

STATE AFFAIRS COMMITTEE
ADMINISTRATIVE RULES REVIEW
Table of Contents
2012 Legislative Session

IDAPA 15 - OFFICE OF THE GOVERNOR

IDAHO STATE LIQUOR DIVISION

15.10.01 - Rules of the Idaho State Liquor Division
Docket No. 15-1001-11012

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.11.01 - Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission
Docket No. 31-1101-110114

31.71.03 - Railroad Safety and Accident Reporting Rules
Docket No. 31-7103-110119

IDAPA 34 - SECRETARY OF STATE

34.04.02 - Corporate Name Availability
Docket No. 34-0402-110122

34.05.01 - Rules Governing Farm Products Central Filing System
Docket No. 34-0501-110135

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.04.06 - Rules Governing Prequalification of Contractors on Capitol Building Projects
Docket No. 38-0406-1101 (Chapter Repeal).....43

IDAPA 52 - IDAHO STATE LOTTERY COMMISSION

52.01.03 - Rules Governing Operations of the Idaho State Lottery
Docket No. 52-0103-110146

IDAPA 54 - OFFICE OF THE STATE TREASURER

54.01.01 - Reports for Public Bond Issues
Docket No. 54-0101-1101 (Chapter Repeal).....54

IDAPA 15 - OFFICE OF THE GOVERNOR

IDAHO STATE LIQUOR DIVISION

15.10.01 - RULES OF THE IDAHO STATE LIQUOR DIVISION

DOCKET NO. 15-1001-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 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 23-206(b), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 338 through 345.](#)

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 Jeffrey R. Anderson, Director, (208) 947-9402.

DATED this 28th day of October, 2011.

Jeffrey R. Anderson, Director
Idaho State Liquor Division
1349 Beechcraft Court
P. O. Box 179001
Boise, ID 83717-9001
Phone: (208) 947-9402
Fax: (208) 947-9401

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 23-206(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2011.

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

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

The Idaho State Liquor Division needs to make numerous housekeeping revisions to its administrative rules in order to render the rules more accurately coinciding with long-standing agency business practices and procedures. The Liquor Division's administrative rules have not been revised since 1997. The Division desires to make changes in the definitions to more accurately reflect terminology used in ISLD day-to-day operations and make corresponding changes as subsequently referenced in the rules. ISLD also seeks to make numerous other changes in the rules to clarify ambiguous language, eliminate unnecessary terms and eliminate or modernize obsolete terms and language relating to its day-to-day business operations.

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

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeffrey R. Anderson, Director, (208) 947-9402.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2011.

DATED this 29th day of August 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-1001-1101

000. LEGAL AUTHORITY.

These rules are adopted by the Director of the Idaho State Liquor Division pursuant to Section 23-206(b), Idaho Code, and are written in accordance with Article III, Sections 24 and 26, Idaho Constitution; and the Idaho Administrative Procedures Act. These rules relate to the sale of packaged ~~Liquor~~ as defined in Subsection 004.09 of these rules, and to the general operations of the Idaho State Liquor Division. (3-20-97)()

001. TITLE AND SCOPE.

The title of this chapter is: IDAPA 15.10.01, "Rules of the Idaho State Liquor Division," Office of the Governor. These rules ~~are intended to~~ provide guidance ~~to persons doing business with~~ regarding operational aspects of the Idaho State Liquor Division and support and enforce applicable terms in the Idaho Liquor Act, Title 23, Idaho Code. Promulgation of new rules and revision of existing rules will be a continual process in accordance with the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. (3-20-97)()

(BREAK IN CONTINUITY OF SECTIONS)

004. DEFINITIONS.

The following terms, whenever used in these rules, shall have the meanings ascribed thereto, unless the context in which they are used clearly requires otherwise. (3-20-97)

01. Bailment. A system of storing Supplier-owned inventory in state-operated Warehouses. The ~~control authority~~ Division holds the Liquor in trust until stock is needed at retail. (3-20-97)()

02 Central Office. The main business office and Warehouse of the Idaho State Liquor Division. (3-20-97)

03. Close Relative. A person related by blood or marriage within the second degree of kinship. (3-20-97)

04. Contract Store. Distributing Stations, as defined in Subsection 004.08 of these rules, whose Liquor inventory is owned by the state under an contractual agreement.

~~(3-20-97)~~()

05. Delisting. The process of discontinuing any product offered for sale resulting in the product's removal of liquor from the Division's Product Line. The decision to retain or delist a product rests solely with the Director. ~~(3-20-97)~~()

~~2506.~~ **Director.** The chief executive officer of the ~~Idaho State Liquor~~ Division. ~~(3-20-97)~~()

~~067.~~ **Division.** The Idaho State Liquor Division. (3-20-97)

~~078.~~ **Distressed Liquor.** Liquor which is not in its original state of packaging. (3-20-97)

~~089.~~ **Distributing Station.** A privately owned business that sells Liquor. It operates under an contractual agreement with the Division pursuant to Title 23, Chapter 3, Idaho Code. Distributing Stations may also be termed Contract Stores ~~or private stores.~~ ~~(3-20-97)~~()

~~0910.~~ **Liquor.** Liquor controlled by the Division shall have the definition ascribed to it by Section 23-105, Idaho Code, excluding certain beers as defined in Section 23-1002, Idaho Code, and certain Wines as defined in Section 23-1303, Idaho Code. (3-20-97)

Codified Subsection 004.10 has been moved and renumbered to Subsection 004.25

11. Licensee. Person authorized to sell beer or Wine by the drink or by the bottle, Liquor by the drink, or any combination thereof. (3-20-97)

12. Listing (Listed). Liquor that is carried or approved to be carried in the Division's Product Line. (3-20-97)

13. Political Office. A public office for which partisan politics is a basis for nomination, election, or appointment. (3-20-97)

14. Price Quotation. Written verification of detailed product information submitted to the Division by ~~vendors~~ Suppliers. ~~(3-20-97)~~()

~~15. Private Store. Distributing station whose inventory is owned by the station's Special Distributor.~~ ~~(3-20-97)~~

165. Product Line. ~~Liquor which is kept in continual inventory and sold~~ Items offered for sale by the Division. ~~(3-20-97)~~()

176. Promotional Samples. Liquor furnished by the liquor industry to local representatives for the purpose of promoting the product which must be attached to another Liquor product in the liquor store as a value added promotion. ~~(3-20-97)~~

- 187. Retail Store.** Any State Store or Distributing Station. (3-20-97)
- 198. Samples.** Liquor furnished by the liquor industry to ~~local~~ **Supplier** ~~Representatives~~ for the purpose of promoting the product. ~~(3-20-97)~~()
- 2019. Shortage.** Any amount of cash or Liquor less than the true balance as maintained by the Central Office. Liquor Shortages shall be based on current retail value. (3-20-97)
- 240. Special Distributor (Distributor).** A private business owner authorized to operate a Distributing Station. A Special Distributor is not a state employee. (3-20-97)
- 221. Special Distributor Agreement (Agreement).** The contract signed by a Special Distributor acknowledging the conditions and terms for operation of a Distributing Station in accordance with Idaho Code and the rules of the Division. (3-20-97)
- 232. Special Order.** Any item not ~~carried in~~ **regularly offered as part of** the Division's Product Line. ~~(3-20-97)~~()
- 243. State Store.** A Retail Store that sells Liquor. It is operated by state employees under the direct supervision of the Division. ~~(3-20-97)~~

Codified Subsection 004.25 has been moved and renumbered to Subsection 004.06

- 284. ~~Vendor~~ Supplier.** Any **manufacturer, rectifier, importer,** wholesaler or Supplier of ~~alcoholic~~ Liquor, **Wine, or related products offered for sale by the Division.** ~~(3-20-97)~~()
- 1025. ~~Liquor Industry~~ Supplier Representative.** An individual, company, or entity authorized to represent a ~~vendor~~ **Supplier** in the state of Idaho. ~~This~~ **A Supplier Representative** may be **an individual, a group of individuals operating as** a ~~brokerage,~~ firm or **may be an** direct employee of ~~a vendor~~ **the Supplier. A Liquor Supplier Representative must obtain an annual Supplier Representative permit from the Division.** ~~(3-20-97)~~()
- 26. Warehouse.** The main Division distribution center and satellite distribution points operated by the Division. ()
- 267. Wine (~~Table Wine~~).** Alcoholic beverages defined in Sections ~~23-105(e) and~~ 23-1303(~~a~~), Idaho Code. ~~(3-20-97)~~()
- 278. Wine Gallon.** The liquid measure equivalent to the volume of two hundred thirty-one (231) cubic inches or one hundred twenty-eight (128) ounces. (3-20-97)

005. -- 009. (RESERVED)

010. RETAIL STORES.

01. **Site Location.** Based on the criteria set forth in this section and in accordance with

Sections 23-301 and 23-302, Idaho Code, the Division will select an appropriate Retail Store site to adequately serve the community. (3-20-97)

~~**a.** State stores will generally be established in larger cities of the state where sales volume cost justifies adequate profitable operation. (3-20-97)~~

~~**b.** Special distributors will generally be contracted in the smaller cities of the state. However, special distributors who meet or exceed Division operating expectations, and whose sales volume has grown to exceed minimum state store sale thresholds, will not be denied a special distributor agreement because of their larger size of operation. (Sections 23-301 and 23-302, Idaho Code.) (3-20-97)~~

02. Site Selection Criteria. The following criteria will be used in selecting a location for a new Retail Store. (3-20-97)

a. Public acceptability of location in accordance with Sections 23-301 and 23-302, Idaho Code. (3-20-97)

b. Location and suitability of premises. (3-20-97)

c. Lease amount may not be the sole determining factor in site selection; final selection will be determined at the discretion of the Director. (3-20-97)

d. Compliance with local zoning. (3-20-97)

03. Customer Refunds and Exchanges. No cash refunds will be authorized without prior approval of the Director or his authorized agent. (3-20-97)

a. Liquor may be exchanged for other Liquor of the same or higher price upon approval of the store manager and presentation of a valid receipt. (3-20-97)

b. Liquor brought in for exchange or refund must have been purchased in Idaho through the Division and must have the official Idaho seal as prescribed by the Division. (3-20-97)

c. A re-shelving charge may be assessed on all returned items in accordance with Section 23-311, Idaho Code. (3-20-97)

04. Disabled Customers. Appropriate special services, in accordance with the Americans with Disabilities Act, will be provided to disabled customers. (3-20-97)

05. Special Orders. Customers seeking Liquor not carried in the Division's Product Line may place a Special Order for such Liquor. (3-20-97)

a. The order must be picked up in total within one (1) week's time after notification by the store manager. Orders not picked up within one (1) week following such notification are subject to forfeiture of deposit and the Liquor may be placed on the shelf for sale. (3-20-97)

b. Order cancellations will be honored if done within seven (7) calendar days from the date the order was placed and, if the cancellation is accepted by the ~~vendor~~ **Supplier**.
(3-20-97)()

c. A deposit or a percentage of the order price, as specified by the Director, may be required before a Special Order is placed. (3-20-97)

d. If the Liquor is not available within ninety (90) days, a customer may request a deposit refund if the cancellation is accepted by the ~~vendor~~ **Supplier**. (3-20-97)()

06. Prices. All prices will be in accordance with the published price list set by the Director in accordance with Section 23-207(h), Idaho Code. (3-20-97)

07. Distressed Liquor. Price adjustments can be made on Distressed Liquor with the approval of the Director or his authorized agent. (3-20-97)

08. Hours and Days of Operation. ~~Standard Retail~~ Store hours **and days of business operation** shall be ~~from 11 a.m. to 7 p.m. Monday through Saturday and shall be set by the Director~~ in accordance with Section 23-307, Idaho Code. ~~Special hours of operation may be adjusted as approved by the Director or his authorized agent.~~ (3-20-97)()

09. Customer Response Cards. Each store will have customer response cards for customers to use when filing comments or complaints. These cards will be pre-addressed to the Division. The Director or his authorized agent shall investigate all comments and promptly respond to the customer. (3-20-97)

10. Audits. Designated Division personnel shall perform periodic inspections of all Retail Stores. Such inspections may be on an unannounced basis and may include physical inventory counts with the assistance of the store manager or authorized agent to assess the suitability of inventory levels and product mix and other evaluation procedures. (3-20-97)

11. Admission to State Store. To protect the assets of a State Store, to enhance the safety of Division personnel and the public, and to aide in the performance of the Division's duties, State Store personnel may refuse a person entry into a State Store, may require a person to leave a State Store, or may take other actions as are appropriate to cause the removal of a person from a State Store where such person's presence in the State Store is disrupting performance of the Division's duties or is inconsistent with the Division's charge to curtail the intemperate use of alcoholic beverages. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

~~**012. PRIVATE STORES.**~~

~~Private stores will be allowed when the Director finds it to be in the public's best interest. Existence of these stores will be limited to extraordinary circumstances.~~ (3-20-97)

0132. CONTRACT STORES.

01. Fiduciary Responsibility. Any and all unremitted monies collected by the Contract Store are held in trust for the Division, and upon their receipt by the Contract Store, are assigned to the Division in accordance with Section 23-401, Idaho Code. (3-20-97)

02. Liquor Shortage. The Contract Store must pay the monetary value of any Shortage to the Division immediately after receipt of the request for payment from the Division showing its calculation of the Shortage. (3-20-97)

a. If the Contract Store disputes the existence, amount of, or responsibility for Liquor or cash Shortages, the Contract Store may request a hearing before the Director. (3-20-97)

b. Any payment made by the Contract Store for Liquor Shortages may be refunded in whole or in part if the Contract Store's position is upheld by the Director. (3-20-97)

03. Compensation. For Contract Store, compensation will be the gross profit allowance set by the Division. Compensation will vary based on sales volume. (3-20-97)

0143. SALES TO LICENSEES.

To be eligible to purchase Liquor at discount (Section 23-217, Idaho Code) a Licensee shall obtain a no cost purchase order permit from any State Store or Distributing Station.

~~(3-20-97)~~()

01. ~~Valid~~ Permit Term. The permit shall remain valid only as long as the permit holder is an authorized Licensee as defined in Section 23-902(e), Idaho Code. ~~(3-20-97)~~()

02. Permits Are Not Transferable. Permits are not transferable and will automatically terminate on suspension, revocation, sale, lease, or transfer of the liquor license.

~~(3-20-97)~~()

0154. -- 019. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

021. ~~VENDORS~~ SUPPLIERS.

01. Price Quotations. All ~~vendors~~ Suppliers must submit a Liquor Price Quotation, on forms prescribed by the Division, for every item they have Listed with the Division.

~~(3-20-97)~~()

a. All Price Quotations must be submitted to the Division by certified mail or electronic transmission. (3-20-97)

b. Price change quotations must be submitted sixty (60) days in advance of any price changes. (3-20-97)

02. Warranties. ~~Vendor~~ **Supplier** warranties will conform to the requirements of the ~~Bureau of Alcohol, Tobacco and Firearms~~ **Tax and Trade Bureau of the Internal Revenue Service.** (3-20-97)()

03. Liquor Shipments. Pursuant to Sections 23-203(a), 23-203(b) and 23-207(d), Idaho Code, all Liquor transported into the state of Idaho shall be under the direction of the Division. (3-20-97)

a. Such Liquor shall be transported directly to, and only to, the Division's Warehouse. (3-20-97)

b. It is a violation of Sections 23-203(a), 23-203(b) and 23-207(d), Idaho Code, for any ~~vendor~~ **Supplier** or other party to ship Liquor into the state of Idaho for purposes not authorized by the Director, or to any location other than the Division's Warehouse. (3-20-97)()

c. The Division reserves the right to select the mode of transportation for all Liquor within the state of Idaho. (3-20-97)

04. Title to Liquor, Wines and Related Products. ~~The~~ **Title to liquor Product Line items delivered to the Division** passes from the ~~vendor~~ **Supplier** to the Division when the Division accepts the liquor product, unless Product Line items are delivered directly to Bailment status. (3-20-97)()

a. ~~Liquor~~ **The Division reserves the right to conduct quality tests, or to inspect products directly** ordered or withdrawn from Bailment ~~will be received subject to the right of the Division to make tests and inspections thereof at any time.~~ (3-20-97)()

b. The Division reserves the right at any time to reject any ~~liquor~~ **Product Line item** if, upon tests and inspections, ~~the liquor it~~ does not conform to requirements. (3-20-97)()

c. ~~Upon rejection by~~ **In the event** the Division **rejects any delivery**, ownership of ~~such property shall automatically vest with~~ **products refused will remain with** the ~~vendor or transportation company depending upon circumstances and cause of rejection~~ **Supplier. It shall be the Supplier's responsibility to remove or relocate any refused products.** (3-20-97)()

05. Liquor Product Returns. Liquor, **Wine, or related products** may be returned to ~~vendors~~ **Suppliers** by the Division, in full **or partial** cases, for "ordinary and ~~un~~usual commercial reasons" in accordance with the ~~Bureau of Alcohol, Tobacco and Firearms~~ **Tax and Trade Bureau of the Internal Revenue Service** regulations. (3-20-97)()

a. The ~~vendor~~ **Supplier** shall immediately reimburse the Division the full invoice cost plus an additional amount, fixed by the Division, as reimbursement for the Division's expense in shipping to and from its stores and Warehouse. (3-20-97)()

06. New Listings. New Listings shall be added at the discretion of the Director pursuant to Sections 23-203 and 23-207, Idaho Code. (3-20-97)

a. ~~For new products to be considered, Vendors Suppliers~~ must submit Price Quotations ~~sixty (60) days in advance of any price change in order to have their product considered for listing~~ and other requested information as shown in the Division's Listing procedure. (3-20-97)()

b. New Listings will be given one (1) year from the time of Listing to attain a minimum quota as set by the Division. (3-20-97)

07. Delisting. Delistings shall be at the discretion of the Director pursuant to Sections 23-203 and 23-207, Idaho Code. (3-20-97)

a. All items Listed with the Division must maintain a minimum quota in order to insure continued ~~distribution~~ Listing in Idaho. (3-20-97)()

b. A list of minimum quotas by class is available upon request from the Division. (3-20-97)

08. Resident Supplier Representatives. All ~~vendors~~ Suppliers doing business with the Division shall have resident representation. (3-20-97)()

a. ~~Vendors Suppliers~~ shall be limited to ~~five ten (510)~~ representatives, one (1) of whom must be a resident of Idaho, who will be designated the primary Supplier Representative. (3-20-97)()

b. ~~One (1) Idaho~~ A resident Supplier Representative ~~shall be designated as the primary representative and shall be the direct representative of that vendor~~ cannot have been convicted of any felony. (3-20-97)()

c. In the event that the primary Idaho resident Supplier Representative position becomes vacant, it must be filled within sixty (60) days. (3-20-97)()

09. Supplier Representative Permits. ~~Resident Supplier~~ Representatives must obtain an annual permit from the Division. (3-20-97)()

a. Permits must be renewed January 1st of each year. (3-20-97)

b. Permits will not be issued to any holder of a bartender's permit, retail licensee, a distributor of restaurant or bar supplies, a distributor of beer or Wine, or to a food wholesaler. (3-20-97)

c. Supplier Representatives may represent more than one (1) ~~vendor~~ Supplier without additional permit fees. (3-20-97)()

10. Facility Visitations. ~~Vendor~~ Supplier Representatives, or anyone acting in that capacity, must obtain prior approval from the Director or his authorized agent to conduct business at any State Store or Distributing Station. Visits to the Division are to be confined to the Central Office area only, unless otherwise approved by the Director or his authorized agent. (3-20-97)

11. Samples. Samples shall be limited to ten (10) Wine Gallons per month and the sizes of Samples shall be that which are permitted by federal regulation or statute. (3-20-97)

12. Promotional Samples. Promotional Samples shall be limited to fifty (50) ml size bottles unless specified otherwise by the Director. (~~3-20-97~~)

13. Contact With Licensees. No ~~vendor~~ **Supplier** Representative, or anyone acting in that capacity, shall deliver any Liquor, Wine, or beer sold by the Division to a Licensee's place of business, other than Samples. (~~3-20-97~~)()

a. Such Samples shall be limited to sizes permitted by federal regulation or statute. (3-20-97)

b. Such Samples shall be only those items not carried in that Licensee's Product Line. (3-20-97)

14. Liquor Displays. The Division will regulate all Retail Store Liquor displays. (3-20-97)

a. No ~~vendor~~ **Supplier** Representative shall be permitted to interfere with product displays. (~~3-20-97~~)()

b. Any ~~vendor~~ **Supplier**-owned display material may be discarded if not picked up within thirty (30) days after termination of the display period. (~~3-20-97~~)()

15. Advertising. Advertising in all Retail Stores will be in accordance with Section 23-607, Idaho Code. If an industry member is doubtful as to whether a proposed advertisement is in compliance with the provisions of these rules, a specimen of the proposed advertisement may be submitted to the Director of the Division for approval prior to publication. (3-20-97)

16. Violations. Any ~~vendor~~ **Supplier** Representative, or anyone acting in that capacity, who violates Title 23, Idaho Code, or any rule of the Division, shall thereby subject the manufacturer's, wholesaler's or Distributor's products to removal from the Division's Product Line or; the Director, at his discretion, may suspend (temporarily or permanently) their ~~liquor industry~~ **Supplier** Representative permit. (~~3-20-97~~)()

022. SCHEDULE OF FEES.

The following fees may be charged by the Division. (3-20-97)

01. Cost Reimbursement. The Division may seek cost reimbursement, as determined by the Division, from ~~liquor~~ **Supplier** Representatives for mailing, shipping, or other expenses incurred by the Division to distribute information or displays to liquor stores at the request of a ~~liquor~~ **Supplier** Representative. (~~3-20-97~~)()

02. Maximum Fee for Samples. There will be a maximum fee of twenty-five dollars (\$25) per case charged to ~~liquor~~ **Supplier** Representatives for Samples. (~~3-20-97~~)()

03. Maximum Fee for Annual **Supplier Representative Permit.** There will be a

maximum fee of fifty dollars (\$50) charged to ~~liquor~~ **Supplier** Representatives each January for an annual permit. ~~(3-20-97)~~()

023. -- 030. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

032. WINES.

~~Table~~ **W**ines may be sold in any State Store or Distributing Station at the discretion of the Director pursuant to Section 23-1305, Idaho Code. All rules of the Division applicable to Liquor are also applicable to ~~table~~ Wines and beer sold by the Division. ~~(3-20-97)~~()

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-1101-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Public Utilities Commission and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Public Utilities Commission has adopted a pending rule. The action is authorized pursuant to Section 61-515, 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 Commission received comments from Idaho Power Company supporting the proposed rule to adopt the 2012 updates to the National Electric Safety Code in proposed Rule 101. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 632 through 634.](#)

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 3rd day of November, 2011.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
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Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:

472 W Washington
Boise, Idaho 83702-5918

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 61-515, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2011.

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

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission's Safety and Accident Reporting Rules currently adopt by incorporation various national safety codes applicable to electric, telephone and natural gas utilities and federal safety regulations applicable to natural gas and pipeline utilities. Currently, Rule 101 adopts the 2007 edition of the National Electric Safety Code (NESC) published by the Institute of Electrical and Electronic Engineers, Inc. Rule 201 adopts the 2010 edition of 49 Code of Federal Regulations (CFR) Parts 191-193, 195 and 199 addressing the construction and operation of natural gas pipelines. Next, Rule 202 incorporates by reference the 2009 edition of the International Fuel Gas Code (IFGC) published by the International Code Council. Finally, Rule 203 incorporates by reference the 2009 edition of the International Mechanical Code (IMC) for natural gas or gas-burning appliances. The Commission proposes to update these four safety rules by adopting the 2012 edition of the NESC, the 2012 edition of the IMC, and the 2012 edition of the IFGC. The Commission also proposes to adopt the October 1, 2011 edition of the pipeline safety CFRs and 18 C.F.R. Part 260.9.

1. Rule 101. There are several revisions to the 2007 edition of the NESC contained in the 2012 edition of the NESC. First, Section 91 has been clarified concerning the procedures for effectively grounding conductors and equipment. Second, Sections 94.B.(7) and 99.B. have been revised concerning the length and thickness requirements for using a directly embedded metal pole as a grounding electrode and changing the grounding conductor for communication equipment. Third, Section 110.A.(2) and Table 111-1 have been revised to reduce clearances between fences and electric apparatus and the illumination levels for generating states and substations. Fourth, Section 214.A.(5) was revised to add consistency to the application of the terms "grounded" and "effectively grounded." Fifth, Section 261.H.(1) was revised to address the "tensions" standards for overhead supply conductors and shield wires. Next, Sections 441 and 410.A.(3) were revised concerning the calculation of minimum approach distances and arc flash exposure. Finally, Section 410.A.(3) was revised to establish arc energy thresholds for different equipment at voltage levels below 1,000 volts.

2. **Rule 201.** There are four revisions included in the 2011 edition of the federal pipeline safety regulations contained in the CFRs. First, in October 2010, the Pipeline and Hazardous Material Safety Administration (PHMSA) amended 49 C.F.R. Part 192, 193, and 195 by adopting various technical standards. Adoption of these technical standards allows pipeline operators to use current technologies, improved materials, and improve their management practices. Adoption of these technical standards does not require pipeline operators to take on any significant new pipeline safety initiatives. Second, in November 2010, PHMSA revised its pipeline safety regulations to improve the reliability of data collected from operators of natural gas pipelines. These amendments affect 49 C.F.R. Parts 191, 192, 193, and 195.

Third, in February 2011, PHMSA amended 49 C.F.R. Parts 191 and 192 to clarify the types of pipeline fittings involved in the reporting of compression coupling failures. These changes require the operators of pipelines to report the failures of mechanical fittings and clarify the reporting requirements for “excess flow valves.” These changes became effective in April 2011. Finally, in June 2011, PHMSA amended 49 C.F.R. Parts 192 and 195 to require pipeline operators to implement procedures for the operation of their system “control rooms.” These operating procedures include shift lengths, maximum hours-of-service, and responses to alarms. These changes became effective August 15, 2011.

3. **Rule 202.** There are three revisions included in the 2012 edition of the International Fuel Gas Code. First, the International Code Council has revised Section 301.11 regarding the location of mechanical equipment and systems located in flood hazard areas except for equipment specifically designed and installed to be waterproof. Second, Sections 406.7.1 through 406.7.3 have been revised to improve the procedures and requirements for purging fuel gas lines. Finally, Section 410.5 requires that a flashback arrester and backflow check valve be installed on both fuel supply and oxygen lines when fuel gas is used in combination with oxygen.

4. **Rule 203.** There are three major revisions included in the 2012 edition to the International Mechanical Code. First, Section 301.16 requires all mechanical equipment and systems for structures located in flood hazard areas to be elevated above flood level unless such equipment is specifically designed to be waterproof. Second, Section 401.4 adopts new provisions concerning the locations of air intake openings. In particular, intake openings must be located a minimum of 10 feet from property lot lines. Air intakes may be located less than 10 feet horizontally from a street, alley, parking lot, or loading zone as long as they are located not less than 25 feet vertically from the surface below. Finally, Section 501 has been revised to require that single or combined environmental exhaust systems must be independent of all other exhaust systems.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this proposed rule adopts updated national safety codes

and federal regulations necessary for the safety of utility employees and the public during the installation, operation, or maintenance of natural gas pipelines, fuel gas systems and natural gas-fired appliances.

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

Adoption of the current national safety codes and the CFRs will make these rules consistent with federal safety regulations concerning natural gas and pipeline utilities. In addition, incorporation of the three national safety codes will promote the safety of utility employees, utility customers, and the public. Finally, incorporation by reference will mitigate the need to publish hundreds of pages of safety codes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 26, 2011. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 25th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-1101-1101

101. NATIONAL ELECTRICAL SAFETY CODE (NESC) (RULE 101).

The Commission adopts by reference the American National Standards Institute (ANSI) C2-2007~~12~~ National Electrical Safety Code (NESC), 2007~~12~~ Edition. The National Electrical Safety Code, 2007~~12~~ Edition, is published by the Institute of Electrical and Electronics Engineers, Inc., and is available from the Institute of Electrical and Electronics Engineers, Inc., 3 Park Avenue, New York, NY 10016-5997 and may be ordered by calling 1-800-678-IEEE. All electrical and telephone corporations subject to the Commission's jurisdiction are required to abide by applicable provisions of the NESC. ~~(3-30-07)~~()

(BREAK IN CONTINUITY OF SECTIONS)

201. FEDERAL NATURAL GAS SAFETY REGULATIONS (RULE 201).

The Commission incorporates by reference Part 260.9, Title 18 (April 1, 2010~~1~~) and Parts 191, 192, 193, 195, and 199, Title 49, the Code of Federal Regulations (October 1, 2010~~1~~), except that

federal accident reporting requirements contained in the rules adopted by reference in Rule 201 are replaced for state reporting purposes by orders of the Commission or rules of the Commission. These regulations are found in the Code of Federal Regulations, available on the web from the U.S. Government Bookstore, <http://bookstore.gpo.gov>, and click on “Code of Federal Regulations,” or by calling toll-free 866-512-1800. The incorporated CFR Parts are also available in electronic format at www.gpoaccess.gov/cfr/index.html. All gas and pipeline corporations subject to the Commission’s jurisdiction are required to abide by applicable provisions of these federal regulations adopted by reference. ~~(4-7-11)~~()

202. INTERNATIONAL FUEL GAS CODE (IFGC) (RULE 202).

01. Incorporation by Reference. The Commission incorporates by reference the International Fuel Gas Code, 20~~09~~12 Edition except for Part 2 of Chapter 1. The International Fuel Gas Code is published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington D.C. 20001-2070. The Code is available from the Code Council and may be ordered online at www.iccsafe.org/Store/Pages/default.aspx. Telephone orders may be placed by calling toll-free 800-786-4452. ~~(3-29-10)~~()

02. Utility Compliance. All gas corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the International Fuel Gas Code and to connect for service and light only those installations that: (3-20-04)

a. Have been inspected and approved by authorized agencies; or (4-1-98)

b. When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the International Fuel Gas Code as a condition of receiving service or continuing to receive service. (3-20-04)

203. INTERNATIONAL MECHANICAL CODE (IMC) (RULE 203).

01. Incorporation by Reference. The Commission incorporates by reference those portions of the 20~~09~~12 International Mechanical Code explicitly referring to gas or gas-burning appliances except Part 2 of Chapter 1. The International Mechanical Code is published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington D.C. 20001-2070 and may be ordered by calling toll-free 800-786-4452 or online at www.iccsafe.org/Store/Pages/default.aspx. ~~(3-29-10)~~()

02. Utility Compliance. Gas corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the International Mechanical Code and to connect for service and light only those installations that: (3-20-04)

a. Have been inspected and approved by authorized agencies; or (4-1-98)

b. When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the International Mechanical Code as a condition of receiving service or continuing to receive service. (3-20-04)

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION
31.71.03 - RAILROAD SAFETY AND ACCIDENT REPORTING RULES
DOCKET NO. 31-7103-1101
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Public Utilities Commission and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Public Utilities Commission has adopted a pending rule. The action is authorized pursuant to Section 61-515, 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 Commission received no comments regarding the proposed rule. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 635 and 636.](#)

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 3rd day of November, 2011.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:
472 W Washington
Boise, Idaho 83702-5918

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 61-515, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2011.

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

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission's Railroad Safety and Accident Reporting Rule 103 adopts by reference the federal safety regulations pertaining to the transportation of hazardous materials by railroads issued by the federal Pipeline and Hazardous Material Safety Administration (PHMSA). Railroad Safety Rule 103 adopts the 2010 edition of the Code of Federal Regulations (CFR). The Commission proposes to adopt the 2011 edition of the CFR.

There are two major revisions included in the 2011 edition of the federal hazardous material safety regulations. First, in January 2011, PHMSA amended 49 C.F.R. Parts 107 and 171 revising procedures regarding the issuance of special permits when a hazardous material rail car has a defect. The special permit issued by PHMSA would allow a shipper to move the hazardous car to a repair facility. This change became effective on March 7, 2011. Second, PHMSA amended 49 C.F.R. Part 172 to remove saccharin and its salts from the list of hazardous substances and reportable quantities. This change was effective June 27, 2011.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this proposed rule adopts updated CFR Parts necessary for the safe transportation of hazardous materials by rail.

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

The two revisions to be adopted in the 2011 edition of the federal hazardous material

safety regulations are explained in detail in the descriptive summary above. Adoption of the 2011 federal safety regulations will provide uniformity between state and federal rail safety provisions.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 26, 2011.

Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 4th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-7103-1101

103. TRANSPORTATION OF HAZARDOUS MATERIAL BY RAIL (RULE 103).

01. Hazardous Material Defined. “Hazardous material” means a substance or material which has been determined by the United States Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated by the Secretary of Transportation. The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials as defined in 49 C.F.R. Section 171.8, materials designated as hazardous under the provisions of 49 C.F.R. Section 172.101, and materials that meet the defining criteria for hazardous classes and divisions in 49 C.F.R. Part 173. (3-30-01)

02. Adoption of Federal Safety Regulations. The Commission hereby adopts by reference 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179, and 180 (October 1, 2010¹). All customers offering hazardous materials for shipment by rail and all railroads operating in Idaho that transport hazardous materials listed in, defined by, or regulated by the adopted federal safety regulations must comply with 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179 and 180. (~~4-7-11~~)()

03. Recognition of Federal Exemptions. Whenever a railroad or shipper has applied to a federal agency and has been granted an exemption from the transportation or packaging requirements of the federal safety regulations adopted in Subsection 103.02, the federal exemption will also be recognized under these rules. The Commission shall not administer a program to duplicate consideration or approval of federal exemptions on a state level. (3-30-01)

IDAPA 34 - SECRETARY OF STATE

34.04.02 - CORPORATE NAME AVAILABILITY

DOCKET NO. 34-0402-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is **October 6, 2011**. This pending rule has been adopted by the agency and is now pending review by the 2012 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 Section 67-903(9), Idaho Code.

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:

A definition of business entity has been included to clarify that a business entity is one created pursuant to state or federal law and is not limited to corporate business entities. With the proliferation of Internet businesses, it is necessary to include rules addressing the use of Internet prefixes and suffixes in business entity names and to clarify that the use of an Internet prefix or suffix makes a name distinguishable on the records of the Secretary of State. Also, a technical correction is being made to add “Registered Limited Liability Partnership (R.L.L.P.)” to the definition of business entity identifiers. Finally, under the section related to “General Information,” the subsection concerning “False Implication of Government Affiliation” should remain in these rules.

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 Secretary of State amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the [November 2, 2011 Idaho Administrative Bulletin, Vol. 11-11, pages 30 through 38](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

DATED this 25th day of November, 2011.

Jeff Harvey, UCC Supervisor
Office of the Secretary of State
450 N. 4th St.
P. O. Box 83720
Boise, ID 83720-0080
Phone: (208) 332-2849
Facsimile: (208) 334-2847

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

EFFECTIVE DATE: The effective date of the temporary rule is **October 6, 2011**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-903(9), 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 November 16, 2011.

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

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

In 1999, the language used to determine business name similarity changed (House Bill No. 222). Business names became “distinguishable on the record,” rather than “deceptively similar.” This chapter of administrative rules was never amended to reflect that change. Furthermore, advancements in technology have provided alternatives that were not considered in 1999. Therefore, this chapter of rules needs to be amended as soon as possible to clarify business entity name requirements. These rule changes remove outdated language about “deceptively similar” business names (as required by prior legislative amendments), and provide requirements and examples that coincide with current statutes regarding business names that are “distinguishable on the record of the Secretary of State.”

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

These rule changes are necessary to reflect statutory changes made by the 1999 Idaho Legislature. Additionally, these rule changes will confer a benefit on the business filing public, as it will simplify and clarify the business naming conventions required to make a name “distinguishable on the record of the Secretary of State.”

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 23, 2011.

DATED this 19th day of October, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 34-0402-1101

34.04.02 ~~CORPORATE NAME AVAILABILITY~~ RULES GOVERNING BUSINESS ENTITY NAMES

000. LEGAL AUTHORITY.

In accordance with Section 67-903(9), Idaho Code, the Secretary of State ~~is authorized under Section 67-903, Idaho Code,~~ has authority to ~~adopt~~ promulgate administrative rules in order to

execute the duties of the office.

~~(7-1-93)~~()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 34.04.02, “Rules Governing Business Entity Names,” IDAPA 34, Title 04, Chapter 02. ()

02. Scope. These rules shall apply to business entity name registration and business entity name reservation as provided for in Title 30, Chapters 1, 3 and 6, and Title 53, Chapter 2, Idaho Code. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201, Idaho Code, documents relating to the interpretation of these rules, or to the documentation of compliance with the rules of this chapter, if any, are available for public inspection and copying at the Office of the Secretary of State. ()

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal. ()

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference into these rules. ()

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

The principal place of business of the Secretary of State’s office is located at 700 W. Jefferson, Room E205, Boise, Idaho 83720-0080. The Commercial Division is located at 450 N. 4th Street, Boise, Idaho 83720-0080. Office hours are 8 a.m. to 5 p.m., Monday through Friday, except for legal holidays. The mailing address is P. O. Box 83720, Boise, Idaho 83720-0080. The telephone number for the office is (208) 334-2300. The telephone number for business entity inquiries is (208) 334-2301. The facsimile number is (208) 334-2080. The website address is <http://www.sos.idaho.gov/>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

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

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Arabic Numerals. 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9. ()

02. Business Entity. *A formally organized or registered entity created pursuant to state or federal law and usually designated through the use of a business entity identifier.* ()

03. Business Entity Identifiers. Company, Corporation, Incorporated, Limited, Chartered, Professional Association, Professional Company, Limited Liability Company, Limited Liability Partnership, Professional Limited Liability Company, Limited Partnership, Limited

Liability Limited Partnership, Registered Limited Liability Partnership, and the abbreviations, Co., Corp., Inc., Ltd., P.A., P.C., Chtd., L.L.C., L.L.P., P.L.L.C., L.P., R.L.L.P., and L.L.L.P. ()

04. English Alphabet. Letters A through Z. ()

05. Internet Prefix. Internet prefixes include “www” and any other Internet prefix used to identify a website. ()

06. Internet Suffix. Internet suffixes include .com, .org, .net, .gov, .edu, .coop, and any other Internet suffixes approved by the Internet Corporation for Assigned Names and Numbers (ICANN). ()

07. Key Word. Any word that is not an article, preposition, conjunction, or Business Entity Identifier. ()

08. Special Characters. Any special characters, such as ! “ \$ % () * @ ? +, and -, that are readily available on a standard English language keyboard. ()

0121. -- 099. (RESERVED)

0100. GENERAL INFORMATION.

01. Determination by Secretary of State. The Secretary of State shall determine whether a proposed business entity name is distinguishable on the records of the Secretary of State from the names of existing business entities by comparing the proposed business entity name to the names of existing business entity names. ()

02. Existing Business Entity Names Considered. The names of business entities in good standing or business entities which have been administratively dissolved for less than six (6) months will be considered in determining whether a proposed business entity name is distinguishable on the records of the Secretary of State from existing business entity names. ()

03. Alphabet Names. Where a name or a unit of a name consists of initials only or letters of the alphabet, the combination of initials will be considered as one (1) word for the purpose of determining if the business entity name is distinguishable.

EXAMPLE: The “words” AA – AAA – AAAA – A & B – AAB – AAC are different words and are distinguishable from one another. ()

014. Characters ~~of Print Acceptable~~ in Business Entity Names. Business entity names ~~may shall~~ consist of letters of the English Alphabet, Arabic Numerals, ~~and certain symbols capable of being reproduced on a standard English language typewriter, or combination thereof~~ or Special Characters. (7-1-93)()

~~a: Letters of the English Alphabet includes only upper case, or capital letters; no distinction as to type face or font is recognized.~~ (7-1-93)

- ~~b.~~ *Arabic Numerals includes 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9.* (7-1-93)
- ~~e.~~ *The symbols recognized as part of a name may include ! " \$ % () * @ ? , and . A space or spaces after words, letters, numerals or symbols may be considered as part of the name.* (7-1-93)
- ~~02.~~ **False Implication of Government Affiliation.** *The corporate name may not be one that might falsely imply governmental affiliation.* (7-1-93)
- 05.** **Foreign Words.** *Although business entity names may include words in a foreign language, such words will not be translated for the purpose of determining if a business entity name is distinguishable.* ()
- 036.** **Grossly Offensive Name.** *The corporate business entity name may not be one that is deemed to be so grossly offensive as to be unacceptable as a corporate name.* (7-1-93)()
- 07.** **Internet Prefixes and Suffixes.** *Internet prefixes and suffixes shall not give any special weight or inference to the business entity name, nor shall they be interpreted for meaning or intent.* ()
- 08.** **False Implication of Government Affiliation.** *The corporate name may not be one that might falsely imply governmental affiliation.* ()
- ~~04.~~ **“Words of Incorporation.”** *“Words of incorporation” include Company, Corporation, Incorporated, Limited and their acceptable abbreviations. The acceptable abbreviations are respectively: Co., Corp., Inc., and Ltd. The acceptable “words of incorporation” for a professional corporation are Chartered, Professional Association, and the abbreviation P.A.* (7-1-93)
- ~~05.~~ **Written Comparison of Names.** *A comparison of names to determine similarity is made by writing the names to be compared, using upper case letters of the English Alphabet and acceptable numerals and acceptable symbols.* (7-1-93)
- ~~06.~~ **Categories of Name Similarity.** *There are three (3) categories of name similarity:* (7-1-93)
- ~~a.~~ *Same.* (7-1-93)
- ~~b.~~ *Deceptively similar.* (7-1-93)
- ~~e.~~ *Acceptable.* (7-1-93)
- ~~012.~~ **(RESERVED)**
- ~~013.~~ **SAME.**

~~01. **Defined.** Corporate names are the “same” if a comparison of the names, written as above provided, reveals no difference except for punctuation and symbols, spacing, articles of speech, conjunctions, the word “of,” plural or possessive endings, and words of incorporation. (7-1-93)~~

~~02. **Consent.** “Same” name not acceptable without consent and distinguishing words. A proposed corporate name which is the same as a corporate name already on file in this office cannot be accepted or filed, unless the holder of the name already on file gives its written consent to use of the name by the applicant, and the applicant adds one or more words to the name to make it distinguishable from the name on file. (7-1-93)~~

~~03. **Form of Consent.** No particular form of consent is required. The consent must be in writing and signed by an officer or authorized agent. Consent given orally or by telegraph cannot be accepted. Consent from more than one (1) corporation may be required in some instances. (7-1-93)~~

~~014. **DECEPTIVELY SIMILAR.**~~

~~01. **Defined.** Corporate names are deceptively similar if on comparison of the names, written as above, there exist striking similarities so that a person who did not know the exact name or did not know the full name of a corporation about which he was giving or receiving information would be likely to give or be given information about a different corporation having a similar name. In making the comparison, consideration will not be given to punctuation and symbols, spacing, articles of speech, conjunctions, the word “of,” plural or possessive endings, and words of incorporation. (7-1-93)~~

~~02. **Consent.** “Deceptively similar” not acceptable without consent and, if required, distinguishing words. A proposed corporate name which is deemed to be deceptively similar cannot be accepted or filed, unless the holder of the name already on file gives its written consent to the use of the name by the applicant, and, if the holder of the name already on file and the legal staff of the Secretary of State find it necessary, the applicant adds one or more words to the name to make it distinguishable from the name on file. (7-1-93)~~

~~03. **Form of Consent.** Same as Subsection 013.03. (7-1-93)~~

~~04. **“Deceptively Similar,” When.** A proposed corporate name is deemed to be deceptively similar to a name already on file if: (7-1-93)~~

~~a. The proposed corporate name is the same as a corporate name on file except for a geographical designation.~~

~~EXAMPLE: Bull and Bear Club of Boise, Inc. is deceptively similar to Bull and Bear Club, Inc. (7-1-93)~~

~~b. The first two (2) words of a proposed corporate name are the same or virtually the same as the first two (2) words of a corporation name already on file, if at least one (1) of the first two (2) words is significant.~~

~~EXAMPLE: Janitorial Service and Supply, Inc. is deceptively similar to Janitorial Service, Inc. (7-1-93)~~

~~e. For purposes of Subsection 014.04.b., the following limitations shall apply: (7-1-93)~~

~~i. Commonly used two word terms or expressions shall be deemed to comprise one word; i.e. "Silver Dollar" would be deemed to be one (1) word.~~

~~EXAMPLE: "Silver Dollar Mining Co." is not deceptively similar to "Silver Dollar Cafe, Inc.," but is deceptively similar to "Silver Dollar Mining & Milling, Inc." (7-1-93)~~

~~ii. Words which are not considered to be significant are those which occur so commonly in corporate names as to add no distinctiveness to a name. They include, but are not limited to the points of the compass and derivations thereof, geographical and topographical designations in common use in Idaho, and ordinal designations.~~

~~EXAMPLE: Northwest, Sawtooth, Palouse Empire, Magic Valley, and First. (7-1-93)~~

~~iii. Exception: When a directional, geographical or topographical term precedes a common generic term and they comprise the whole corporate name exclusive of the word of incorporation, the directional, geographical or topographical term will be deemed to be significant and sufficient to distinguish the name from another name consisting of the generic term or the generic term preceded by a directional, geographical or topographical term.~~

~~EXAMPLE: "Boise Camera, Inc.," "Idaho Camera Co.," and "The Camera Company" are all acceptable when compared with one another. (7-1-93)~~

~~iv. A combination in series of two (2) or more words which are not significant will be deemed to be one significant word.~~

~~EXAMPLE: "First Idaho" would be deemed to be one (1) significant word. Therefore, "First Idaho Widget Co." is not deceptively similar to "First Idaho Capital Co.," but "First Idaho Capital Widget Co." is deceptively similar to "First Idaho Capital Co." (7-1-93)~~

~~v. If the first word of a name is not significant and the second word is significant, the comparison will be based on the second and the third words.~~

~~EXAMPLE: "Northwest Paint & Glass Co." is not deceptively similar to "Northwest Paint Supply Co.," but is deceptively similar to "Northwest Paint & Glass Supply Co." (7-1-93)~~

~~d. Names containing a fictitious, fanciful, or arbitrary word may be deemed deceptively similar to a name on file which contains the same word, although the name might seem to be available under other rules.~~

~~EXAMPLE: Entex Production Company is deceptively similar to Entex, Inc. (7-1-93)~~

~~e. The difference consists in inverted order of substantially the same words.~~

~~EXAMPLE: Van Lines of North America, Inc. is deceptively similar to North American Van Lines, Inc.~~

~~EXAMPLE: Club Caravan, Inc. is deceptively similar to Caravan Club, Inc.~~

~~EXAMPLE: Boise Electronics Supply, Inc. is deceptively similar to Electronics Supply of Boise, Inc. (7-1-93)~~

~~f. The difference consists in the presence or absence of letters which do not alter the names sufficiently to make them readily distinguishable.~~

~~EXAMPLE: Exxon—Exon—Exxon—Exxons. (7-1-93)~~

~~05. **Exception for Churches.** Where the name of a proposed incorporated church is deceptively similar to that of an incorporated church already on file by reason of the fact that the names are the same except for different geographical designations at the end of the name, nevertheless a letter of consent will not be required.~~

~~EXAMPLE: Persons proposing to incorporate a church named First Baptist Church of Lewiston would not be required to obtain a letter of consent from First Baptist Church of Twin Falls. (7-1-93)~~

~~015. **ACCEPTABLE.**~~

~~01. **Defined.** A proposed corporate name is acceptable for filing if it is not significantly similar to a corporate name already on file or if it is similar, but not to the extent that it is deemed to be deceptively similar. (7-1-93)~~

~~02. **“Acceptable,” When.** A proposed corporate name may be deemed to be acceptable if an existing corporate name on file has only one (1) significant word and the proposed corporate name consists of the same word followed by another word which does not imply that the proposed corporation is an affiliate of or in a series with the corporation having a similar name on file.~~

~~EXAMPLE: The following names are acceptable when compared to the name United, Inc.: United Sales, Inc.—United Enterprises, Inc.—United International, Inc.~~

~~EXAMPLE: The following names are deceptively similar to the name United, Inc.:—United of Idaho, Inc.—United Phase Two, Inc. (7-1-93)~~

~~03. **Surnames.** A surname is considered to be a “word.” Where proposed corporate name contains a surname as the second “word” and contains a given name or initials as the first “word” which is different from the first “word” of an existing corporation, the name is acceptable. (7-1-93)~~

~~04. **Alphabet Names.** Where a name or a unit of a name consists of initials only or letters of the alphabet, the combination of initials will be considered as one word for the purpose of applying name availability rules.~~

~~EXAMPLE: The following are different “words” and are not considered to be similar: A & A—
AAA—AAAA—A & B—AAB—AAC.~~

~~EXAMPLE: A & B Supply is acceptable when compared to A & B, Inc.~~

~~EXAMPLE: A & B Electric Supply is deceptively similar when compared to A & B Electric Co.
(7-1-93)~~

~~016101. -- 199.(RESERVED)~~

200. NOT DISTINGUISHABLE ON THE RECORD.

01. Abbreviations. The abbreviation of a word or Special Character is considered the equivalent of the complete word or Special Character. Such an abbreviation shall not make a name distinguishable.

EXAMPLE: DOE BROTHERS, LLC is not distinguishable from DOE BROS., LLC. ()

02. Business Entity Identifiers. The addition, removal, or alteration of Business Entity Identifiers and their applicable abbreviations shall not make a name distinguishable.

EXAMPLE: DOE BROTHERS CORPORATION is not distinguishable from DOE BROTHERS, INC. ()

03. Numbers. The use of a word or Roman numeral for a number instead of the Arabic Numeral shall not make a name distinguishable.

EXAMPLE: FOUR TURTLES, LLC is not distinguishable from 4 TURTLES, LLC, nor is it distinguishable from IV TURTLES, LLC. ()

04. Other Words. The presence or absence of an article, preposition, conjunction, or pronoun shall not make a name distinguishable.

EXAMPLE: THE DOE BROTHERS, LLC is not distinguishable from DOE BROTHERS, LLC. ()

05. Punctuation. Differences in punctuation shall not make a name distinguishable.

EXAMPLE: U.S.A. STEEL, LLC is not distinguishable from USA STEEL, LLC.
EXAMPLE: PROWIDGETS.COM is not distinguishable from PRO.WIDGETS.COM. ()

06. Spaces. Spaces, or the absence of spaces, shall not make a name distinguishable.

EXAMPLE: USA STEEL, LLC is not distinguishable from USASTEEL, LLC. ()

07. Special Characters. Differences created by use of Special Characters shall not make a name distinguishable.

EXAMPLE: AMERICAN PISTOLS, LLC is not distinguishable from AMER!CAN P!\$TOL\$,

LLC. ()

08. The Letter “S”. The addition or removal of the letter “s” to make a word singular, plural, or possessive shall not make a name distinguishable.

EXAMPLE: GOLDEN APPLE, LLC is not distinguishable from GOLDEN APPLES, LLC. ()

09. Typeface, Font, or Case. The use of a different typeface, font, or case shall not make a name distinguishable.

EXAMPLE: SISTERS’ DINER is not distinguishable from *Sisters’ Diner*. ()

201. -- 299. (RESERVED)

300. DISTINGUISHABLE ON THE RECORD.

01. Key Word Difference. If one (1) of the Key Words is different, the name is distinguishable.

EXAMPLE: WIDGET WONDER, LLC is distinguishable from WIDGET ELITE, LLC. ()

02. Key Word Order. If the Key Words are in a different order, the name is distinguishable.

EXAMPLE: WIDGET WONDER, LLC is distinguishable from WONDER WIDGET, LLC. ()

03. Key Word Addition or Deletion. The addition or deletion of one (1) or more Key Words shall make a name distinguishable.

EXAMPLE: AMAZING WONDER WIDGET, INC. is distinguishable from WONDER WIDGET, INC. ()

04. Difference in Meaning. If the Key Words are significantly different in meaning, and the Key Words are not identical, the name may be distinguishable.

EXAMPLE: CAPITAL WIDGET, LLC is distinguishable from CAPITOL WIDGET, LLC. ()

05. Internet Prefix and Suffix Addition or Deletion. The addition or deletion of an Internet prefix or suffix shall make a name distinguishable.

EXAMPLE: PRECISE WIDGETS, LLC is distinguishable from PRECISEWIDGETS.COM, LLC which is distinguishable from PRECISEWIDGETS.NET.

EXAMPLE: WWW.PROWIDGETS.COM is distinguishable from PRO.WIDGETS.COM.

()

301. -- 399. (RESERVED)

~~017400.~~MATTERS NOT CONSIDERED.

~~Only the proposed corporate name and the names of active corporations (corporations which are in good standing or have been forfeited for less than six (6) months) are considered in determining name availability. When determining whether a business entity name is distinguishable on the records of the Secretary of State from another business entity name, the following are Aamong the matters not considered-are:~~ (7-1-93)()

01. Purpose. Whether ~~or not~~ the purpose of the proposed ~~corporation~~ business entity is the same as or similar to the purpose of an existing ~~corporation~~ business entity. (7-1-93)()

02. Location. Whether ~~or not~~ the ~~corporations~~ business entities will be carrying out activities in the same or nearby locations. (7-1-93)()

03. Prior Actions. Whether ~~or not~~ an analogous situation has previously been acted on ~~in this office~~ by the Secretary of State. (7-1-93)()

~~04. Opinion.~~ ~~Whether or not an "opinion" as opposed to a "ruling" has already been expressed by an employee of the Secretary of State in response to an oral or written request (see Section 019).~~ (7-1-93)

054. Activity. Whether ~~or not~~ an existing ~~corporation~~ business entity is actively engaged in business, or has a telephone listing, or a location of a place of business. (7-1-93)()

065. Intent. Whether ~~or not~~ an existing ~~corporation~~ business entity is about to change its name or be dissolved or merged out of existence. (7-1-93)()

076. Reliance. Whether ~~or not~~ the applicant has ordered stationery, opened a bank account, signed a contract, or otherwise altered his position in the expectation, hope or belief that the proposed name would be available. (7-1-93)()

087. Influence. Whether ~~or not~~ the applicant is more or less important, extensive, widely known, or influential than an existing ~~corporation~~ business entity. (7-1-93)()

098. Common Law. Whether ~~or not~~ infringement or unfair trade practice has occurred or might occur. (7-1-93)()

~~018. (RESERVED)~~

~~019. "RULING" VS. "OPINION."~~

~~01. Definitions. An "opinion" on name availability is a statement by an employee of the Secretary of State made prior to the time an instrument is accepted for filing. A "ruling" on~~

~~name availability is a final determination made by the legal staff whether or not to accept an instrument for filing. (7-1-93)~~

~~**02. Who May Express “Opinions.”** Any employee of the Corporation Division may express an “opinion” on name availability in response to written or telephone, or other oral requests; but such an “opinion” is not a “ruling” or final determination that the name will be “available” or that the name will be “not available” or that an instrument containing such will or will not be accepted for filing. (7-1-93)~~

~~**03. Form of “Opinion.”** An “opinion” may be expressed orally or in writing. “Opinion” as to name availability will be stated as follows for the various name similarity categories: (7-1-93)~~

~~**a.** Same. (7-1-93)~~

~~**b.** Deceptively similar. (7-1-93)~~

~~**c.** Acceptable. (7-1-93)~~

~~**04. “Opinion” Not Final.** All “opinions” that a name is acceptable are merely advisory and are not final unless and until a proper legal instrument employing the name has been accepted for filing. (7-1-93)~~

~~**05. Who May Make “Ruling.”** “Rulings” are made by members of the legal staff of the Corporation Division, except on name reservations. The corporation clerks consult the legal staff on all name availability questions involving any degree of similarity which arise in connection with a name reservation. The legal staff will make no “ruling” as to name availability prior to the submission of an instrument for filing. (7-1-93)~~

~~**020401.** -- 999.(RESERVED)~~

IDAPA 34 - SECRETARY OF STATE

34.05.01 - RULES GOVERNING FARM PRODUCTS CENTRAL FILING SYSTEM

DOCKET NO. 34-0501-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 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 67-903(9), 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 [June 1, 2011 Idaho Administrative Bulletin, Vol. 11-6, pages 42 through 48.](#)

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

DATED this 23rd day of June, 2011.

Jeff Harvey, UCC Supervisor
Office of the Secretary of State
450 N. 4th St.
P. O. Box 83720
Boise, ID 83720-0080
Phone: (208) 332-2849
Facsimile: (208) 334-2847

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

EFFECTIVE DATE: The effective date of the temporary rule is **April 7, 2011**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-903(9), 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 June 15, 2011.

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

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

In 2010, the Secretary of State promulgated rules, which, in part, removed the county code and unit code tables from the Collateral Information Codes section of its rules governing Farm Products Central Filing System. That rulemaking was approved by the 2011 Legislature. Upon further consideration, it has been determined that these tables are a benefit to users of the Farm Products Central Filing System and the Secretary of State is promulgating this rule change to include the county code and unit code tables in its rules.

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

The addition of county code and unit code tables to the Collateral Information Codes section of the rules governing Farm Products Central Filing System provides a benefit to users of the System.

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: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

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 June 22, 2011.

DATED this 12th day of May, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 34-0501-1101

200. COLLATERAL INFORMATION CODES.

Codes are used to describe farm product collateral on the Farm Products Financing Statements and amendments, on the master list maintained by the SOS, and on the PMLs distributed to registered buyers, commission merchants, and selling agents. Assignment of farm product codes and PML Groupings, county codes, and farm product unit codes shall be done by the SOS. The SOS will provide a list of the established codes upon request. ()

01. PML Groupings and Farm Product Codes. The table of PML Groupings, farm products, and their codes is as follows:

PML No.	PML Grouping	FP Code	FP Name
01	Wheat and Buckwheat	010	Wheat
		011	Buckwheat
02	Feed and Oil Grains	020	Barley
		021	Rye (including Triticale)
		022	Oats
		023	Sorghum Grain
		024	Flaxseed
		025	Safflower
		026	Rape (including Canola)
		027	Field Corn
		028	Millet
03	Hay	030	Hay

PML No.	PML Grouping	FP Code	FP Name
04	Ensilage	040	Ensilage
05	Potatoes	050	Potatoes
06	Sugar Beets	060	Sugar Beets
07	Dry Beans	070	Dry Beans
08	Dry Peas, Lentils and Garbanzos	080	Dry Peas
		081	Lentils
		082	Garbanzos (Chick Peas)
09	Sweet Corn	090	Sweet Corn
10	Onions and Garlic	100	Onions
		101	Onion Seed
		102	Garlic
11	Mint	110	Mint
12	Hops	120	Hops
13	Popcorn & Sunflower Seeds	130	Popcorn
		131	Sunflower Seeds
14	Soybeans	140	Soybeans
15	Rice	150	Rice
16	Seeds	160	Grass for Seed
		161	Alfalfa for Seed
		162	Other Hay Legumes for Seed
		163	Garden Vegetables and Flower Seeds
		164	Seed Potatoes

PML No.	PML Grouping	FP Code	FP Name
		165	Row Crops for Seed
17	Vegetables & Melons	170	Green Peas
		171	Tomatoes
		172	Lettuce
		173	Cucumbers
		174	Broccoli
		175	Cauliflower
		176	Lima Beans
		177	Green Beans
		178	Melons
		179	Carrots
		180	Turnips
		181	Asparagus
		182	Spinach and Collards
		183	Pumpkins and Squash
		184	Radishes
		185	Peppers
		186	Herbs
19	Fruits	190	Apples
		191	Apricots
		192	Cherries
		193	Nectarines
		194	Peaches
		195	Pears
		196	Plums
20	Berries	200	Strawberries
		201	Raspberries
21	Nursery Products	210	Sod
		211	Nursery Stock (Trees and Shrubs)
		212	Christmas Trees

PML No.	PML Grouping	FP Code	FP Name
		213	Flowers and Potted Plants
22	Mushrooms	220	Mushrooms
23	Grapes	230	Grapes
50	Beef Animals	500	Beef Cattle and Calves
		501	Beefalo
		502	Bison
51	Sheep, Wool	510	Sheep and Lambs Goats and Llamas
		511	Wool
		512	Goats
		513	Llamas
52	Hogs	520	Hogs
53	Dairy	530	Dairy Cattle
		531	Milk
54	Equines	540	Horses
		541	Mules
		542	Donkeys and Burros
55	Chickens and Eggs	550	Chickens
		551	Eggs
56	Other Fowl	560	Turkeys
		561	Ducks
		562	Geese
		563	Game Birds
		564	Ostriches, Emus, and Rheas
57	Mink, Rabbits and Fox	570	Mink and Pelts

PML No.	PML Grouping	FP Code	FP Name
		571	Rabbits
		572	Fox and Pelts
58	Apiary Products	580	Bees
		581	Honey
		582	Bees Wax
59	Fish and Other Aquaculture	590	Fish and Other Aquaculture
60	Big Game Animals (Deer and Elk)	600	Big Game Animals (Deer and Elk)
61	Worms	610	Worms
62	Semen	620	Cattle Semen
		621	Horse Semen

(4-7-11)()

02. County Codes. The table of county codes is as follows. Unless otherwise indicated, counties are in Idaho.

01	Ada	16	Cassia	31	Lewis	46	Garfield, Wa.
02	Adams	17	Clark	32	Lincoln	47	Pend Orielle, Wa.
03	Bannock	18	Clearwater	33	Madison	48	Spokane, Wa.
04	Bear Lake	19	Custer	34	Minidoka	49	Whitman, Wa.
05	Benewah	20	Elmore	35	Nez Perce	50	Malheur, Or.
06	Bingham	21	Franklin	36	Oneida	51	Elko, Nv.
07	Blaine	22	Fremont	37	Owyhee	52	Box Elder, Ut.
08	Boise	23	Gem	38	Payette	53	Cache, Ut.
09	Bonner	24	Gooding	39	Power	54	Rich, Ut.
10	Bonneville	25	Idaho	40	Shoshone	55	Lincoln, Wv.
11	Boundary	26	Jefferson	41	Teton	56	Teton, Wv.
12	Butte	27	Jerome	42	Twin Falls	57	Beaverhead, Mt.
13	Camas	28	Kootenai	43	Valley	58	Lincoln, Mt.
14	Canyon	29	Latah	44	Washington	59	Sanders, Mt.
15	Caribou	30	Lemhi	45	Asotin, Wa.	99	Not in Table

()

03. Unit Codes. The table for codes for units used to indicate the amount of a FP covered is as follows:

<u>A - acres</u>	<u>G - gallons</u>	<u>T - tons</u>
<u>B - bushels</u>	<u>H - head</u>	<u>V - hives</u>
<u>C - hundred weight</u>	<u>L - pounds</u>	<u>W - lugs</u>
<u>E - cases</u>	<u>N - bins</u>	<u>X - boxes</u>
<u>F - flats</u>	<u>S - sacks</u>	<u>Z - stubs</u>

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IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.04.06 - RULES GOVERNING PREQUALIFICATION OF CONTRACTORS ON CAPITOL BUILDING PROJECTS

DOCKET NO. 38-0406-1101 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5221 (1) and 67-5507, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 7, 2011 Idaho Administrative Bulletin, Vol. 11-9, page 151](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tim Mason, Administrator. 208-332-1900.

DATED this 5th day of October, 2011.

Tim Mason, Administrator
Department of Administration/Public Works
502 N. Forth Street
PO Box 83720-0072
Boise, Idaho 83720-0072
Phone 332-1900, fax334-4031

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-5507 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2011.

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

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

This chapter is being repealed because the restoration project on the State Capitol has been completed.

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

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

No impact to the General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code negotiated rulemaking was not conducted because the Restoration of the Capitol has been completed and the rules are no longer relevant.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tim Mason at 332-1911, Email: tim.mason@adm.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2011.

DATED this July 5, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 38-0406-1101

IDAPA 38.04.06 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 52 - IDAHO STATE LOTTERY COMMISSION

52.01.03 - RULES GOVERNING OPERATIONS OF THE IDAHO STATE LOTTERY

DOCKET NO. 52-0103-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 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 67-7408(1)(c), (e) and (f), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 7, 2011 Idaho Administrative Bulletin, Vol. 11-9, pages 168 through 172.](#)

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 Jeffrey R. Anderson, Director, at (208) 334-2600.

DATED this 5th day of October, 2011.

Jeffrey R. Anderson, Director
Idaho State Lottery
1199 Shoreline Lane, Ste. 100
Boise, ID 83702
Phone: (208) 334-2600
Facsimile: (208) 334-2610

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-7408(1)(c), (e) and (f), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2011.

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:

An antiquated practice requires update. IDAPA 52.01.03 (RULE 201.13 – Ticket Stamping) pertains to a practice discontinued with the advent of Instant Ticket Automation (ITA) and the ability to cash Lottery Scratch tickets at any location, negating the requirement relating to paying out winning Lottery Scratch tickets.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of this rulemaking and the need to remove an antiquated, unnecessary requirement from rule.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeffrey R. Anderson, Director, at (208) 334-2600.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2011.

DATED this 18th day of July, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 52-0103-1101

201. CRITERIA FOR REVIEW OF RETAILER APPLICATIONS AND CONDUCT OF OPERATIONS (RULE 201).

01. Retailer's Application. Any person interested in obtaining a contract for a certificate to sell Lottery tickets must first file an application on forms provided by the Director. The forms will require disclosure of, but are not limited to, an applicant's personal, financial, and criminal history, and an authorization to investigate the applicant's criminal and credit history. (3-26-08)

02. Fees, Procedure, and Criteria Precluding Issuing Contract. (3-26-08)

a. All certificate applications must be accompanied by a minimum, nonrefundable, fee of twenty-five dollars (\$25). If a certificate is awarded, an additional, nonrefundable, certificate fee of one hundred dollars (\$100) must be paid. (3-26-08)

b. Certified retailers may apply for a certificate modification to allow the sale of additional Lottery products. A current retailer may be required to complete an additional application or application supplements. If a current retailer requests that the existing certificate be modified to allow the sale of additional Lottery products, no additional application fee will be charged. (3-26-08)

c. The Lottery may waive the payment of any certificate fee to facilitate an experimental program or a research project. (3-26-08)

03. Provisional Certifications. (3-26-08)

a. The Lottery may issue a provisional certificate to an applicant for a Lottery certificate after receipt of a fully completed certificate application, the authorization of a complete personal background check, completion of a credit check, and completion of a preliminary background check. The provisional certificate will expire at the time of issuance of the requested certificate or ninety (90) days from the date the provisional certificate was issued, whichever occurs first, unless the provisional certificate is extended by the Lottery. (3-26-08)

b. The following criteria preclude the Director from entering into a contract with an applicant. No contract shall be made with an applicant: (3-26-08)

i. Who is under eighteen (18) years of age; (3-26-08)

ii. Who will be engaged exclusively in the business of selling tickets; (3-26-08)

iii. Who is an employee of the Lottery; (3-26-08)

- iv. Who is, or is owned or controlled or affiliated with, a supplier of instant tickets or a manufacturer of computer equipment used to operate instant or on-line games, or both; (3-26-08)
- v. Who is not a resident of Idaho, or a corporation that is not incorporated in Idaho or not authorized to do business in Idaho; (3-26-08)
- vi. Who has been found to have violated any rule, regulation, or order of the Commission or the Director; (3-26-08)
- vii. When any person, firm, association, or corporation other than the applicant will participate in the management of the affairs of the applicant. (3-26-08)

04. Criteria That May Be Grounds for Refusal. Before contracting with an applicant, the Director will consider the factors set out below. In considering these factors, the Director will seek to determine which applicants will best serve the economical and efficient operation of a statewide Lottery through their ticket sales. If any of these factors lead the Director to determine that contracting with the applicant would not promote the economical and efficient operation of a statewide Lottery consonant with the public interest, or would not serve the public interest, convenience, or trust, the Director may deny the application. (3-26-08)

a. The Director must consider the financial responsibility and security of the person and the person's business or activity. The Director must consider the person's credit worthiness and integrity in past financial transactions. The Lottery may investigate the credit worthiness of the applicant by using the services of a commercial credit reporting agency. The Director may also consider the physical security of the applicant's place of business to determine whether tickets that will be sold to the applicant and the proceeds from ticket sales will be kept safe. (3-26-08)

b. The Director must consider the accessibility to the public of an applicant's place of business or activity. The Director will contract only with applicants who have regular contact with significant numbers of persons at the applicant's place of business. Before contracting with any organization that has restricted membership policies, the Director must determine whether the restrictions are generally acceptable to the public and whether contracting with that group or organization or similar groups or organizations would best serve the interests of the Lottery. (3-26-08)

c. The Director must consider the sufficiency of existing retailers to serve the public interest. The Director may seek to maximize total ticket sales by encouraging retailers with the highest potential volume in a particular area or neighborhood. (3-26-08)

d. The Director must consider the volume of expected sales by the applicant. In determining the anticipated actual sales volume of the applicant, the Director may rely upon the experience and knowledge of the Lottery's staff as well as any other available professional expertise. The Director must determine whether the volume of an applicant's sales is likely to be sufficient that contracting with the applicant will be economically feasible. (3-26-08)

e. The Director must consider the types of products, services, or entertainment

offered at the applicant's place of business. The Director must determine whether the applicant's products, services, or entertainment are generally acceptable to the public and whether they would bear adversely upon the general credibility, integrity, and reputation of the Lottery. (3-26-08)

f. The Director must consider the experience, character, or general fitness of the applicant. Entering into a contract with the applicant must be consistent with the public interest, convenience, and trust. (3-26-08)

g. The Director must consider the veracity and completeness of the information submitted with the retailer's application. The Director must consider the criminal history of the applicant and any person whose name is required to be disclosed under Section 67-7412, Idaho Code, of the Act and may refuse to enter into a contract with any applicant when the applicant or such person has been convicted of violating any of the gambling laws of this state, general or local, or has been convicted at any time of any crime other than traffic infraction. (3-26-08)

05. Duplicate Certificate. Upon the loss, mutilation, or destruction of any certificate issued by the Lottery, application for a duplicate must be made. The Lottery may require a statement signed by the retailer that details the circumstances under which the certificate was lost, mutilated, or destroyed. (3-26-08)

06. Reporting Changes in Circumstances of the Retailer. Every change of business structure of a certificated business, such as from a sole proprietorship to a corporation, and every change in the name of a business, must be reported to the Lottery before the change. Substantial changes in the ownership of a certificated business must also be reported to the Lottery before the change. A substantial change of ownership is defined as the transfer of ten percent (10%) or more equity in the certificated business from or to another single individual or legal entity. If a change involves the addition or deletion of one (1) or more existing owners or officers, the certificate holder must submit a certificate application reflecting the change and any other documentation that the Lottery may require. All changes will be reviewed by the Lottery to determine if the existing certificate should be continued. (3-26-08)

07. Certificate Not a Vested or Legal Right. The possession of a certificate issued by the Lottery to any person to act as a retailer in any capacity is a privilege personal to that person and is not a vested or legal right. The possession of a certificate issued by the Lottery to any person to act as a retailer in any capacity does not automatically entitle that person to sell tickets or obtain materials for any particular game. (3-26-08)

08. Suspension or Revocation of a Certificate. The Lottery may suspend or revoke any certificate issued pursuant to these rules for one (1) or more of the following reasons: (3-26-08)

a. Failing to meet or maintain the eligibility criteria for certificate application and issuance established by Title 67, Chapter 74, Idaho Code, or these rules; (3-26-08)

b. Violation of any of the provisions of Title 67, Chapter 74, Idaho Code, these rules, or the certificate terms and conditions; (3-26-08)

c. Failing to file any return or report or to keep records required by the State Lottery;

(3-26-08)

d. Failing to maintain an acceptable level of financial responsibility as evidenced by the financial condition of the business, incidents of failure to pay taxes or other debts, or by the giving of financial instruments which are dishonored; (3-26-08)

e. Fraud, deceit, misrepresentation, or other conduct prejudicial to the public confidence in the Lottery; (3-26-08)

f. If the public convenience is adequately served by other certificate holders, failure to sell a minimum number of tickets as established by the Lottery; (3-26-08)

g. A history of thefts or other forms of losses of tickets or revenue from the business; (3-26-08)

h. Violating federal, state, or local law or allowing the violation of any of these laws on premises occupied by or controlled by any person over whom the retailer has substantial control; (3-26-08)

i. Obtaining a certificate by fraud, misrepresentation, concealment or through inadvertence or mistake; (3-26-08)

j. Making a misrepresentation of fact to the Commission or the Lottery on any report, record, application form, or questionnaire required to be submitted to the Commission or the Lottery; (3-26-08)

k. Denying the Lottery or its authorized representative, including authorized local law enforcement agencies, access to any place where a certificate activity is conducted; (3-26-08)

l. Failing to promptly produce for inspection or audit any book, record, document, or other item required to be produced by law, these rules, or the terms of the certificate; (3-26-08)

m. Systemically pursuing economic gain in a manner or context that is in violation of the criminal or civil public policy of this state if there is cause to believe that the participation of such person in these activities is inimical to the proper operation of the authorized Lottery; (3-26-08)

n. Failing to follow the instructions of the Lottery for the conduct of any particular game or special event; (3-26-08)

o. Failing to follow security procedures of the Lottery for the management of personnel, handling of tickets, or for the conduct of any particular game or special event; (3-26-08)

p. Misrepresenting a fact to a purchaser, or prospective purchaser, of a ticket, or to the general public with respect to the conduct of a particular game or special event; (3-26-08)

q. Allowing activities on the licensed premises that could compromise the dignity of

the state. (3-26-08)

09. Surrender of Certificate Upon Revocation. Upon revocation or suspension of a retailer's certificate, the retailer must surrender to the Lottery, by a date designated by the Lottery, the certificate and all other Lottery property. (3-26-08)

10. Certified Retailers. All Lottery retailers must be certified in the manner provided in these rules. Retailers are required to abide by all applicable laws and administrative rules, the terms and conditions of the contract and certificate, and all other directives and instructions issued by the Lottery. (3-26-08)

11. Requirements for the Sale of Tickets. (3-26-08)

a. Retailers must be knowledgeable about the Lottery and Lottery products and may be required to take training in the operation of Lottery games. Retailers must make the purchase of tickets convenient to the public. (3-26-08)

b. Tickets must be sold at the price designated by the Lottery. Retailers cannot sell tickets for a greater amount than the amount specified by the Lottery. Retailers may sell tickets for a lesser amount for promotional purposes if authorized by the Lottery. (3-26-08)

c. No retailer or any employee or member of a retailer shall attempt to identify a winning ticket before sale of the ticket. (3-26-08)

d. When a retailer is required by its contract with the Lottery to pay a prize to a winner, the retailer must pay the prize whenever the winner tenders a winning ticket during the retailer's normal business hours at the location designated on the retailer's certificate. (3-26-08)

e. Retailers are prohibited from purchasing tickets previously sold by the retailer. (3-26-08)

12. Display of Certificate and Other Materials. Retailers must display the Lottery certificate in an area visible to the general public wherever tickets are being sold. Retailers must also display point-of-sale material provided by the Lottery in a manner that is readily seen by and available to the public. Retailers may advertise and use or display other appropriate promotional and point-of-sale material. The Lottery may require the removal of objectionable material or the discontinuance of objectionable advertising that may have an adverse impact on the Lottery. (3-26-08)

~~**13. Ticket Stamping.** On the back of each scratch ticket sold by a retailer, the retailer must stamp the retailer's name, address, and retailer number in the area provided for retailer identification using the equipment provided by the Lottery. (3-26-08)~~

143. Dishonored Checks and Electronic Fund Transfers. Any payment made to the Lottery by an applicant for a certificate or by a certificated retailer either by a check that is dishonored or by an electronic funds transfer (EFT) that is not paid by the depository, is grounds for immediate denial of the application for a certificate or for suspension or revocation of an existing certificate. The Lottery may assess a surcharge of ten dollars (\$10) for each dishonored

check or EFT. The Lottery may also alter the payment terms of a retailer's certificate and require a retailer to reimburse the Lottery for costs that occur as a result of a dishonored check or EFT.
(3-26-08)

154. Retailer Identification Card. The Lottery may issue to each retailer an identification card which must be presented by its authorized representative when taking delivery of tickets. If the identification card is lost or otherwise misplaced or mutilated, the retailer must immediately notify the State Lottery.
(3-26-08)

165. Inspection of Lottery Materials and Retailer Premises. Retailers must allow the Lottery to enter upon the retailer's certificated premises in order to inspect Lottery materials, tickets, and the premises. All books and records pertaining to the retailer's Lottery activities must be available to the Lottery for inspection and copying during the normal business hours of the retailer and between 8 a.m. and 5 p.m., Monday through Friday. All books and records pertaining to the retailer's Lottery activities are subject to seizure by the Lottery without prior notice.
(3-26-08)

IDAPA 54 - OFFICE OF THE STATE TREASURER

54.01.01 - REPORTS FOR PUBLIC BOND ISSUES

DOCKET NO. 54-0101-1101 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2010, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-1222, 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 [August 3, 2011 Idaho Administrative Bulletin, Vol. 11-8, page 261](#).

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 Laura Steffler, Chief Deputy Treasurer, (208) 332-2999.

DATED this 31st day of August, 2011.

Ron Crane, Treasurer
Idaho State Treasurer
700 W. Jefferson St., Suite 126
P. O. Box 83720
Boise, ID 83720-0091
Phone: (208) 334-3200
Facsimile: (208) 332-3959

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

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to former Section 67-1222, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 2011. 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: **These rules are no longer needed because Section 67-1222, Idaho Code, was repealed by the 2010 Legislature in House Bill No. 446. Section 67-1222 was repealed because there was no longer a need to require the submission of debt information to the State Treasurer's Office due to the establishment of Electronic Municipal Market Access (EMMA) by the Municipal Securities Rulemaking Board (MSRB).**

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 repeal of IDAPA 54.01.01 is necessary to comply with deadlines in amendments to governing law. Section 67-1222, Idaho Code, was repealed by the 2010 Legislature resulting in these rules being obsolete.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule repeal is necessary pursuant to the repeal of Section 67-1222, Idaho Code, by the 2010 Legislature in House Bill No. 446.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Laura Steffler, Chief Deputy Treasurer, (208) 332-2999. 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 24, 2011.

DATED this 13th day of July, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 54-0101-1101

IDAPA 54.01.01 IS BEING REPEALED IN ITS ENTIRETY