DEPARTMENT OF EDUCATION

08-0202-0803, Rules Governing Uniformity

BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

10-0101-0801, Rules of Procedure
10-0102-0801, Rules of Professional Responsibility
10-0103-0801, Rules of Corner Perpetuation and Filing
10-0104-0801, Rules of Continuing Professional Development

DEPARTMENT OF LANDS - BOARD OF SCALING PRACTICES

20-0602-0801, General Rules, Licensing and Check Scales of the Idaho Board of Scaling Practices

Please refer to the Idaho Administrative Bulletin, **July 2, 2008, Volume 08-7** for notices and text of all rulemakings, Senate and House Concurrent Resolutions, Omnibus Rulemaking Notice of Final and Temporary Rules, public hearing schedules, Governor's executive orders, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at the county law libraries or online.

To view the Bulletin or Code or for information on purchasing the Bulletin and other rules publications, visit our website at www.adm.idaho.gov/adminrules/ or call (208) 332-1820 or write the Dept. of Administration, Office of Administrative Rules, 650 W. State St., Room 100, Boise, ID 83720-0306.

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TO BE CONNECTED TO THE INTERNET**

This index tracks the history of all agency rulemakings from 1993 to the present.
It includes all rulemaking activities on each chapter of rules
and includes negotiated, temporary, proposed, pending
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