

COMMERCE & HUMAN RESOURCES COMMITTEE

ADMINISTRATIVE RULES REVIEW

Table of Contents

2012 Legislative Session

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.03 - Rules of Electrical Licensing and Registration - General	
Docket No. 07-0103-1101	3
07.01.04 - Rules Governing Electrical Specialty Licensing	
Docket No. 07-0104-1101	13
Docket No. 07-0104-1102	18
07.01.05 - Rules Governing Examinations	
Docket No. 07-0105-1101	25
07.01.06 - Rules Governing the Use of National Electrical Code	
Docket No. 07-0106-1101	29
07.02.05 - Rules Governing Plumbing Safety Licensing	
Docket No. 07-0205-1102	35
Docket No. 07-0205-1103	38
07.02.07 - Rules Governing Civil Penalties	
Docket No. 07-0207-1101	48
07.04.02 - Safety Rules for Elevators, Escalators, and Moving Walks	
Docket No. 07-0402-1101	52
07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems	
Docket No. 07-0701-1101	57
Docket No. 07-0701-1102	61

IDAPA 09 - DEPARTMENT OF LABOR

09.01.30 - Unemployment Insurance Benefits Administration Rules	
Docket No. 09-0130-1101	65
09.01.35 - Unemployment Insurance Tax Administration Rules	
Docket No. 09-0135-1101	70

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

10.01.01 - Rules of Procedure	
Docket No. 10-0101-1101	74
10.01.02 - Rules of Professional Responsibility	
Docket No. 10-0102-1101	85
10.01.04 - Rules of Continuing Professional Development	
Docket No. 10-0104-1101	89

IDAPA 12 - IDAHO DEPARTMENT OF FINANCE

12.01.10 - Rules Pursuant to the Idaho Residential Mortgage Practices Act
Docket No. 12-0110-110195

DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

15.04.01 - Rules of the Division of Human Resources and Idaho Personnel Commission
Docket No. 15-0401-110199

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.09 - Medical Fees
Docket No. 17-0209-1102104

17.02.11 - Rules Governing Security for Compensation -- Self-Insured Employers
Docket No. 17-0211-1101111

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.05 - Health Carrier External Review
Docket No. 18-0105-1101125

18.01.46 - Recognition of New Mortality Tables for Use in Determining the Minimum Standard of Valuation for Annuities and Pure Endowment Contracts
Docket No. 18-0146-1101140

18.01.50 - Adoption of the International Fire Code
Docket No. 18-0150-1101147

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.01.01 - Rules of the Board of Architectural Examiners
Docket No. 24-0101-1101151

24.22.01 - Rules of the Idaho State Liquefied Petroleum Gas Safety Board
Docket No. 24-2201-1101157

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.03.01 - Rules Governing Group Insurance
Docket No. 38-0301-1101160

IDAPA 45 - HUMAN RIGHTS COMMISSION

45.01.01 - Rules of the Idaho Human Rights Commission
Docket No. 45-0101-1102168

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.06 - PERSI Retirement Rules
Docket No. 59-0106-1101183

59.01.06 - PERSI Retirement Rules
Docket No. 59-0106-1102193

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.03 - RULES OF ELECTRICAL LICENSING AND REGISTRATION - GENERAL

DOCKET NO. 07-0103-1101

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 Sections 54-1006(5), 54-1007 and 54-1013, 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 108 through 114.

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

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

DATED this 27th day of October, 2011.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83542
Phone: (208) 332-8986
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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1006(5), 54-1007 and 54-1013, 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:

Current apprentice registration requirements do not facilitate apprentices in advancing in educational and work training requirements, and ultimately into a journeyman status. This potentially results in apprentices having to complete continuation training in order to take the journeyman examination and potentially creating life-time apprentices. The industry has expressed to the Electrical Board that life-time apprentices are not situations advantageous to the individual apprentice or the contractors who employ them. Currently, electrical apprentice registrations are issued for a period of five years and there is no limitation on how many times an apprentice may renew such. The proposed rule would allow an initial renewal of an apprentice registration upon a demonstration that the applicant has made at least some progress toward the requirements for a journeyman license in the form of two years of approved schooling and two years (4,000 hours) of work experience. It also would limit renewals of apprentice registrations to no more than one without a recommendation from the Board to do so. Finally, it requires the Division and Board to consider any extenuating circumstances which may prevent an applicant from completing the schooling and/or work requirements.

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 and the benefit to electrical apprentices.

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

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

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

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0103-1101

011. LICENSE APPLICATION FORMS/APPRENTICE REGISTRATION FORMS.

Application forms for Electrical Contractor, Master Electrician, Journeyman Electrician Licenses, Specialty Electrical Licenses, and registration forms for Apprentice Electricians and Specialty Electrical Trainees shall be printed and made available by the ~~Electrical Bureau of the~~ Division of Building Safety, state of Idaho. ~~(4-5-00)()~~

01. Application Forms. All applications for licenses and all registrations shall be properly completed, giving all pertinent information, and all signatures shall be notarized. (4-5-00)

02. Application Fee. All applications for electrical licenses shall be accompanied by the fifteen dollar (\$15) application fee; apprentice and specialty trainee registration forms shall be accompanied by the ten dollar (\$10) registration fee as provided by Section 54-1014, Idaho Code. (4-5-00)

03. Application Submission. An application for license shall be submitted to the ~~Electrical Bureau~~ Division of Building Safety and shall be approved by an authorized representative of the ~~Bureau~~ Division before any examination is given and before any license is issued. ~~(4-5-00)()~~

04. Examination. An applicant for licensure must take the required examination within ninety (90) days of the date of application, or the application shall be considered to be null and void. (4-5-00)

05. License. Following the approval by an authorized representative and the successful completion of the required examination, the applicant must purchase a license prior to engaging in business within the state of Idaho. Applicants who fail to purchase a license within

ninety (90) days of the date of successful examination shall be required to reapply for licensure, again obtain the approval of an authorized representative, and re-examine. (4-5-00)

06. License Period. All original licenses and registrations shall be issued by the Division immediately upon receipt of the licensure fee and other necessary documentation from the applicant which date shall be designated as the original license anniversary date and signify the commencement of the licensing period. All license and registration renewals shall be effective in the year renewed as of the original license anniversary date. All license and registration periods shall end at midnight on the last day of the final month of the licensing or registration period. Licenses and registrations not renewed by this date shall have expired. Any expired license revived within the twelve (12) month period following the expiration date will continue to have the original license anniversary date for purposes of subsequent renewal. (3-29-10)

012. APPRENTICE ELECTRICIAN.

01. Requirements for Apprentice Electrician. (5-3-03)

a. A person wishing to become an apprentice electrician shall register with the Division of Building Safety prior to going to work. Said person shall carry a current registration certificate on his person at all times and shall present it upon request to personnel of the Division of Building Safety for examination. Each apprentice shall register for a period of five (5) years and pay the applicable fee. During the period of registration an apprentice must annually complete a minimum of one hundred forty-four (144) hours of an organized sequence of instruction in technical subjects related to the electrical trade as approved by the Idaho Electrical Board and the Idaho State Board for Professional and Technical Education until a certificate of achievement is earned from the vocational institution attended. Each apprentice shall obtain work experience during the period of registration as described in Paragraph 012.01.b. of these rules and provide the Division with notarized letters from each employer evidencing such work to be maintained in the apprentice's file with the Division. Time toward the work requirements detailed in Paragraph 012.01.b. of these rules shall not be credited while the apprentice is inactive or not registered. (4-7-11)

b. In order to qualify to take the journeyman electrician examination an apprentice electrician shall furnish proof of completion of four (4) years of related instruction for electrical apprentices as approved by the Idaho Electrical Board and the Idaho State Board for Professional-Technical Education, and be required to work at least three (3) years, defined as a minimum of six thousand (6,000) hours of work experience, under the constant on-the-job supervision of a journeyman electrician. Such work experience shall include three (3) categories: (4-7-11)

- i. Residential; (5-3-03)
- ii. Commercial; and (5-3-03)
- iii. Industrial installations. (5-3-03)

c. Successful completion of the journeyman examination does not eliminate the requirement to complete four (4) years of work experience, defined as eight thousand (8,000) hours, under the constant on-the-job supervision of a journeyman electrician in order to be issued

a journeyman license. Successful completion of the Idaho state journeyman examination notwithstanding, no journeyman license shall be issued until proof of satisfaction of the requirements contained in Section 013 of these rules is furnished to the Division. (4-7-11)

d. Experience shall not exceed seventy-five percent (75%) of the work time in any one (1) category. The work requirements of Paragraph 012.01.b. of these rules shall not apply to an apprentice registered in an apprenticeship program approved by the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship. (4-7-11)

e. An apprentice registration shall only be renewed by the Division upon receipt of sufficient evidence demonstrating that the apprentice has successfully completed at least two (2) years of an approved sequence of instruction and worked two (2) years defined as a minimum of four thousand (4,000) hours of work experience under the constant on-the-job supervision of a journeyman electrician in the categories described in Paragraph 012.01.b. of these rules; provided however, that in no case shall an apprentice registration be renewed more than one (1) time by the Division without a recommendation from the Idaho Electrical Board to do so. An apprentice may only petition the Electrical Board for registration renewals subsequent to the first renewal. If application to the Division or petition to the Board is made pursuant to this paragraph, the Division and the Board, as applicable, shall consider whether extenuating circumstances exist which prevent the completion of the instruction or work experience requirements for renewal. ()

ef. An apprentice who has completed the required number of instructional hours and has not passed the journeyman's examination within two (2) years of completion of the required instructional training hours shall provide proof of continuation training in order to ~~re-register as an apprentice~~ be eligible to take the journeyman exam. For the purposes of Section 012 of these rules, continuation training is defined as registration in a Board-approved fourth year apprenticeship class. (4-6-05)()

~~**f.** An apprentice who has not advanced in apprenticeship training for a period of two (2) years shall provide proof of successful completion of continuation training in order to re-register as an apprentice. For purposes of Section 012 of these rules, continuation training is registration in a Board-approved year of apprenticeship class for which the apprentice is eligible or a repeat of the most recent apprenticeship class attended.~~ (4-6-05)

02. Direct Supervision. It shall be the responsibility of the employing electrical contractor to insure that the apprentice performs electrical work only under the constant on-the-job supervision of a journeyman electrician. Any contractor who employs more than two (2) apprentice electricians for each licensed journeyman electrician employed is presumed to be in violation of the direct supervision requirements of Section 54-1010, Idaho Code, and of the constant on-the-job supervision requirement of Section 54-1003A, Idaho Code. This presumption may be rebutted by a showing by the contractor that special circumstances exist which are peculiar to the work done by that contractor which allows for effective supervision by each journeyman electrician of more than two (2) apprentice electricians. Prior to employing more than two (2) apprentice electricians for each journeyman electrician, a contractor must obtain permission from the ~~Electrical Bureau~~ Division of Building Safety to do so. Failure to comply with this requirement will be grounds for suspension or revocation of the electrical contractor's license. (4-1-91)()

013. JOURNEYMAN ELECTRICIAN.

01. Experience and Education Required. (5-3-03)

a. An applicant for a journeyman electrician license must have worked as an apprentice electrician making electrical installations for four (4) years, defined as a minimum of eight thousand (8,000) hours under the constant on-the-job supervision of a qualified journeyman electrician and meet the minimum vocational educational requirements of the Idaho Electrical Board and the Idaho State Board for Professional and Technical Education as provided by Section 54-1007, Idaho Code, and Paragraph 012.01.a. of these rules. That work shall include three (3) categories: (5-3-03)

- i. Residential; (5-3-03)
- ii. Commercial; and (5-3-03)
- iii. Industrial installations. (5-3-03)

b. Experience shall not exceed seventy-five percent (75%) of the work time in any one (1) category. The requirements of Paragraph 013.01.a. of these rules shall not apply to a registered apprentice enrolled in an apprenticeship program accredited by the [Electrical Bureau Division of Building Safety](#). (5-3-03)()

c. An applicant with out-of-state experience from a state that does not have a current reciprocal agreement with Idaho must meet the experience and vocational education requirements as set forth in Paragraph 013.01.a. of these rules or if the applicant has not completed the vocational education requirement, the applicant may alternately submit verification of twice the amount of experience (eight (8) years defined as a minimum of sixteen thousand (16,000) hours)). That work shall include three (3) categories: (5-3-03)

- i. Residential; (5-3-03)
- ii. Commercial; and (5-3-03)
- iii. Industrial installations. (5-3-03)

d. Experience shall not exceed seventy-five percent (75%) of the work time in any one (1) category and must have been legally obtained in the state in which the applicant received his experience. (5-3-03)

e. An applicant from a state that has a current reciprocal agreement with the state of Idaho may be issued a journeyman electrician license without testing in accordance with Section 54-1007, Idaho Code, upon verification that: (5-3-03)

- i. The license is current and active and in good standing; (5-3-03)
- ii. The license was obtained by testing from the issuing state; (5-3-03)

- iii. The license has been in effect for a minimum of one (1) year; and (5-3-03)
- iv. The applicant has not previously taken and failed the Idaho state journeyman electrical examination. (5-3-03)
- f. Experience in appliance repairing, motor winding, and communications will not be accepted towards qualification for a journeyman electrician license. (5-3-03)

02. Application and Examination. A qualified journeyman electrician not holding an Idaho state license shall make application for a journeyman electrician license with the ~~Electrical Bureau~~ **Division of Building Safety** prior to going to work in the state of Idaho as provided by Section 54-1002(2), Idaho Code. An applicant will be permitted a maximum of thirty (30) days in which to take the examination after making application unless mutual agreements have been made between the applicant and the ~~Electrical Bureau~~ **Division of Building Safety**.
(1-14-87)()

014. MASTER ELECTRICIAN.

An applicant for a master electrician license must have at least four (4) years experience as a licensed journeyman electrician as provided in Section 54-1007, Idaho Code. Any person having these qualifications may make application at any time by remitting to the ~~Electrical Bureau~~ **Division of Building Safety** the application fee. Upon approval, the applicant will be notified and may apply to take the next examination. Upon notification of passing the examination, the applicant must remit the required fee for the issuance of a master license. A person holding a current master license shall not be required to hold a journeyman license. (4-6-05)()

015. ELECTRICAL CONTRACTOR.

01. Qualifications for Electrical Contractor. (4-7-91)

a. On and after July 1, 2008, except as hereinafter provided, any person, partnership, company, firm, association, or corporation shall be eligible to apply for an electrical contractor license upon the following requirements: (4-2-08)

i. Applicant shall have at least one (1) full-time employee who holds a valid master electrician license issued by the ~~Electrical Bureau~~ **Division of Building Safety**. Licensed electrical contractors who are current and active prior to July 1, 2008, shall not be required to have a master electrician as the supervising electrician until a new supervising electrician is designated. A master electrician license will be required for a new supervising electrician designated after July 1, 2008. (4-2-08)()

ii. The master electrician shall be designated the supervising electrician and shall be available during working hours to carry out the duties of supervising, as set forth herein, and who will be responsible for supervision of electrical installations made by said company, firm, association, or corporation as provided by Section 54-1010, Idaho Code. (4-2-08)

iii. An individual electrical contractor may act as his own supervising master electrician upon the condition that he holds a valid master electrician license. (4-2-08)

iv. Applicant must pass a contractor examination administered by the Bureau Division or its designee. Any applicant which purports to be a non-individual (such as, corporation, partnership, company, firm, or association), must designate in writing an individual to represent the partnership, company, etc., for examination purposes. Any such designee shall be a full-time supervisory employee and may not represent any other applicant for an electrical contractor's license. (4-2-08)()

v. Applicant shall provide proof of liability insurance to the Bureau Division in the amount of three hundred thousand dollars (\$300,000) from an insurance company licensed to do business in the state of Idaho. The liability insurance shall be in effect for the duration of the applicant's contractor licensing period. (4-2-08)()

vi. Applicant shall provide to the Bureau Division proof of Idaho's worker's compensation insurance unless specifically exempt from Idaho law. Bureau The Division will provide written confirmation of exemption status. (4-2-08)()

b. Any person designated under Paragraph 015.01.a. of these rules, and the contractor he represents, shall each notify the Bureau Division in writing if the supervising master's working relationship with the contractor has been terminated. Each notice must be filed with the Bureau Division within ten (10) days of the date of termination. If the supervising master's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another supervising master is qualified by the Bureau Division. (4-2-08)()

02. Required Signatures on Application. An application for an electrical contractor license shall be signed by the applicant or by the official representative of the partnership, company, firm, association, or corporation making the application. The application shall be countersigned by the supervising master electrician. (4-2-08)

03. Electrical Contracting Work Defined. An electrical contractor license issued by the Division of Building Safety must be obtained prior to acting or attempting to act as an electrical contractor in Idaho. (4-5-00)

a. Electrical contracting work includes electrical maintenance or repair work, in addition to new electrical installations, unless such work is expressly exempted by Section 54-1016, Idaho Code. (4-5-00)

b. Any person or entity performing or offering to perform electrical contracting services, including, but not limited to, advertising or submitting a bid shall be considered as acting or attempting to act as an electrical contractor and shall be required to be licensed. For the purposes of Section 015, advertising shall include, but not be limited to: newspaper, telephone directory, community flier ads or notices, telephone, television, radio, internet, business card, or door-to-door solicitations. (5-8-09)

c. Any person or entity, not otherwise exempt, who performs or offers to perform electrical contracting work, is acting as an electrical contractor, whether or not any compensation is received. (4-5-00)

d. Registered general contractors who submit a bid on a multi-trade construction project that includes a licensed electrical contractor's pricing shall not be considered to be acting or attempting to act as an electrical contractor. (5-8-09)

04. Previous Revocation. Any applicant for an electrical contractor license who has previously had his electrical contractor license revoked for cause, as provided by Section 54-1009, Idaho Code, shall be considered as unfit and unqualified to receive a new electrical contractor license so long as such cause for revocation is continuing and of such nature that correction can be made by the applicant. (1-14-87)

05. Reviving an Expired License. Any applicant for an electrical contractor license who has allowed his license to expire and seeks to revive it under the provisions of Section 54-1013, Idaho Code, may be denied a license as unfit and unqualified if, while operating under the license prior to expiration, he violates any of the laws or rules applicable to electrical contractors. (4-1-91)

06. Qualification and Duties for Supervising Journeyman or Master. (4-2-08)

a. A master electrician shall not be considered as qualified to countersign an electrical contractor license application as the supervising master, nor shall said application be approved if he does countersign said application as the supervising master, if said master has had his Idaho electrical contractor license revoked for cause under Section 54-1009, Idaho Code. (4-2-08)

b. A supervising master shall not countersign for more than one (1) contractor. (4-2-08)

c. A journeyman who is a full time employee of a company, corporation, firm or association with an industrial account may sign as supervising journeyman for that industrial account in addition to signing as supervising journeyman for his own contractor's license so long as the journeyman is listed as the owner and complies with the provisions of Paragraphs 015.01.a. and 015.01.b. of these rules (7-1-97)

d. Duties include: assuring that all electrical work substantially complies with the National Electrical Code and other electrical installation laws and rules of the state, and that proper electrical safety procedures are followed; assuring that all electrical labels, permits, and licenses required to perform electrical work are used; assuring compliance with correction notices issued by the ~~Bureau~~ Division. (4-2-08)()

07. Failure to Correct Defects in Electrical Installations. If a master countersigns an electrical contractor license application pursuant to Subsection 015.03 of these rules and thereafter willfully fails to correct defects in electrical installations he made or supervised, and such defects are within his power to correct and are not the fault of the contractor, then the ~~Electrical Bureau~~ Division of Building Safety shall have the power to suspend or revoke said master's license pursuant to Section 54-1009, Idaho Code. (4-2-08)()

08. Overcharging of Fees. It shall be grounds for suspension or revocation of an electrical contractor license if he charges and collects from the property owner an electrical permit

or inspection fee which is higher than the fee actually in effect at the time of such charging and collection, pursuant to the current Electrical Laws and Rules of the Division of Building Safety, ~~Electrical Bureau~~, and the fee remitted by the contractor to the ~~Bureau~~ Division is less than the fee actually charged and collected by him. ~~(4-6-83)~~()

09. Termination of Supervising Master or Contractor Designee. (4-2-08)

a. Any person designated under Paragraph 015.01.a. of these rules, and the contractor he represents, shall each notify the ~~Bureau~~ Division in writing if the supervising master's working relationship with the contractor has been terminated. Each notice must be filed with the ~~Bureau~~ Division within ten (10) days of the date of termination. If the supervising master's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another supervising journeyman is qualified by the ~~Bureau~~ Division. ~~(4-2-08)~~()

b. Any person designated under Paragraph 015.01.a. of these rules, and the contractor he represents, shall each notify the ~~Bureau~~ Division in writing if the designee's working relationship with the contractor has been terminated. Each notice must be filed with the ~~Bureau~~ Division within ten (10) days of the date of termination. If the designee's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another duly qualified designee passes the electrical contractor's examination on behalf of the contractor. ~~(9-1-94)~~()

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING

DOCKET NO. 07-0104-1101

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 Sections 54-1006(5), 54-1007 and 54-1013, 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 115 through 117.

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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 27th day of October, 2011.

Steve Keys, Deputy Administrator - Operations
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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1006(5), 54-1007 and 54-1013, 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:

Current Specialty Electrical Trainee registration requirements do not facilitate trainees in advancing in educational and work training requirements, and ultimately into a specialty journeyman status. This potentially results in creating life-time specialty trainees. The industry has expressed to the Electrical Board that life-time specialty trainees are not situations advantageous to the individual trainees or the contractors who employ them. Currently, electrical specialty trainee registrations are issued for a period of three years and there is no limitation on how many times a trainee may renew such. The proposed rule would allow an initial renewal of a specialty electrical trainee registration upon a demonstration that the applicant has made at least some progress toward the requirements for a specialty journeyman license in the form of one year (2,000 hours) of work experience. It also would limit renewals of specialty trainee registrations to no more than one without a recommendation from the Board to do so. Finally, it requires the Division and Board to consider any extenuating circumstances which may prevent an applicant from completing the schooling and/or work requirements.

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 and the benefit to specialty electrical trainees.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the

following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

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

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

DATED this 29th day of August 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0104-1101

013. SPECIALTY EXPERIENCE REQUIREMENT.

01. Specialty Journeyman Electrician. An applicant for a specialty journeyman electrician license must have at least two (2) years experience, or more as specified for the individual specialty, with the type of installation for which the license is being applied for, in compliance with the requirements of the state in which the experience was received, or as a specialty electrical trainee making electrical installations in accordance with the requirements as stated herein. (4-7-11)

02. Specialty Electrical Trainee. A specialty electrical trainee shall be required to work not less than two (2) years, defined as a minimum of four thousand (4,000) hours of work experience, under the constant on-the-job supervision of a specialty journeyman electrician of the same specialty category to qualify for testing as a specialty journeyman electrician. A person wishing to become a specialty electrical trainee shall register with the Division of Building Safety for a period of three (3) years and pay the applicable fee prior to going to work. Said person shall carry a current registration certificate on his person at all times and shall present it upon request to personnel of the Division of Building Safety for examination. ~~Each specialty electrical trainee shall re-register prior to each July 1, furnishing proof of work experience performed during the previous year and notarized letters from each employer. This requirement shall continue each year until the minimum requirements of Title 54, Chapter 10, Idaho Code, have been fulfilled. Any specialty electrical trainee failing to re-register by August 1 of each year, shall pay an additional fee of ten dollars (\$10) to receive his registration certificate. A specialty electrical trainee registration shall only be renewed by the Division upon receipt of sufficient evidence demonstrating that the trainee has worked at least one (1) year defined as a minimum of two thousand (2,000) hours of work experience under the constant on-the-job supervision of a specialty journeyman electrician; provided however, that in no case shall a specialty electrical trainee registration be renewed more than one (1) time by the Division without a recommendation from the Idaho Electrical Board to do so. A specialty electrical trainee may only petition the~~

Electrical Board for registration renewals subsequent to the first renewal. If application to the Division or petition to the Board is made pursuant to this subsection, the Division and the Board, as applicable, shall consider whether extenuating circumstances exist which prevent the completion of the instruction or work experience requirements for renewal. Time shall not be credited while the trainee is inactive or not registered. ~~(4-7-11)~~()

(BREAK IN CONTINUITY OF SECTIONS)

015. APPLICATIONS FOR SPECIALTY LICENSES.

Applications for any of the above specialty licenses may be obtained from the ~~Electrical Bureau~~, Division of Building Safety. The forms shall be returned with the application fee, as provided by Section 54-1014, Idaho Code, with proof of the required two (2) years of experience in the field of specialty, and all applications shall be signed and notarized. Upon receiving a passing grade, the applicant may remit the license fee for issuance of the license. ~~(5-3-03)~~()

(BREAK IN CONTINUITY OF SECTIONS)

017. SPECIALTY CONTRACTOR LICENSE.

01. Qualifications for Specialty Electrical Contractor. Except as herein provided, any person, partnership, company, firm, association, or corporation shall be eligible to apply for a specialty electrical contractor license upon the condition that such applicant will be responsible for supervision of electrical installations made by said company, firm, association, or corporation as provided by Section 54-1010, Idaho Code. The supervising specialty journeyman electrician shall be available during working hours to carry out the duties of supervising specialty journeyman, as set forth herein. In addition, the applicant shall meet or have at least one (1) full-time employee who meets one (1) of the following criteria: (3-30-01)

a. Holds a valid specialty journeyman electrician license issued by the ~~Electrical Bureau~~ Division of Building Safety, in the same category as the specialty contractor, and has held a valid specialty journeyman electrician's license for a period of not less than two (2) years, during which time he was employed as a specialty journeyman electrician for a minimum of four thousand (4,000) hours; ~~(3-30-01)~~()

b. Holds a valid specialty journeyman electrician license issued by the ~~Electrical Bureau~~ Division of Building Safety, in the same category as the specialty contractor, and has at least four (4) years of experience in the specialty electrical category with a minimum of two (2) years practical experience in planning, laying out, and supervising electrical installations in this specialty category. ~~(3-30-01)~~()

02. Modification to Qualifications. Applicants for specialty contractor licenses, or individuals countersigning such applications, shall be subject to the same requirements,

restrictions, and fees applicable to other electrical contractors and countersigning master, as set forth in the current Electrical Laws and Rules with the exception that an electrical contractor requires a master electrician to countersign as a supervising master whereas a supervising specialty journeyman for a specialty electrical contractor must meet the requirements of Subsection 017.01 of these rules. (4-2-08)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING

DOCKET NO. 07-0104-1102

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 Sections 54-1003 and 54-1006(5), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 118 through 122.

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

The fiscal impact is expected to be revenue neutral to DBS, in that it is expected that any revenues will offset the costs to the dedicated fund associated with administering the license.

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

DATED this 27th day of October, 2011.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83542
Phone: (208) 332-8986
Fax: (877) 810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1003(1) and 54-1006(5), 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 PV electrical specialty license is brought forward to legally recognize established PV contractors who have established and operated specialized businesses over the course of the past 20+ years. While the existing regulatory framework clearly requires all installers of electrical wiring and equipment to be licensed, these businesses have operated and developed a level of expertise and experience that is vital in assuring photovoltaic systems are designed and installed safely, and that they operate efficiently. This proposal allows these companies and installers to become licensed and sets the bar for future practitioners in this fast-growing industry. It also facilitates the permitting and inspections of photovoltaic installations to assure those installations safely comply with the provisions of the National Electrical Code. Failure to establish this license would leave electrical contractors and electricians as the only providers of solar installations, and likely would result in higher costs to consumers due to decreased competition. The proposed rule would establish an electrical specialty license category for the installation, maintenance, and repair of photovoltaic electrical DC systems and micro-inverter/AC systems to include all electrical equipment, wires, and accessories.

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

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

The fiscal impact is expected to be revenue neutral to DBS, in that it is expected that any revenues will offset the costs to the dedicated fund associated with administering the license.

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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

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

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0104-1101

014. ELECTRICAL SPECIALTIES REQUIRING A SPECIAL LICENSE.

The following shall be considered as electrical specialties, the practice of which shall require a special license: (4-9-79)

01. Elevator, Dumbwaiter, Escalator, or Moving-Walk Electrical. Any person qualifying for and having in his possession a current elevator electrical license may install, maintain, repair, and replace equipment, controls, and wiring beyond the disconnect switch in the machine room of the elevator and pertaining directly to the operation and control thereof when located in the elevator shaft and machine room. He shall be employed by a licensed elevator electrical contractor and his installation shall be limited to this category. The holder of such specialty license may not countersign a contractor's license application as supervising journeyman except for work within his specialty. (4-9-79)

02. Sign Electrical. Any person qualifying for and having in his possession a current sign electrical license may install, maintain, repair, and replace equipment, controls, and wiring on the secondary side of sign disconnecting means; providing the disconnecting means is located on the sign or within sight therefrom. He shall be employed by a licensed sign electrical contractor whose installations shall be limited to this category. The holder of such specialty license may not countersign a contractor's license application as supervising journeyman except for work within his specialty. (3-15-02)

03. Manufacturing or Assembling Equipment. (4-5-00)

a. A licensed specialty manufacturing or assembling equipment electrician must be employed by a licensed specialty manufacturing or assembling equipment contractor in order to

work in this category. The holder of a specialty license in this category may not countersign a contractor's license application as supervising journeyman except for work within this specialty. (4-5-00)

b. Any person licensed pursuant to Paragraph 014.03.a. of these rules may install, maintain, repair, and replace equipment, controls, and accessory wiring, integral to the specific equipment, on the load side of the equipment disconnecting means. Electrical service and feeder are to be installed by others. The licensee may also install circuitry in modules or fabricated enclosures for the purpose of connecting the necessary components which individually bear a label from a nationally recognized testing laboratory when such equipment is designed and manufactured for a specific job installation. All wiring completed shall meet all requirements of Title 54, Chapter 10, Idaho Code, all rules promulgated pursuant thereto, and the most current edition of the National Electrical Code. (7-1-94)

c. Subsection 014.03 of these rules does not apply to a manufacturing or assembling equipment electrician installing electrical wiring, equipment, and apparatus in modular buildings as that term is defined in Section 39-4105, Idaho Code. Only journeyman electricians and electrical apprentices, employed by an electrical contractor, may perform such installations. (3-30-07)

04. Limited Energy Electrical License. (9-17-85)

a. Limited energy systems are defined as fire and security alarm systems, class 2 and class 3 signaling circuits, key card operators, nurse call systems, motor and electrical apparatus controls and other limited energy applications covered by the NEC. (7-1-99)

b. Limited energy systems do not include, and no license of any type is required for, the installation of landscape sprinkler controls or communication circuits, wires and apparatus that include telephone systems, telegraph facilities, outside wiring for fire and security alarm systems which are used for communication purposes, and central station systems of a similar nature, PBX systems, audio-visual and sound systems, public address and intercom systems, data communication systems, radio and television systems, antenna systems and other similar systems. (7-1-99)

c. Unless exempted by Section 54-1016, Idaho Code, any person who installs, maintains, replaces or repairs electrical wiring and equipment for limited energy systems in facilities other than one (1) or two (2) family dwellings shall be required to have a valid limited energy electrical license and must be employed by a licensed limited energy specialty electrical contractor or electrical contractor. The holder of a specialty license may only countersign a contractor's application as a supervising journeyman for work within his specialty. (7-1-98)

05. Irrigation Sprinkler Electrical. Any person qualifying for and having in his possession, an irrigation system electrical license may install, maintain, repair and replace equipment, controls and wiring beyond the disconnect switch supplying power to the electric irrigation machine. The irrigation machine is considered to include the hardware, motors and controls of the irrigation machine and underground conductors connecting the control centers on the irrigation machine to the load side of the disconnecting device. Disconnect device to be installed by others. All such installations performed by individuals under this subsection shall be

done in accordance with the applicable provisions of the National Electrical Code. He shall be employed by a licensed electrical contractor whose license is contingent upon the granting of a specialty electrical license to an employee and whose installations shall be limited to this category. The holder of a specialty license may not countersign a contractor's license application as supervising specialty journeyman except for work in his specialty. (1-1-92)

06. Well Driller and Water Pump Installer Electrical Licenses. All such installations performed by individuals under this subsection shall be done in accordance with the applicable provisions of the approved National Electrical Code. He shall be employed by a licensed well driller and water pump installer electrical contractor whose installations shall be limited to this category. The holder of such specialty license may not countersign a contractor's license application as supervising specialty journeyman except for work in his specialty. Any person currently licensed in this category may perform the following types of installations: (1-14-87)

a. Single or three (3) phase water pumps: install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (4-6-05)

b. Domestic water pumps, one hundred twenty/two hundred forty (120/240) volt, single phase, sixty (60) amps or less: Install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to and including the disconnecting device. (7-1-98)

c. Temporarily connect into a power source to test the installations, provided that all test wiring is removed before the installer leaves the site. (1-14-87)

d. Individual residential wastewater pumping units. Install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to and including the disconnecting device for systems that serve one-family, two-family, or three-family residential installations. (4-11-06)

07. Refrigeration, Heating, and Air-Conditioning Electrical Installer. All such installation, maintenance, and repair performed by individuals under this subsection shall be done in accordance with applicable provisions of the National Electrical Code. He shall be employed by a licensed electrical contractor whose license shall be covered by this category. The holder of such specialty license may not countersign a contractor's license application as a supervising specialty journeyman except for work in his specialty. Any person currently licensed in this category may perform the following types of installations, which installations shall be limited to factory-assembled, packaged units: (9-17-85)

a. Heating Units (single phase): install, repair, and maintain all electrical equipment, wires, and accessories from the unit up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (9-17-85)

b. Refrigeration, Air-Conditioning Equipment and Heat Pumps (single phase): install, repair, and maintain all electrical equipment, wires, and accessories from the unit up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by

others. (9-17-85)

c. Refrigeration, Air-Conditioning and Heating Systems (three (3) phase): install, maintain, and repair all electrical equipment and accessories up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (9-17-85)

08. Outside Wireman. All such installation, maintenance, and repair not exempt under the provisions of Section 54-1016, Idaho Code, performed by individuals under this subsection shall be done in accordance with the applicable provisions of the National Electrical Code. The licensee shall be employed by a licensed electrical contractor whose license shall be covered by this category. The holder of such specialty license may not countersign a contractor's license application as a supervising specialty journeyman except for work in his specialty. Applicants for this license class shall provide documentation of having completed an electrical lineman apprenticeship program or similar program approved by the U.S. Department of Labor, Office of Apprenticeship. Any person currently licensed in this category may perform the following types of installations: (4-7-11)

- a. Overhead distribution and transmission lines in excess of six hundred (600) volts. (4-7-11)
- b. Undergound distribution and transmission lines in excess of six hundred (600) volts. (4-7-11)
- c. Substation and switchyard construction in excess of six hundred (600) volts. (4-7-11)

09. Solar Photovoltaic. All such installation, maintenance, and repair not exempt under the provisions of Section 54-1016, Idaho Code, performed by individuals under this Subsection shall be done in accordance with the applicable provisions of the National Electrical Code. The license holder shall be employed by a licensed electrical contractor whose license shall be covered by this category. The holder of such specialty license may not countersign a contractor's application as a supervising specialty journeyman except for work in his specialty. Applicants for this license class shall provide proof of photovoltaic installer certification by the North American Board of Certified Energy Practitioners (NABCEP) or equivalent. Any person licensed in this category may perform the following types of installations: ()

a. Solar Photovoltaic DC Systems: Install, maintain, repair, and replace all electrical equipment, wires, and accessories up to and including the inverter. ()

b. Solar Photovoltaic micro-inverter/AC Systems: Install, maintain, repair, and replace all electrical equipment, wires, and accessories up to and including the AC combiner box. ()

015. APPLICATIONS FOR SPECIALTY LICENSES.

Applications for any of the above specialty licenses may be obtained from the ~~Electrical Bureau~~, Division of Building Safety. The forms shall be returned with the application fee, as provided by Section 54-1014, Idaho Code, with proof of the required two (2) years of experience in the field of specialty, and all applications shall be signed and notarized. Upon receiving a passing grade, the

applicant may remit the license fee for issuance of the license.

~~(5-3-03)~~()

(BREAK IN CONTINUITY OF SECTIONS)

017. SPECIALTY CONTRACTOR LICENSE.

01. Qualifications for Specialty Electrical Contractor. Except as herein provided, any person, partnership, company, firm, association, or corporation shall be eligible to apply for a specialty electrical contractor license upon the condition that such applicant will be responsible for supervision of electrical installations made by said company, firm, association, or corporation as provided by Section 54-1010, Idaho Code. The supervising specialty journeyman electrician shall be available during working hours to carry out the duties of supervising specialty journeyman, as set forth herein. In addition, the applicant shall meet or have at least one (1) full-time employee who meets one (1) of the following criteria: (3-30-01)

a. Holds a valid specialty journeyman electrician license issued by the ~~Electrical Bureau~~ **Division of Building Safety**, in the same category as the specialty contractor, and has held a valid specialty journeyman electrician's license for a period of not less than two (2) years, during which time he was employed as a specialty journeyman electrician for a minimum of four thousand (4,000) hours; ~~(3-30-01)~~()

b. Holds a valid specialty journeyman electrician license issued by the ~~Electrical Bureau~~ **Division of Building Safety**, in the same category as the specialty contractor, and has at least four (4) years of experience in the specialty electrical category with a minimum of two (2) years practical experience in planning, laying out, and supervising electrical installations in this specialty category. ~~(3-30-01)~~()

02. Modification to Qualifications. Applicants for specialty contractor licenses, or individuals countersigning such applications, shall be subject to the same requirements, restrictions, and fees applicable to other electrical contractors and countersigning master, as set forth in the current Electrical Laws and Rules with the exception that an electrical contractor requires a master electrician to countersign as a supervising master whereas a supervising specialty journeyman for a specialty electrical contractor must meet the requirements of Subsection 017.01 of these rules. (4-2-08)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.05 - RULES GOVERNING EXAMINATIONS

DOCKET NO. 07-0105-1101

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 Sections 54-1005(1) and 54-1006(5), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 123 and 124.

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

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

DATED this 27th day of October, 2011.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83542
Phone: (208) 332-8986
Fax: (877) 810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1005(1) and 54-1006(5), 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:

When this original rule was written, examinations were only administered on a monthly or bi-monthly basis. However, the electrical journeyman examination is now offered on a continuous basis in the state throughout the year and there is no longer a need to impose a 30-day waiting period after a first or second failed journeyman examination attempt. The proposed rule would eliminate the 30-day waiting period after a first or second failed journeyman examination attempt.

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 and the benefit to applicants for the electrical journeyman examination.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written

comments must be directed to the undersigned and must be delivered on or before October 26, 2011.

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0105-1101

011. EXAMINATIONS.

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

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

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

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

Journeyman Electrician	- 70%
Specialty Journeyman Electrician	- 70%
Electrical Contractor	- 75%
Specialty Electrical Contractor	- 70%
Electrical Inspector	- 70%
Master Electrician	- 75%

(5-8-09)

04. Failed Examinations.

(4-6-05)

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

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

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

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

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

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

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

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE

DOCKET NO. 07-0106-1101

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 Sections 54-1001 and 54-1006(5), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 125 through 128.

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

The adoption of the 2011 National Electrical Code is expected to cost DBS approximately \$5,000. This cost includes the cost of new code books and training associated with the implementation of the new code. Local jurisdictions will encounter similar costs. The adoption of the 2011 NEC is expected to add approximately \$500 to the wiring cost of the typical new house. The bases of these increased costs are driven primarily by the expanded application of Arc Fault Circuit Interrupters (AFCIs) required on 120 volt circuits in the house.

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

DATED this 27th day of October, 2011.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83542
Phone: (208) 332-8986
Fax: (877) 810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1001 and 54-1006(5), 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 applicable code to which all electrical installations must comply has been updated as of 2011. Currently, the state is using the 2008 edition of the National Electrical Code (NEC), and this rulemaking would adopt the 2011 NEC. The last several NEC code editions have also provided for arc fault circuit interrupter (AFCI) breakers to be installed for all circuits supplying outlets in dwelling unit family rooms, dining rooms, living rooms, parlors, dens, bedrooms, recreation rooms, closets, hallways, or similar rooms or areas. However since 2008, the Board has only required AFCI circuit breakers to be utilized for circuits supplying dwelling unit bedrooms as reflected in this administrative rule which amended the NEC. At numerous Board meetings conducted over the course of the last year, the Board considered the input of contractors, manufacturers, consumers, and other affected industry participants before determining to eliminate the rule. The elimination of this rule would result in the provision of the NEC addressing AFCI to exist without amendment, which would result in the requirement that such circuit breakers be utilized in all the living spaces identified above. The proposed rule would adopt the 2011 edition of the National Electric Code (NEC). The proposed rule would also eliminate the amendment to the NEC which only requires arc fault circuit interrupter (AFCI) breakers to be used in dwelling unit bedrooms.

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

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

The adoption of the 2011 National Electrical Code is expected to cost DBS approximately \$5,000. This cost includes the cost of new code books and training associated with the implementation of the new code. Local jurisdictions will encounter similar costs. The adoption of the 2011 NEC is expected to add approximately \$500 to the wiring cost of the typical new house. The bases of these increased costs are driven primarily by the expanded application of Arc Fault Circuit Interrupters (AFCI's) required on 120 volt circuits in the house.

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:

The National Electrical Code (NEC), 2011 Edition is adopted and incorporated by reference due to updates in the NEC.

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

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

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0106-1101

011. ADOPTION AND INCORPORATION BY REFERENCE OF THE NATIONAL ELECTRICAL CODE, ~~2008 EDITION~~.

01. Documents. Under the provisions of Section 54-1001, Idaho Code, the National Electrical Code, 20~~08~~¹¹ Edition, (herein NEC) is hereby adopted and incorporated by reference for the state of Idaho and shall be in full force and effect on and after July 1, 20~~08~~¹², with the exception of the following: ~~(4-2-08)()~~

a. Where the height of a crawl space does not exceed one point four (1.4) meters or four point five (4.5) feet it shall be permissible to secure NM cables, that run at angles with joist, to the bottom edge of joist. NM cables that run within two point one (2.1) meters or seven (7) feet of crawl space access shall comply with Article 320.23. (3-29-10)

b. Compliance with Article 675.8(B) will include the additional requirement that a disconnecting means always be provided at the point of service from the utility no matter where the disconnecting means for the machine is located. (5-3-03)

c. Compliance with Article 550.32(B) shall limit installation of a service on a manufactured home to those homes manufactured after January 1, 1992. (5-3-03)

d. Poles used as lighting standards that are forty (40) feet or less in nominal height and that support no more than four (4) luminaires operating at a nominal voltage of three hundred (300) volts or less, shall not be considered to constitute a structure as that term is defined by the National Electrical Code (NEC). The disconnecting means shall not be mounted to the pole. The disconnecting means may be permitted elsewhere in accordance with NEC, Article 225.32, exception 3. SEC special purpose fuseable connectors (model SEC 1791-DF or model SEC 1791-SF) or equivalent shall be installed in a listed handhole (underground) enclosure. The enclosure shall be appropriately grounded and bonded per the requirements of the NEC applicable to Article 230-Services. Overcurrent protection shall be provided by a (fast-acting – minimum - 100K RMS Amps 600 VAC) rated fuse. Wiring within the pole for the luminaires shall be protected by supplementary overcurrent device (time-delay – minimum - 10K RMS Amps 600 VAC) in break-a-way fuse holder accessible from the hand hole. Any poles supporting or incorporating utilization equipment or exceeding the prescribed number of luminaires, or in excess of forty (40) feet, shall be considered structures, and an appropriate service disconnecting means shall be required per the NEC. All luminaire-supporting poles shall be appropriately grounded and bonded per the NEC. (4-6-05)

~~**e.** Compliance with Article 210.12 Arc Fault Circuit Interrupter Protection. (4-2-08)~~

~~**i.** Definition. Arc Fault Circuit Interrupter is a device intended to provide protection from the effects of arc faults by recognizing characteristics unique to arcing and by functioning to de-energize the circuit when an arc fault is detected. (4-2-08)~~

~~**ii.** Dwelling Unit Bedrooms. All one hundred twenty (120) volt, single phase, fifteen (15) ampere and twenty (20) ampere branch circuits supplying outlets installed in dwelling unit bedrooms shall be protected by a listed arc-fault circuit interrupter, combination type installed to provide protection of the branch circuit. (4-2-08)~~

fe. Compliance with Article 680.26 Bonding. (4-2-08)

i. Performance. The bonding required by this section shall be installed to eliminate voltage gradients in the pool area as prescribed. FPN: This section does not require that the eight (8) AWG or larger solid copper bonding conductor be extended or attached to any remote panelboard, service equipment, or any electrode. (4-2-08)

ii. Bonded Parts. The parts specified in 680.26(B)(1) through (B)(5) shall be bonded together. (4-2-08)

(1) Metallic Structural Components. All metallic parts of the pool structure, including the reinforcing metal of the pool shell, coping stones, and deck, shall be bonded. The usual steel tie wires shall be considered suitable for bonding the reinforcing steel together, and welding or special clamping shall not be required. These tie wires shall be made tight. If reinforcing steel is effectively insulated by an encapsulating nonconductive compound at the time of manufacture and installation, it shall not be required to be bonded. Where reinforcing steel is encapsulated with a nonconductive compound, provisions shall be made for an alternate means to eliminate voltage gradients that would otherwise be provided by unencapsulated, bonded reinforcing steel. (4-2-08)

(2) Underwater Lighting. All forming shells and mounting brackets of no-niche luminaries (fixtures) shall be bonded unless a listed low-voltage lighting system with nonmetallic forming shells not requiring bonding is used. (4-2-08)

(3) Metal Fittings. All metal fittings within or attached to the pool structure shall be bonded. Isolated parts that are not over one hundred (100) mm (four (4) inches) in any dimension and do not penetrate into the pool structure more than twenty-five (25) mm (one (1) inch) shall not require bonding. (4-2-08)

(4) Electrical Equipment. Metal parts of electrical equipment associated with the pool water circulating system, including pump motors and metal parts of equipment associated with pool covers, including electric motors, shall be bonded. Metal parts of listed equipment incorporating an approved system of double insulation and providing a means for grounding internal nonaccessible, non-current-carrying metal parts shall not be bonded. Where a double-insulated water-pump motor is installed under the provisions of this rule, a solid eight (8) AWG copper conductor that is of sufficient length to make a bonding connection to a replacement motor shall be extended from the bonding grid to an accessible point in the motor vicinity. Where there is no connection between the swimming pool bonding grid and the equipment grounding system for the premises, this bonding conductor shall be connected to the equipment grounding conductor of the motor circuit. (4-2-08)

(5) Metal Wiring Methods and Equipment. Metal-sheathed cables and raceways, metal piping, and all fixed metal parts except those separated from the pool by a permanent barrier shall be bonded that are within the following distances of the pool: (4-2-08)

(a) Within one and five tenths (1.5) meters (five (5) feet) horizontally of the inside walls of the pool. (4-2-08)

(b) Within three and seven tenths (3.7) meters (twelve (12) feet) measured vertically above the maximum water level of the pool, or any observation stands, towers, or platforms, or any diving structures. (4-2-08)

iii. Common Bonding Grid. The parts specified in 680.26(B) shall be connected to a common bonding grid with a solid copper conductor, insulated, covered, or bare, not smaller than eight (8) AWG. Connection shall be made by exothermic welding or by pressure connectors or clamps that are labeled as being suitable for the purpose and are of stainless steel, brass, copper,

or copper alloy. The common bonding grid shall be permitted to be any of the following:

~~(4-2-08)~~()

(1) The structural reinforcing steel of a concrete pool where the reinforcing rods are bonded together by the usual steel tie wires or the equivalent. (4-2-08)

(2) The wall of a bolted or welded metal pool. (4-2-08)

(3) A solid copper conductor, insulated, covered, or bare, not smaller than eight (8) AWG. (4-2-08)

(4) Rigid metal conduit or intermediate metal conduit of brass or other identified corrosion-resistant metal conduit. (4-2-08)

iv. Connections. Where structural reinforcing steel or the walls of bolted or welded metal pool structures are used as a common bonding grid for nonelectrical parts, the connections shall be made in accordance with 250.8. (4-2-08)

v. Pool Water Heaters. For pool water heaters rated at more than fifty (50) amperes that have specific instructions regarding bonding and grounding, only those parts designated to be bonded shall be bonded, and only those parts designated to be grounded shall be grounded. (4-2-08)

02. Availability. This document is available at the offices of the Division of Building Safety at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642, 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and 2055 Garrett Way, Suite 7, Pocatello, Idaho 83201.

~~(4-2-08)~~()

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING
DOCKET NO. 07-0205-1102
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 Sections 54-2605(1) and 54-2606, 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 142 and 143.

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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 27th day of October, 2011.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83542
Phone: (208) 332-8986
Fax: (877) 810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2605(1) and 54-2606, 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 Division and Plumbing Board have determined, based on numerous complaints by the industry in recent years, that an increasing number of individuals already licensed in other jurisdictions as master and journeyman plumbers enter Idaho and obtain apprentice registrations from the Division for the purpose of working on particular jobs and leaving the state upon completion of such. Such out-of-state individuals have evidenced no intent of attending school or working the established number of hours as required of all apprentice registrants, nor ultimately testing for an Idaho journeyman license. And recent changes to apprentice registration requirements no longer require such apprentices to show proof of enrollment in a course of instruction. This registration practice circumvents the Idaho licensing requirements because those individuals in effect perform as journeymen on the jobs until they are completed. This rule would require anyone who has previously been licensed in any jurisdiction as a journeyman or master plumber to disclose such licensure history to the Division upon application. It also prevents any such individual so previously licensed from obtaining an apprentice registration.

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 and the need to require disclosure of previous licensure history in other jurisdictions.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the

following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

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

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

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0205-1102

004. -- ~~0409.~~ (RESERVED)

010. LICENSURE HISTORY.

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

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING
DOCKET NO. 07-0205-1103
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 54-2605(1), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 144 through 150.

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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 27th day of October, 2011.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83542
Phone: (208) 332-8986
Fax: (877) 810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

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

Current economic conditions have made it difficult for many apprentices to achieve the required 8,000 hours of work experience as quickly as was previously possible in order to take the plumbing journeyman examination. Industry participants have reported to the Board that upon completion of schooling, apprentices now often have to wait considerable time (sometimes years) before they may test for their journeyman license. This results in a potentially large gap of time between their completion of schooling and the exam date which reduces the likelihood of passing the exam and requires additional time and expense in the form of continuation instruction. The industry has urged the Plumbing Board to allow for examination immediately upon completion of schooling. This rule change would allow an apprentice to take the written portion of the journeyman exam upon completion of a four (4) year board approved course of instruction regardless of the amount of hours of work experience the apprentice may have accrued to that point. However, no journeyman license would be issued to the apprentice, despite successful completion of the written exam, until the apprentice actually achieves 8,000 hours of work experience, and then successfully completes the practical portion of the journeyman examination.

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 and the benefit to plumbing apprentices and/or applicants for journeyman plumbing certificates of competency.

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

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

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

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0205-1103

011. APPRENTICE REGISTRATION.

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

01. Work Requirements. An individual plumbing apprentice must be working at the trade under the constant on-the-job supervision of a journeyman and in the employ of a contractor. Any apprentice who desires to sit for the journeyman exam must complete an Idaho Plumbing Board-approved related course of instruction for four (4) years, and work for a total of four (4) years, defined as a minimum of eight thousand (8,000) hours work experience prior to the date of the exam in order to be eligible for a journeyman certificate of competency. ()

02. Schooling Requirements. A plumbing apprentice must complete an Idaho Plumbing Board approved related course of instruction for four (4) years in order to be eligible for a journeyman certificate of competency. Unless prior approval has been granted by the ~~Plumbing Bureau~~ Division of Building Safety, the apprentice must complete the required course work sequentially: year one (1) must be completed prior to beginning year two (2); year two (2) must be completed prior to beginning year three (3); and year three (3) must be completed prior to beginning year four (4). A minimum of one hundred forty-four (144) hours of classroom or other Idaho Plumbing Board-approved instruction time per school year is required. A grade average of seventy percent (70%) must be ~~maintained~~ attained in these courses. Upon completion of apprenticeship ~~training~~ schooling, the apprentice must obtain a certificate of completion, or a letter signed by the chairman of his apprenticeship committee, and attach the certificate or letter to

his application for a journeyman license. ~~In order to maintain registration, the apprentice shall renew his registration in accordance with Sections 54-2614 and 54-2614A, Idaho Code.~~

~~(3-29-10)~~()

03. Journeyman Examination. ()

a. Any plumbing apprentice who desires to take the written portion of the journeyman examination must complete an Idaho Plumbing Board approved related course of instruction for four (4) years as described in Paragraph 011.03.b. of these rules prior to the date of the exam and provide a certificate of completion with the application for examination. There is no minimum work requirement in order to be eligible to take the written portion of the plumbing journeyman examination. ()

b. Successful completion of the journeyman written examination does not eliminate the requirement to complete four (4) years of work experience, defined as eight thousand (8,000) hours, under the constant on-the-job supervision of a journeyman plumber or the practical portion of the examination in order to be issued a journeyman license. Successful completion of the written plumbing journeyman examination notwithstanding, no journeyman license shall be issued until an apprentice successfully completes the practical portion for the examination and furnishes to the Division proof of satisfaction of the work requirements contained in Paragraph 011.03.a. of these rules. Satisfaction of the work requirements contained in Paragraph 011.03.a. of these rules is required before any individual is eligible to take the practical portion of the journeyman examination. ()

012. JOURNEYMAN.

01. Qualifications for Journeyman Plumber. An applicant for a journeyman plumber's ~~license~~ **certificate of competency** must have at least four (4) years experience as an apprentice making plumbing installations under the constant on-the-job supervision of a qualified journeyman plumber, as provided by Section 54-2611, Idaho Code. Pipe fitting will not be accepted as qualifications for a journeyman plumber's license. The first step in obtaining a journeyman certificate of competency is to submit an application for examination and license. The application must be accompanied by proof the applicant has completed the minimum of four (4) years experience in the trade as provided in Section 011 of these rules. Exhibition of a current license or photostatic copy of it from another jurisdiction may be accepted as proof of experience. The examination fee shall be as prescribed by Section 54-2614, Idaho Code, and must accompany the application. ~~(8-25-88)~~()

02. Examination. The journeyman examination grade is based on answers to written questions and practical work performed on plumbing installations as determined by the Division after successful completion of the written work. Time allowed for the written examination is four (4) hours. A passing grade is required on the written examination. The practical portion of the exam may be performed on a job in-progress or in a laboratory setting and shall consist of work performed in either a residential or commercial application. The practical portion of the exam must pass with no violations. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

015. EXAMINATIONS.

01. Examinations for Journeyman Plumber. Written examinations for any journeyman plumber's license shall be formulated and approved by the Idaho Plumbing Board. Examination questions shall be based on the practical application of the Uniform Plumbing Code. No license certificate of competency shall be issued unless the applicant receives a final grade of seventy-five percent (75%) or higher on the written examination and passes the practical portion with no violations, as well as completes the work requirements described in Paragraph 011.03.a. of these rules. An applicant receiving a grade of less than seventy-five percent (75%) may apply for reexamination upon payment of the examination fee. An applicant has six (6) months to achieve a passing score. If an applicant does not achieve a passing score in six (6) months, the applicant must enroll in year four (4) in a, Idaho Plumbing Board-approved related training course, complete year four (4), be registered with the Plumbing Bureau Division as an apprentice, and maintain registration as per Section 011 of these rules before the applicant will be eligible to apply for examination. A completion certificate for year four (4) and the proper application fee must accompany a new application for a journeyman examination. ~~(3-15-02)~~()

02. Frequency of Conducting of Examinations. Examinations for all classifications under the Plumbing Laws and rules will be given a minimum of four (4) times each year in three (3) locations: One (1) to be in northern Idaho, one (1) to be in central Idaho, and one (1) to be in southern Idaho. (8-25-88)

03. Professional Testing Services. In lieu of the administration by the Idaho Plumbing Board of the examination for licenses pursuant to this rule, the Idaho Plumbing Board may contract with a professional testing service to administer the examination, and require license applicants to pay to the testing service the fee that they have set for the examination and to take such examination at the time set by such service. If the examination is conducted in this fashion, the Idaho Plumbing Board may charge and retain the application fee provided for by Section 54-2616, Idaho Code, to cover the cost of reviewing the applicant's application. (8-25-88)

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

01. Issuance. Certificates of competency shall be issued in such a manner as to create a renewal date that coincides with the birthdate of the individual to whom the certificate is issued and allows for renewals every three (3) years. (4-6-05)

a. Certificates of competency shall be issued for a period of no less than one (1) year and no more than three (3) years. For example: a qualified applicant who applies for a certificate of competency in August of year one (1) but whose birthday will not occur until March of year two (2) shall be issued a certificate of competency renewable on the anniversary of the applicant's birthdate. (4-6-05)

b. The fee for issuance of certificates of competency shall be prorated based on the number of months for which it is issued. (4-6-05)

02. Renewal. Certificates of competency shall be renewed in such a manner as will achieve a staggered system of certificate renewal using the birthdate of the individual to whom the certificate is issued as the expiration date. (4-6-05)

a. Certificates of competency shall be renewed for a period of no less than one (1) year and no more than three (3) years. (4-6-05)

b. The fee for renewal of certificates of competency shall be prorated based on the number of months for which it is issued. (4-6-05)

c. Continuing Education. The Idaho Plumbing Board will establish criteria for approval of instruction and instructors and courses and instructors will be approved by the ~~Plumbing Bureau~~ **Division of Building Safety**. Proof of completion of the following continuing education requirements must be submitted to the ~~Plumbing Bureau~~ **Division** prior to, or with the application for, licensure renewal by any licensee in order to renew a journeyman or contractors plumbing license. ~~(3-29-10)~~()

i. Journeymen must complete eight (8) hours of continuing education for every three-year license cycle, or complete an exam administered by the Division. Of the required eight (8) hours, four (4) hours must be plumbing code update related and the other four (4) hours may be industry related training. (3-29-10)

ii. Contractors must complete sixteen (16) hours of continuing education for every three-year license cycle. Hours accrued obtaining journeyman education may be applied toward this requirement whenever applicable. (3-29-10)

03. Expiration - Revival. (4-6-05)

a. Certificates that are not timely renewed will expire. (4-6-05)

b. A certificate that has expired may be revived within twelve (12) months of its expiration by submitting a completed application and paying the same fee as for an initial certificate and meeting all other certification requirements. (4-6-05)

c. Revived certificates shall be issued in such a manner as to create a renewal date that coincides with the birthdate of the applicant to achieve a staggered system of renewal. (4-6-05)

017. SPECIALTY PLUMBING LICENSES.

The purpose of this section is to set out the special types of plumbing installations for which a specialty license is required; to set out the minimum experience requirements for such licenses; and to describe the procedure for securing such licenses. (8-25-88)

01. Qualified Journeyman Plumbers. Qualified journeyman plumbers as defined in Section 54-2611(b), Idaho Code, shall be permitted to make installations as subsequently described herein without securing an additional license for said installation. (11-14-85)

02. Minimum Experience Requirements. (8-3-83)

a. Experience gained by an individual while engaged in the practice of mobile home hook-ups shall not be considered towards the satisfaction of the minimum experience requirements for licensing as a journeyman plumber. (8-3-83)

b. All installers shall be licensed and be in the employ of a licensed plumbing contractor or specialty contractor limited to this category. (8-3-83)

03. Mobile Home Set-Up or Installers. (8-25-88)

a. Any person qualifying for and having in his possession a current license in this category may make the proper connections of sewer and water to existing facilities on site. All material and workmanship shall comply with the requirements of the Uniform Plumbing Code. (8-3-83)

b. All installers shall be licensed and be in the employ of a licensed plumbing contractor or specialty contractor limited to this category. This specialty license does not permit any extension, alteration, or addition to the plumbing system within the mobile home or the installation of any underground plumbing outside the mobile home. (8-3-83)

04. Applications for Specialty Licenses. Applications for the above specialty licenses may be obtained from the ~~Plumbing Bureau, Idaho~~ Division of Building Safety. The forms shall be returned with the examination fee provided by Section 54-2614, Idaho Code, with proof of the required two (2) years experience in the field of this specialty. ~~(8-25-88)~~()

05. Examinations for Specialty Licenses. Written examinations for specialty plumbing licenses shall be formulated from the practical application of the sections of the Uniform Plumbing Code as adopted by the Idaho Plumbing Board under Section 54-2601, Idaho Code. (11-14-85)

06. Fees. Fees for certificates shall be required in accordance with Section 54-2616, Idaho Code. (11-14-85)

018. APPLIANCE PLUMBING SPECIALTY LICENSE.

The purpose of this section is to set out the special types of plumbing installations for which an appliance plumbing specialty license is required; to set out the minimum experience requirements for such licenses; and to describe the procedure for securing such licenses. (7-1-99)

01. Qualified Journeyman Plumbers. Qualified journeyman plumbers as defined in Section 54-2611(b), Idaho Code, shall be permitted to make installations as subsequently described herein without securing an additional license for said installation. (7-1-99)

02. Qualified Apprentice Plumbers. Qualified apprentice plumbers as defined in Section 54-2611(c), Idaho Code, shall be permitted to make installations as subsequently described herein without securing an additional license for said installation. (7-1-99)

03. Minimum Experience Requirements. (7-1-99)

a. Experience gained by an individual while engaged in the practice of appliance plumbing specialty shall not be considered towards the satisfaction of the minimum experience requirements for licensing as a journeyman plumber. (7-1-99)

b. All qualified appliance plumbing specialty journeymen shall be licensed and be in the employ of a licensed plumbing contractor or specialty contractor limited to this category. (7-1-99)

c. Appliance plumbing specialty contractors must have a two thousand dollar (\$2,000) surety bond, thirty (30) months minimum journeyman experience, and successful completion of appliance plumbing specialty contractor's test. (7-1-99)

d. Appliance plumbing specialty journeymen must have eighteen (18) months apprentice on-the-job experience, satisfactory completion of seventy-two (72) hours of Idaho Plumbing Board-approved, related training classes and successful completion of the appliance plumbing specialty journeyman's test. (7-1-99)

e. Appliance plumbing specialty apprentices must be employed by a licensed contractor, under the supervision of a journeyman, be enrolled in or have completed Idaho Plumbing Board-approved related training classes and maintain state registration. (7-1-99)

04. Special Grandfathering Provision. (7-1-99)

a. Contractor: In lieu of the thirty (30) months minimum journeyman experience requirement, an individual may use five (5) years experience of owning and operating a business where this specialty applies AND satisfactory completion of seventy-two (72) hours of Idaho Plumbing Board-approved related training classes. For this purpose, a business is defined as an activity in which tax returns were required to be and have been filed for at least five (5) years. (7-1-99)

b. Journeyman: In lieu of the eighteen (18) months apprentice on-the-job experience requirement, an individual may use five (5) years experience working for a business where this specialty applies. For this purpose, working for a business is defined as being issued a W-2 earning form from a related business or businesses for at least five (5) years. (7-1-99)

05. Applications for Specialty Licenses. Applications for the above specialty licenses may be obtained from the ~~Plumbing Bureau~~, Division of Building Safety. The forms shall be returned with the examination fee provided by Section 54-2614, Idaho Code, with proof of the required experience in the field of this specialty. (7-1-99)()

06. Examinations for Specialty Licenses. Written examinations for specialty plumbing licenses shall be formulated from the practical application of the sections of the Uniform Plumbing Code as adopted by the Idaho Plumbing Board under Section 54-2601, Idaho Code. (7-1-99)

07. Fees. Fees for certificates shall be required in accordance with Section 54-2616, Idaho Code. (7-1-99)

08. Scope of Work Permitted. Permitted to disconnect, cap, remove, and reinstall within sixty (60) inches of original location: water heating appliance, water treating or filtering devices; air or space temperature modifying equipment which involves potable water; humidifier; temperature and pressure relief valves; condensate drains and indirect drains in one (1)-family and two (2)-family residences only. Does not include installation, testing, or certifying of backflow prevention devices. Does NOT include any modification to the drain, waste or vent systems. Must comply with all Idaho plumbing laws and rules and the requirements of the Uniform Plumbing Code. (7-1-99)

019. WATER PUMP PLUMBING SPECIALTY LICENSE.

The purpose of this section is to set out the special types of plumbing installations for which a water pump plumbing specialty license is required; to set out the minimum experience requirements for such licenses; and to describe the procedure for securing such licenses. (7-1-99)

01. Qualified Journeyman Plumbers. Qualified journeyman plumbers as defined in Section 54-2611(b), Idaho Code, shall be permitted to make installations as subsequently described herein without securing an additional license for said installation. (7-1-99)

02. Qualified Apprentice Plumbers. Qualified apprentice plumbers as defined in Section 54-2611(c), Idaho Code, shall be permitted to make installations as subsequently described herein without securing an additional license for said installation. (7-1-99)

03. Minimum Experience Requirements. (7-1-99)

a. Experience gained by an individual while engaged in the practice of water pump plumbing specialty shall not be considered towards the satisfaction of the minimum experience requirements for licensing as a journeyman plumber. (7-1-99)

b. All qualified water pump plumbing specialty journeymen shall be licensed and be in the employ of a licensed plumbing contractor or specialty contractor limited to this category. (7-1-99)

c. Water pump plumbing specialty contractors must have a two thousand dollars (\$2,000) surety bond, thirty (30) months minimum journeyman experience, and successful completion of water pump plumbing specialty contractor's test. (7-1-99)

d. Water pump specialty journeymen must have eighteen (18) months apprentice on-the-job experience, satisfactory completion of twelve (12) hours of Idaho Plumbing Board-approved, related training classes and successful completion of the water pump plumbing specialty journeyman's test. (7-1-99)

e. Water pump plumbing specialty apprentices must be employed by a licensed contractor, under the supervision of a journeyman, be enrolled in or have completed Idaho Plumbing Board-approved related training classes and maintain state registration. (7-1-99)

04. Special Grandfathering Provision. (7-1-99)

a. Contractor: In lieu of the thirty (30) month minimum journeyman experience requirement, an individual may use three (3) years experience of owning and operating a business where this specialty applies and satisfactory completion of twenty-four (24) hours of Idaho Plumbing Board-approved related training classes. For this purpose, a business is defined as an activity in which tax returns were required to be and have been filed for at least three (3) years. (7-1-99)

b. Journeyman: In lieu of the eighteen (18) months apprentice on-the-job experience requirement, an individual may use three (3) years experience working for a business where this specialty applies. For this purpose, working for a business is defined as being issued a W-2 earning form from a related business or businesses for at least three (3) years. (7-1-99)

05. Applications for Specialty Licenses. Applications for the above specialty licenses may be obtained from the ~~Plumbing Bureau~~, Division of Building Safety. The forms shall be returned with the examination fee provided by Section 54-2614, Idaho Code, with proof of the required experience in the field of this specialty. (7-1-99)()

06. Examinations for Specialty Licenses. Written examinations for specialty plumbing licenses shall be formulated from the practical application of the sections of the Uniform Plumbing Code as adopted by the Idaho Plumbing Board under Section 54-2601, Idaho Code. (7-1-99)

07. Fees. Fees for certificates shall be required in accordance with Section 54-2616, Idaho Code. (7-1-99)

08. Scope of Work Permitted. Permitted to install and connect water service piping from pump to storage expansion pressure tank in one (1) and two (2) family residences only. Does not include installation, testing or certifying of backflow prevention devices. Must comply with all Idaho plumbing laws and rules and the requirements of the Uniform Plumbing Code. (7-1-99)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.07 - RULES GOVERNING CIVIL PENALTIES

DOCKET NO. 07-0207-1101

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 Sections 54-2605(1) and 54-2606(3)(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 October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 151 and 152.

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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 27th day of October, 2011.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83542
Phone: (208) 332-8986
Fax: (877) 810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2605(1) and 54-2606(3)(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 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:

No specific provision exists in rule to impose a civil penalty for failure to disclose the required information on an application for registration or certificate of competency. Requiring such disclosure will help prevent applicants, particularly those already licensed in other jurisdictions, from circumventing the journeyman licensure requirements in Idaho. The proposed rule would establish a civil penalty for applicants who fail to disclose the required information on any Division of Building Safety plumbing application, to specifically include their licensure history and any licenses previously held.

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 and the need to establish a civil penalty for an applicant's failure to disclose licensure history.

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

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

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

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0207-1101

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

The principal place of business of the Division of Building Safety, Plumbing ~~Bureau~~ Program is ~~in at Meridian, Idaho. The~~ Division office ~~is~~ located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho. The Plumbing Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and ~~is~~ at 2055 Garrett Way, Suite 7, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The central mailing address is: Division of Building Safety, 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. (3-24-05)()

006. -- 010. (RESERVED)

011. CIVIL PENALTIES.

The following acts shall subject the violator to penalties based on the following schedule. (3-24-05)

01. Plumbing Contractor. Except as provided by Section 54-2602, Idaho Code, any person who acts, or purports to act as a plumbing contractor, as defined by Section 54-2611(a), Idaho Code, without a valid Idaho state certificate of competency authorizing him to do so shall be subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-24-05)

02. Certification or Registration. Except as provided by Section 54-2602, Idaho Code, any person performing plumbing as defined in Section 54-2603, Idaho Code, without an appropriate certificate of competency or registration shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-24-05)

03. Failure to Disclose. Any applicant for a plumbing registration or certificate of competency who upon request fails to disclose any required information including, but not limited to, their complete licensure history or the fact that they have been previously licensed as a journeyman or master plumber in any recognized jurisdiction shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. ()

034. Performance Outside Scope of Certificate. Any specialty contractor or specialty journeyman performing plumbing installations, alterations or maintenance outside the scope of the specialty certificate of competency shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-24-05)

045. Fees, Permits and Inspections. Any person, other than a person who holds a valid Idaho state plumbing contractor's certificate of competency, failing to pay applicable fees, or properly post a plumbing permit, or to request an inspection of all pipes, fittings, valves, vents, fixtures, appliances, appurtenances, and water treatment installations and repairs shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand (\$1,000) for each offense thereafter. (4-2-08)

056. Corrections. Any person, other than a person who holds a valid Idaho state plumbing contractor's certificate of competency, who fails to make corrections in the time allotted in the notice on any plumbing installation as set forth in Section 54-2625, Idaho Code, shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (4-2-08)

067. Gross Violation. In the case of continued, repeated or gross violation of Title 54, Chapter 26, Idaho Code, or IDAPA 07.02.07, disciplinary action shall be initiated against certificate holders under this chapter or the matter shall be referred for prosecution. (3-24-05)

078. Judicial Review. Any party aggrieved by the final action of the Idaho Plumbing Board shall be entitled to a judicial review thereof in accordance with the provisions of Title 67, Chapter 52, Idaho Code. (3-24-05)

IDAPA 07 - DIVISION OF BUILDING SAFETY

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

DOCKET NO. 07-0402-1101

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 39-8605, Idaho Code.

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

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 153 through 155.

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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 27th day of October, 2011.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83542
Phone: (208) 332-8986
Fax: (877) 810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-8605, 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:

This rule will adopt the 2010 edition of A17.1 allowing installation of elevators to the current code, including utilization of the latest manufacturing practices, technologies, and systems. Adoption of the elevator suspension standard A17.6 is necessary because this information was previously located in A17.1 but now has its own independent standard. A17.7 provides for alternative systems to be evaluated per this standard with equivalent “performance based safety guidelines.” Previously, it has been the responsibility of DBS to evaluate these alternative systems or methods for installation approval in Idaho. Without the benefit of an engineering department or testing laboratory, it is an extremely difficult decision. This standard provides a basis for approved organizations (such as UL) to evaluate the system and provides documentation of their results to the authority having jurisdiction. The proposed rule would adopt the most recent (2010) edition of the Safety Code for Elevators and Escalators with several amendments thereto. It would also adopt several other more specific installation standards in the form of the Standard for Elevator Suspension and Governor Systems Performance-based Safety Code for Elevators and Escalators. The rule would also require an accredited Elevator/Escalator certification organization (AECO) approval in accordance with ANSI standard A17.7 in any request for alternate technology or construction from the Division.

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 and the need to

adopt the most recent safety code and installation standards.

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

The incorporated materials consist of the latest editions of the respective codes which will allow elevators and escalators to be installed utilizing the safest and most current manufacturing practices and products, technologies, and systems. Additionally, the incorporated materials contain one code previously located as a section within the larger elevator code that has been newly created as its own independent standard, and another provides flexibility to the industry by allowing for alternate systems to be installed and evaluated based on performance.

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

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

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0402-1101

004. ADOPTION AND INCORPORATION BY REFERENCE.

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

a. ANSI/ASME A17.1 2007~~10~~, Safety Code for Elevators and Escalators with 2008 *Addenda with* the following exceptions: (3-29-10)()

i. Compliance with section 2.8.3.3.2 shall require that the means for disconnecting the main power as required by this section to be within sight of controller. (3-29-10)

ii. Compliance with section ~~8.11.2.3.3, Category 5 Periodic Testing of oil buffers~~ 8.11.2.1.5(c) Car and Counterweight Buffer testing shall be conducted at slow speed in accordance with Item 5.9.2.1(a) in ANSI/ASME A17.2 2007. (3-29-10)()

iii. Compliance with Section 2.2.2.5, which requires a sump pump or drain in the elevator pit, shall be optional. If a sump pump or drain is installed, it shall meet the requirements

of this section. A sump with a cover shall be provided in each elevator pit. ()

b. ANSI/ASME A17.2 2007 Guide for Inspection of Elevators, Escalators, and Moving Walks. (3-29-10)

c. ANSI/ASME A17.3 2008 Safety Code for Existing Elevators and Escalators. (3-29-10)

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

e. ANSI/ASME A17.5 2004 Elevator and Escalator Electrical Equipment. (5-8-09)

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

g. ANSI/ASME A17.7 2007 Performance-based Safety Code for Elevators and Escalators. ()

fh. ICC/ANSI A117.1 2003 Accessible and Usable Buildings and Facilities. (4-2-08)

gi. ANSI/ASME A18.1 2008 Safety Standards for Platform Lifts and Chairlifts. (3-29-10)

hj. ASME QE-1 2007~~10~~ Standard for the Qualification of Elevator Inspectors. (~~3-29-10~~)()

02. Copies. Copies of the codes, amendments, and updates listed in Subsection 004.01 of these rules are available for review at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150, Meridian, Idaho 83642 ~~and~~; 1250 Ironwood Dr., Suite 220, Coeur d'Alene, Idaho 83814; and 2055 Garrett Way, Suite 7, Pocatello, Idaho 83201. (~~4-2-08~~)()

005. DIVISION OFFICE INFORMATION.

01. Office Hours. The office is open from 8 a.m. until 5 p.m. daily, except Saturday, Sunday, and legal holidays. (4-6-05)

02. Street Address. The office is located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho. (~~4-6-05~~)()

03. Mailing Address. The office mailing address is Division of Building Safety, 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. (~~4-6-05~~)()

04. Telephone Number. The office telephone number is (~~208~~) ~~334-3950~~ (800) 955-3044. (~~4-6-05~~)()

05. Facsimile Number. The office facsimile number is (~~208~~) ~~855-9494~~ (877) 810-2840. (~~4-6-05~~)()

- 06. Internet Address.** The Division's Internet website at <http://dbs.idaho.gov/>. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

012. APPROVAL OF NEW OR ALTERNATIVE TECHNOLOGY.

01. Administrator Approval Required. If, due to construction or technological impediments, an elevator or conveyance cannot comply with applicable code requirements, approval of new or alternative construction or technology may be requested from the administrator. (4-6-05)

02. Approval Required Prior to Construction. Approval of new or alternative technology must be obtained from the administrator before construction is commenced. (4-6-05)

03. Submission Deadline. Details of the proposed construction or technology, including design, material specifications and calculations, and such other information as may be requested, shall be submitted to the administrator at least thirty (30) days in advance of the anticipated construction start date. (4-6-05)

a. The manufacturer of the new product or system shall provide the administrator with an Accredited Elevator/Escalator Certification Organization (AECO) approval and certification in accordance with ANSI/ASME A17.7 Performance-based Safety Code for Elevators and Escalators or engineering and test data demonstrating that the proposed technology is safe for the intended purpose. (4-6-05)()

b. The owner of the new product or system shall provide the administrator with a document in which the owner acknowledges that the proposed technology is not governed by the applicable safety code and assures the administrator that, at such time as the code is revised to include the product or system, the owner shall modify the product or system to bring it into compliance. The owner shall assure the administrator that if the product or system cannot be modified or altered to bring it into compliance with the applicable code it will be removed and replaced with code-compliant equipment. (4-6-05)

c. The manufacturer of the new product or system shall provide Division personnel with training about the proposed technology and any related products or systems at no cost to the Division. (4-6-05)

04. Engineer Approval. The information provided in compliance with the foregoing requirements shall be approved by an Accredited Elevator/Escalator Certification Organization (AECO) or a registered professional engineer experienced in elevator or conveyance design prior to submission to the administrator. (4-6-05)()

IDAPA 07 - DIVISION OF BUILDING SAFETY

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

DOCKET NO. 07-0701-1101

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 Sections 54-5005(2), 54-5007 and 54-5019, 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 158 through 160.

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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 27th day of October, 2011.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83542
Phone: (208) 332-8986
Fax: (877) 810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-5005(2), 54-5007 and 54-5019, 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:

HVAC contractors and specialty contractors are required to secure a compliance bond as a condition of obtaining an HVAC contractor and specialty contractor license from DBS. The compliance bond may be utilized by the Division for the protection of the public to ensure that HVAC installations the contractor may make are done so in compliance with the adopted HVAC codes. The bond is required to be active for the entire duration of the licensing period (3 years). DBS has learned that often a bond is purchased by a contractor only for the purpose of obtaining the license from the Division and is not effective for the full licensure period. DBS is also required to provide a notice in the form of an inspection tag on each HVAC installation that is unacceptable as not installed to code, and that corrections are required. The proposed rule would clarify that HVAC contractors and specialty contractors must obtain a compliance bond in lieu of a performance bond, and that the bond must be effective for the entire duration of the licensing period. The rulemaking would also eliminate the need to have different colored inspection tags and clarify that unacceptable HVAC installations will receive a Notice of Correction tag.

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 in clarifying the requirements for compliance bonds and notification of required corrections to HVAC installations.

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

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

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

DATED this 29th day of August 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0701-1101

021. HVAC CONTRACTOR CERTIFICATE OF COMPETENCY - REQUIREMENTS.

01. Bond. Applicants shall provide a *performance compliance* bond in the amount of two thousand dollars (\$2,000). *Any such bond is required to be effective for the duration of the contractor licensing period.* (3-16-04)(____)

02. Qualification. Applicants shall provide proof, satisfactory to the board, of having legally acted as an HVAC journeyman for a period of not less than twenty-four (24) months. (3-16-04)

03. Examination. Applicants for certification as HVAC contractors must successfully complete the examination designated by the board. (3-16-04)

022. HVAC SPECIALTY CONTRACTOR CERTIFICATE OF COMPETENCY - REQUIREMENTS.

01. Bond. Applicants shall provide a *performance compliance* bond in the amount of two thousand dollars (\$2,000). *Any such bond is required to be effective for the duration of the contractor licensing period.* (3-16-04)(____)

02. Qualification. Applicants shall provide proof, satisfactory to the board, of having legally acted as an HVAC specialty journeyman for a period of not less than twenty four (24) months. (3-16-04)

03. Examination. Applicants for certification as HVAC specialty contractors must successfully complete the examination designated by the board. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

060. REQUIRED INSPECTIONS.

All work performed under a HVAC permit shall be inspected by a designated, qualified, properly identified agent of the authority having jurisdiction to ensure compliance with Title 54, Chapter 50, Idaho Code, and IDAPA 07.07.01. (3-16-04)

01. Request for Division of Building Safety Inspection. (3-16-04)

a. Inspection. Each permit holder shall notify the Division at least one (1) day prior to the desired inspection, Sundays and holidays excluded, that the project is ready for inspection. (3-16-04)

b. Reinspection. If a reinspection is required after the final inspection, due to a failure to meet requirements of Title 54, Chapter 50, Idaho Code, and/or these rules, the permit holder will be charged a fee not to exceed the actual cost of each reinspection. (3-16-04)

02. Inspection Tags. Inspectors certify to the permit holder that an inspection has been done by securely attaching the inspection tag in a prominent location. (5-8-09)

a. Final Inspection Tags. An inspection tag indicating that a final inspection has been performed is attached when the HVAC installation as specified on the permit is complete and conforms to the requirements of the code and rules. (5-8-09)

b. Inspection Tags for Unacceptable HVAC Installations. ~~Red-colored~~ **“unacceptable” “Notice of Correction”** inspection tags are attached to indicate that the HVAC installation is not acceptable and that corrections are required. ~~(3-16-04)~~()

c. Work-in-Progress Tag. An inspection tag indicating that a work-in-progress inspection has been performed is attached following inspection of ground work, rough-in work, or any portion of the installation that is to be covered or otherwise concealed before completion of the entire HVAC installation as specified on the permit. (5-8-09)

IDAPA 07 - DIVISION OF BUILDING SAFETY

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

DOCKET NO. 07-0701-1102

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 Sections 54-5001 and 54-5005(2), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 161 and 162.

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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 27th day of October, 2011.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83542
Phone: (208) 332-8986
Fax: (877) 810-2840

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 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 location and protection of the gas regulator, meter, and associated gas piping are the responsibility of the utility company and not within the jurisdiction of the Division of Building Safety. There are no provisions in either the Fuel Gas Code or the Mechanical Code which address the protection of these installations; however, it is addressed in the LP Gas Code Handbook. Additionally, enforcement of these requirements is difficult given the ambiguity of what is considered to be adequate protection of this equipment, as well as the lack of clarity as to where the termination point is of the piping installed inside the structure which connects out to this equipment – the Division’s authority terminates at such point. The proposed rule would eliminate the requirements related to the location and protection of the gas piping, regulators, and meters.

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 in eliminating certain requirements related to gas stub outs which are not within the jurisdiction of the Division of Building Safety.

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

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

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

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0701-1102

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

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

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

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

c. All references to the International Code Council Electrical Code (ICC EC) shall be construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. (4-11-06)

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

~~**e.** 405.1. Installation in Areas of Heavy Snowfall. In areas where heavy snowfall is anticipated, piping, regulators, meters, and other equipment installed in the piping system shall be protected from physical damage, including falling, moving, or migrating snow and ice. If an added structure is used for protection, it must provide access for service and comply with local building codes. (7-1-10)~~

~~**f.** 405.2. Point of Termination. Gas piping stubbed out for a meter or regulator connection shall be a minimum of three (3) feet horizontally from any building opening, and not less than five (5) feet horizontally from any source of ignition, opening to direct-vent (sealed combustion system) appliance, or mechanical ventilation air intakes. (7-1-10)~~

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

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

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

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

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

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

IDAPA 09 - DEPARTMENT OF LABOR

09.01.30 - UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES

DOCKET NO. 09-0130-1101

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 72-1333, Idaho Code.

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

There is no change to the pending rule, therefore, it 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, pages 29 through 31.](#)

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

There will be no impact on the general fund as a result of this rule change.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Josh McKenna at 332-3570 ext. 3919.

DATED this 30th of August, 2011.

Josh McKenna, (Acting) Bureau Chief
Idaho Department of Labor
317 W. Main Street, Boise, Idaho 83735
Phone 332-3570 ext. 3919 / Fax 334-6125

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

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 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 72-1333, 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:

IDAPA 09.01.30.375 is being amended to limit when a corporate officer can be personally eligible for unemployment insurance benefits. IDAPA 09.01.30.550 allows claimants to file continued claim reports by facsimile or electronic mail. This will help eliminate the late payment of benefits to claimants filing from out of state.

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

Compliance with deadlines in amendments to governing law or federal programs and conferring a benefit.

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: There will be no fiscal impact to the General Fund as a result of this rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because IDAPA 09.01.30 is being changed to accurately reflect statutory language and conform with Section 72-1312A, Idaho Code passed during the 2011 Legislative Session.

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 Josh McKenna at 332-3570 ext. 3919.

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 August 24, 2011.

DATED this 6th of July, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-1101

375. FULLY EMPLOYED/NOT UNEMPLOYED.

Ref. Sec. ~~tion~~ 72-1312(1), Idaho Code.

~~(3-19-99)~~()

01. Excessive Earnings Week. An excessive earnings week is a week in which the claimant's wages allocable to that week are more than one and one-half (1-1/2) times the claimant's weekly benefit amount. (3-19-99)

02. Leave of Absence. A claimant who is on a mutually agreed upon leave of absence is employed and not eligible for benefits. In order to meet the definition of "leave of absence," the employer must have committed to the claimant's return to work at the end of the leave. (3-19-99)

03. Suspension. A claimant who has been suspended with or without pay for a specific number of days, who has been given a date to resume employment after the suspension, is not considered unemployed and is not eligible for benefits. (3-15-02)

04. Corporate Officer. A corporate officer whose claim for benefits is based on wages with a corporation in which the corporate officer or a family member of the corporate officer has an ownership interest is considered unemployed and eligible for benefits only when his unemployment is due to circumstances beyond his control or the control of a family member of the corporate officer with an ownership interest in the corporation. A corporate officer has the burden of proving by a preponderance of evidence that he is unemployed due to circumstances beyond his control or the control of a family member with an ownership interest in the corporation. ()

a. Not unemployed. Corporate officers are not unemployed and are ineligible for benefits in any week during the corporate officer's term of office with the corporation even if wages are not being paid. ()

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

- i. Unemployment due to the corporate officer's removal from the corporation under circumstances that satisfy the personal eligibility conditions set forth in Section 72-1366, Idaho Code; ()
- ii. Unemployment due to dissolution of the corporation; or ()
- iii. Unemployment due to the sale of the corporation to an unrelated third party.()
- c. Rebuttable presumption - Overpayment. If at any time during the benefit year the corporate officer resumes or returns to work for the corporation, it shall be a rebuttable presumption that the corporate officer's unemployment was due to circumstances within the corporate officer's control or the control of a family member with an ownership interest in the corporation, and all benefits paid to the corporate officer during the benefit year shall be considered an overpayment for which the corporate officer shall be liable for repayment. ()
- d. Family member. "Family member" is defined as a person related by blood or marriage as a parent, stepparent, grandparent, spouse, brother, sister, child, stepchild, adopted child or grandchild. ()

(BREAK IN CONTINUITY OF SECTIONS)

550. REPORTING REQUIREMENTS.

Each claimant shall report weekly or biweekly for benefits as directed. When filing claim reports, a claimant shall use the reporting method assigned by the Department. Failure to file timely reports in a manner required by this rule shall result in ineligibility for benefits for the week(s) claimed. Ref. Sec-tion 72-1366(1), Idaho Code. (4-2-08)()

01. In-Person Reports. A claimant reporting in person must hand the report to an authorized employee of the local office or place it in a receptacle identified for that purpose. The Department will not accept reports deposited under or through the doors of the office. Reports filed in person at a local office shall be considered timely when filed within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the following next working day. (3-19-99)()

02. Mailed Reports. Reports that are mailed shall be considered timely when the envelope containing the report is postmarked within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period shall be extended to include the following next working day. (3-19-99)()

03. Telephone/Internet Reports. Reports filed by telephone to the Idaho Tel A Claim system or via the internet must be shall be considered timely when made between 12:01 a.m. Mountain Time of the Sunday following the week being claimed and midnight Mountain Time of the Saturday following the week being claimed. (3-20-04)()

04. Facsimile Reports. Reports filed by facsimile shall be considered timely when transmitted on a form provided by the Department to a telephone number designated by the Department to receive such documents within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the next working day. Reports shall be deemed filed upon receipt by the Department.

()

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

()

046. When Report Missing. If a claimant establishes, by credible and corroborated evidence, that a missing report was ~~personally delivered to a local office or mailed within the filing period~~ properly filed as required by this rule, a replacement report shall be considered timely.

~~(3-19-99)~~()

IDAPA 09 - DEPARTMENT OF LABOR

09.01.35 - UNEMPLOYMENT INSURANCE TAX ADMINISTRATION RULES

DOCKET NO. 09-0135-1101

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 72-1333, Idaho Code.

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

There is no change to the pending rule, therefore, it 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, pages 32 through 34.](#)

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

There will be no impact on the general fund as a result of this rule change.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael Johnson at 332-3570 ext. 3082.

DATED this 30th of August, 2011.

Michael Johnson, (Acting) Bureau Chief
Idaho Department of Labor
317 West Main Street, Boise, Idaho 83735
Phone 332-3570 ext. 3082 / Fax 334-6125

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

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 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 72-1333, 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:

IDAPA 09.01.35 is being amended to allow a corporation to exempt its corporate officers from unemployment insurance coverage and to reinstate corporate officers previously exempted. Corporations will not have to pay employment security contributions for exempt corporate officers and exempt corporate officers would not be eligible for unemployment insurance benefits.

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:

Compliance with deadlines in amendments to governing law or federal programs.

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: There will be no fiscal impact to the General Fund as a result of this rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because IDAPA 09.01.35.108 is being changed to accurately reflect statutory language and conform with Section 72-1312A, Idaho Code passed during the 2011 Legislative Session.

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 Michael Johnson at 332-3570 ext. 3082.

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 August 24, 2011.

DATED this 6th of July, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-1101

108. ELECTION TO EXEMPT CORPORATE OFFICERS.

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

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

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

b. Is a shareholder of the corporation; ()

c. Exercises control in the daily management of the corporation; and ()

d. Does not perform manual labor as a primary work responsibility. ()

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

a. Is a shareholder of the corporation; ()

b. Voluntarily agrees to be exempted from coverage; and ()

c. Exercises substantial control in the daily management of the corporation. ()

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

04. Termination of Exemption. A corporate officer's exemption terminates upon the corporate officer's failure to satisfy the election criteria in Subsections 108.01 or 108.02 of this rule. It is the responsibility of the corporation to notify the Department in writing in a format required by the Department when an exempt corporate officer no longer meets the election criteria. A corporation is responsible for any taxes, penalties, and interest due after the date the exemption is terminated or should have been terminated. ()

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

06. Definitions. For purposes of this rule: ()

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

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

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

08. FUTA Applicable. The wages attributable to exempt corporate officers are wages subject to the Federal Unemployment Tax Act (FUTA) and the corporation may be liable for FUTA taxes. ()

1089. -- 110. (RESERVED)

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

10.01.01 - RULES OF PROCEDURE

DOCKET NO. 10-0101-1101

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 54-1208, Idaho Code.

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

Eliminate the need for engineer intern and land surveyor intern applicants to provide references on their examination application;
Adopt national standards for the evaluation of non-accredited engineering programs;
Allow individuals to select retired status at any time upon request; and
Amend the examination submittal deadlines to accommodate converting some examinations to computer-based format.

The differences between the proposed text and the pending text is to change one submittal date from October 10 to October 1 and add the phrase “and be reviewed by the staff and/or Board”.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the July 6, 2011 Idaho Administrative Bulletin, Vol. 11-7, pages 23-30.

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

There is no impact to the state general fund or to the dedicated fund of the Board.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact David L. Curtis, P.E., Executive Director, at dave.curtis@ipels.idaho.gov or at (208) 373-7210.

DATED this 8th day of August, 2011.

David L. Curtis, P.E., Executive Director
Board of Professional Engineers and Professional Land Surveyors
1510 E Watertower St. Ste 110
Meridian, ID 83642
Voice (208) 373-7210; Fax (208) 373-7213
Email: dave.curtis@ipels.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

Wednesday, July 13, 2011 - 9:00 am

**1510 E. Watertower St.
Meridian, ID 83642**

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

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

- 1. Eliminate the need for engineer intern and land surveyor intern applicants to provide references on their examination application;**
- 2. Adopt national standards for the evaluation of non-accredited engineering programs;**
- 3. Allow individuals to select retired status at any time upon request; and**
- 4. Amend the examination submittal deadlines to accommodate converting some examinations to computer-based format.**

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

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

There is no impact to the state general fund or to the dedicated fund of the Board.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the [May 4, 2011 Idaho Administrative Bulletin, Vol. 11-5, Page 52](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David L. Curtis, P.E., Executive Director at dave.curtis@ipels.idaho.gov or at (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2011.

DATED this 9th day of June, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0101-1101

013. PUBLICATIONS.

01. Annual Report. An annual report shall be submitted to the governor, the contents of which shall comply with the provisions of Section 54-1210, Idaho Code. (7-1-93)

02. Roster. A roster of professional engineers, professional land surveyors, engineer interns, land surveyor interns, and engineering and land surveying business entities in good standing and licensees and certificate holders in the retired status as provided in these rules shall be maintained in an electronic format available to the public. (5-8-09)

03. Retired Status. Those licensees who ~~have reached the age of sixty (60) (or are totally and permanently disabled) and~~ are retiring from practice may be listed in the retired section of the Roster, ~~upon application to the Board~~. The biennial fee for being thus listed shall be established by the Board. Such listing does not permit a licensee to engage in the practice of engineering or land surveying. The fee for reinstatement to active practice shall be as required for delayed renewals in Section 54-1216, Idaho Code. (5-8-09)()

(BREAK IN CONTINUITY OF SECTIONS)

016. APPLICATION FOR LICENSURE OR CERTIFICATION.

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

02. Completion of Application. Applications shall be made on such forms as may be prescribed by the Board. An application which is not fully completed by the applicant need not be considered or acted upon by the Board. The application by a business entity for a certificate of authorization to practice or offer to practice engineering or land surveying must set forth their address, and name and address of the individual, or individuals, duly licensed to practice engineering or land surveying in this state, who will be in responsible charge of engineering or land surveying services offered or rendered by the business entity in this state. (5-8-09)

03. Dates of Submittal and Experience Cutoff Date. ~~Applications for the Spring and Fall examination, respectively, must be received by the Executive Director or postmarked by January 10 or August 1 of any year.~~ Examinations may be given in various formats and different submittal dates apply depending on the examination format. For examinations administered once or twice a year in the Spring and Fall, there is an examination assignment cutoff date that varies depending on the actual date of the examination. For examinations administered once or twice a year in the Spring and Fall, receipt of the applications after October 1 for the Spring exam or after July 1 for the Fall exam, may not provide sufficient time for required credentials to arrive at the Board office and be reviewed by the staff and/or Board prior to the exam assignment cutoff date. If this occurs, the applicant will be assigned to a later examination if all requirements are met. For examinations administered in a computer-based format during testing windows, there is no deadline for submittal of the application and the applicant, if assigned to the exam, will be allowed to test during the current testing window, if open on the date of the letter notifying of assignment, or during the next two (2) available testing windows. Failure to test during these periods will void the assignment. For examinations administered continuously in a computer-based format, there is no deadline for submittal of the application and the applicant, if assigned to the exam, will be allowed to test during a nine (9) month period beginning on the date of the letter notifying of assignment. Failure to test during this period will void the assignment. In order for the Board to be able to verify experience, only experience up to the date of submittal of the application will be considered as valid. Experience anticipated between the date of the application submittal and the date of the examination or issuance of license or certificate will not be considered. For students, the application filing date for the Fundamentals of Engineering and the Fundamentals of Surveying examination may be extended at the discretion of the Board. (5-8-09)()

04. Residency Requirement. Except for military personnel stationed in Idaho, only Idaho residents and students at Idaho universities will be assigned to examinations, unless

otherwise approved by the Board. (5-8-09)

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

06. Minimum Standards -- References. An applicant may not be admitted to the examination until satisfactory replies have been received from a minimum of five (5) of his references for professional engineers or land surveyors ~~and three (3) references for engineer interns and land surveyor interns~~. It shall be the responsibility of each applicant to furnish their references with the forms prescribed by the Board. (5-8-09)()

017. EXAMINATIONS.

01. Special or Oral Examination. Examinations for licensure as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern will be held on dates and at times and places to be determined by the Board. Special oral or written examinations may be given by the Board as necessary. (3-29-10)

02. Eligibility for Examinations, Educational Requirements. The application for licensure as a professional engineer, professional land surveyor or certification as an engineer intern or land surveyor intern, together with the written examination, shall be considered in the determination of the applicant's eligibility. Each applicant must meet the minimum requirements as set forth in Section 54-1212, Idaho Code, before being assigned to any examination. (3-29-10)

a. In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs which are accredited by the Engineering Accreditation Commission (EAC) of ABET, Inc. Non-EAC/ABET accredited engineering programs, related science programs, and engineering technology programs will be considered by the Board on their specific merits, but are not considered equal to engineering programs accredited by EAC/ABET. The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee. (3-29-10)

b. An applicant who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed ~~a minimum of fifteen (15) semester credits of Engineering Science at a Sophomore and Junior level, six (6) semester credits of Engineering Design related courses at a Senior level, twelve (12) semester credits of Advanced Mathematics including Calculus and Differential Equations, and twelve (12) semester credits of basic science courses including Chemistry, calculus-based Physics and other appropriate basic science courses~~ **the following** before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for assignment to the examination for certification as an Engineer Intern or as required by Section 54-1212(1)(b), Idaho Code, for assignment to the examination for licensure as a professional engineer: (5-8-09)()

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in calculus and differential equations are required. Additional courses may include linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include courses in chemistry and calculus-based general physics with a minimum of a two (2) semester (or equivalent) sequence in one or the other. Additional basic sciences courses may include life sciences (biology), earth sciences (geology, ecology), and advanced chemistry or physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. ()

ii. Sixteen (16) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. ()

iii. Forty-eight (48) college credit hours of engineering science and engineering design. Courses shall be taught within the college / faculty of engineering having their roots in mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses can be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. ()

iv. Standard, regularly scheduled courses from accredited university programs, (on campus, correspondence, video, etc.) are normally acceptable without further justification other than transcript listing. The Board may require detailed course descriptions for seminar, directed study, special problem and similar courses to insure that the above requirements are met. (7-1-93)

~~v.~~ Graduate level engineering courses, i.e. courses which are available only to graduate students, are normally not acceptable since the Board believes graduate engineering courses may not provide the proper fundamental foundation to meet the broad requirements of professional engineering. (7-1-93)

c. Beginning July 1, 2010, an applicant who has completed a four (4) year bachelor degree program in a related science must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(4)(b), Idaho Code, for assignment to the examination for certification as a Land Surveyor Intern or as required

by Section 54-1212(2)(b), Idaho Code, for assignment to the examination for licensure as a professional land surveyor: (5-8-09)

- i. Three (3) credits in Surveying Law and Boundary Descriptions; (3-30-07)
- ii. Three (3) credits in Route Surveying; (3-30-07)
- iii. Three (3) credits in Public Land Surveying; (3-30-07)
- iv. Three (3) credits in Surveying Software Applications; (3-30-07)
- v. Three (3) credits in Research and Evidence in Surveying; (3-30-07)
- vi. Three (3) credits in Surveying Adjustments and Coordinate Systems; (3-30-07)
- vii. Three (3) credits in Subdivision Planning and Platting; (3-30-07)
- viii. Three (3) credits in Geodesy; and (3-30-07)
- ix. Three (3) credits in Survey Office Practice and Business Law in Surveying. (3-30-07)

d. The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has received a master's degree or Doctor of Philosophy degree from an U.S. institution which has a bachelor degree program accredited by the Engineering Accreditation Commission of ABET, Inc. in the discipline of the applicant's master's degree or Doctor of Philosophy degree, and, in addition, has completed the coursework requirements of Subsection 017.02.b. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (3-29-10)

03. Excused Non-Attendance at Exam. In the event that an applicant cannot attend an examination, he shall immediately notify the Board to that effect and shall state the reason for non-attendance. Normally, no more than one (1) valid excuse and reassignment shall be granted to an applicant. If an applicant fails to appear for two (2) administrations of an examination their application may be terminated and they may be required to submit a new application and pay a new application fee in order to be reconsidered. (3-30-01)

04. Two Examinations for Engineering Licensure. The complete examining procedure for licensure as a professional engineer normally consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer intern certification, and the second is the Principles and Practice of Engineering for professional engineer licensure. The examination shall be a duration as determined by the Board. Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering

program. A certificate as an Engineer Intern will be issued only to those student applicants who earn a passing grade on the examination and who receive a degree. Having passed the Fundamentals of Engineering examination, applicants will be required to take the Principles and Practice of Engineering examination at a later date when qualified by experience. (3-29-10)

05. Fundamentals of Engineering. The Fundamentals of Engineering examination will cover such subjects as are ordinarily given in engineering college curricula and which are common to all fields of practice. The examination may also cover subject matters that are specific to the engineering discipline of the applicants' education. (5-8-09)

06. Principles and Practice of Engineering -- Disciplines. The Principles and Practice of Engineering examination will cover the practice of engineering to test the applicant's fitness to assume responsibility for engineering works affecting the public health, safety and welfare. Separate examinations will be given to test the applicant's fitness in any discipline for which there is an examination which, in the opinion of the Board, meets the requirements of duration and difficulty necessary to adequately test the applicant's fitness to practice in that particular discipline. The Board may use examinations prepared by the National Council of Examiners for Engineering and Surveying (NCEES) or it may prepare or commission the preparation of examinations in disciplines other than those for which examinations may be available from NCEES. (4-22-94)

07. Two Examinations for Land Surveying Licensure. The complete examining procedure for licensure as a professional land surveyor consists of two (2) separate written examinations. The first is the Fundamentals of Surveying examination for land surveyor intern certification, and the second is the Principles and Practice of Surveying for professional land surveyor licensure. The examination shall be a duration as determined by the Board. Having passed the Fundamentals of Surveying examination, applicants will be required to take the Principles and Practice of Surveying examination at a later date when qualified by experience. The examination shall cover the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of Surveying examination may consist of separate modules, each of which must be passed. (3-29-10)

08. Oral or Unassembled Examinations. An oral examination or unassembled written examination, in addition to the prescribed written examination, may be required for professional engineer and professional land surveyor applicants. (7-1-93)

09. Special Examinations. A special examination, written or oral or both, may be required in certain instances where the applicant is seeking licensure through comity or reciprocity with another state or political entity having required written examinations that are not wholly comparable in length, nature or scope. This examination supplements the certified qualifying record of the applicant and establishes a more common basis for judging the application and awarding a certificate of qualification or licensure in this state. The length of these special examinations shall be determined by the Board, but shall in no case exceed the lengths specified for the regular examination. Special examinations may be given at any date and need not conform with regular examination dates. (5-8-09)

10. Grading. Each land surveyor intern, engineer intern and professional engineer applicant must normally attain a scaled score of seventy (70) or above on the entire examination

or modules as determined by the Board, before being awarded certification or licensure. Examinees on the Principles and Practice of Land Surveying examination must normally attain a scaled score of seventy (70) or above on each module of the examination. (3-29-10)

11. Use of NCEES Examinations. Examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) for professional engineer, engineer intern, professional land surveyors, and land surveyor intern may be used by the Board. The examination for the field of structural engineering shall be the examination as determined by the Board. (3-29-10)

12. Review of Examination by Examinee. Due to security concerns about the examinations, examinees shall not be allowed to review their examination. Examinees who fail an examination will be provided a diagnostic analysis of their performance on the examination if such an analysis is available to the Board. (3-20-04)

13. Proctoring of Examinations. Unless otherwise approved, the Board will not proctor an examination for another jurisdiction except State-Specific examinations nor will they request another jurisdiction to proctor an examination for an Idaho applicant. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

019. LICENSEES OR CERTIFICATE HOLDERS OF OTHER STATES AND BOARDS.

01. Interstate Licensure Evaluation. Each application for Idaho professional engineer license or professional land surveyor license submitted by an applicant who is licensed as a professional engineer, or licensed as a professional land surveyor, respectively, in one (1) or more states, territories or foreign countries, shall be considered by the Board on its merits, and the application evaluated for substantial compliance with respect to the requirements of the Idaho law. Graduates of programs accredited by organizations signatory to the “Washington Accord” and graduates from programs evaluated by ABET as being substantially equivalent to EAC/ABET programs shall be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. Individuals who have passed examinations considered by the Board to be of comparable difficulty and duration as those utilized by the Board shall be considered to have satisfied the examination requirement for issuance of a license as a professional engineer or professional land surveyor. (5-8-09)

a. The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has been licensed in another jurisdiction of the United States for an minimum of ten (10) years and has not had any disciplinary action against them and there is none pending, and possesses the education, experience and examination credentials that were specified in the applicable registration chapter in effect in this state at the time such certification was issued. The Board may table action on the application pending receipt

of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (5-8-09)

b. An applicant who was originally licensed in another jurisdiction after June 30, 1996 and who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed ~~a minimum of fifteen (15) semester credits of Engineering Science at a Sophomore and Junior level, six (6) semester credits of Engineering Design related courses at a Senior level, twelve (12) semester credits of Advanced Mathematics including Calculus and Differential Equations, and twelve (12) semester credits of basic science courses including Chemistry, calculus-based Physics and other appropriate basic science courses~~ **the following** before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code: ~~(3-30-07)()~~

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in calculus and differential equations are required. Additional courses may include linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include courses in chemistry and calculus-based general physics with a minimum of a two (2) semester (or equivalent) sequence in one or the other. Additional basic sciences courses may include life sciences (biology), earth sciences (geology, ecology), and advanced chemistry or physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. ()

ii. Sixteen (16) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. ()

iii. Forty-eight (48) college credit hours of engineering science and engineering design. Courses shall be taught within the college / faculty of engineering having their roots in mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses can be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. ()

c. An applicant who was originally licensed in another jurisdiction after June 30, 2010 who has completed a four (4) year bachelor degree program in a related science must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(2)(b), Idaho Code, for licensure as a professional land surveyor: (3-30-07)

- i. Three (3) credits in Surveying Law and Boundary Descriptions; (3-30-07)
- ii. Three (3) credits in Route Surveying; (3-30-07)
- iii. Three (3) credits in Public Land Surveying; (3-30-07)
- iv. Three (3) credits in Surveying Software Applications; (3-30-07)
- v. Three (3) credits in Research and Evidence in Surveying; (3-30-07)
- vi. Three (3) credits in Surveying Adjustments and Coordinate Systems; (3-30-07)
- vii. Three (3) credits in Subdivision Planning and Platting; (3-30-07)
- viii. Three (3) credits in Geodesy; and (3-30-07)
- ix. Three (3) credits in Survey Office Practice and Business Law in Surveying. (3-30-07)

02. Denials or Special Examinations. An application from a licensee of another state, territory or foreign country may be denied by the Board for any just cause and the application fee retained; or the Board may approve the applicant for a special written and/or oral examination. (3-29-10)

03. Business Entity Requirements. No application for a certificate of authorization to practice or offer to practice professional engineering or professional land surveying, or both, in Idaho by a business entity authorized to practice professional engineering or professional land surveying or both in one (1) or more states, territories or foreign countries shall be considered by the Board unless such application includes the name and address of the individual or individuals, duly licensed to practice professional engineering or professional land surveying or both in this state, who will be in responsible charge of the engineering or land surveying services, or both, as applicable, to be rendered by the business entity in Idaho. The said individual or individuals must certify or indicate to the Board their willingness to assume responsible charge. (5-8-09)

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

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY

DOCKET NO. 10-0102-1101

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 54-1208, Idaho Code.

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

Reduced from 60 to 20 the number of days which a license holder has to respond to notification of discovery of a material discrepancy by another license holder;

Provide for an exception to the rule requiring license holders to notify other license holders of the discovery of material discrepancy if the licensee is working in the employ of an attorney as an expert witness;

Provide for a two-staged process of notification of discovery of material discrepancy, first informally, then in writing, and make notification to the Board optional rather than mandatory if the discoverer does not receive a response that answers the concerns of the discoverer; and

Establish a limitation on the amount of time that can pass following discovery of an event for the Board to accept an affidavit of complaint.

The difference between the proposed text and the pending text is to add the parenthetical phrase “with supportable evidence” to Subsection 005.04 which is reprinted here, as amended. following this notice.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only that section that has changes that differ from the proposed text is printed in this bulletin. The complete text of the proposed rule was published in the [July 6, 2011 Idaho Administrative Bulletin, Vol. 11-7, pages 31-33.](#)

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

There is no impact to the state general fund or to the dedicated fund of the Board.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact David L. Curtis, P.E., Executive Director, at dave.curtis@ipels.idaho.gov or at (208) 373-7210.

DATED this 16th day of September, 2011.

David L. Curtis, P.E., Executive Director
Board of Professional Engineers and Professional Land Surveyors
1510 E Watertower St., Ste 110
Meridian, ID 83642
Voice (208) 373-7210; Fax (208) 373-7213
Email: dave.curtis@ipels.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

Wednesday, July 13, 2011 - 9:00 am

**1510 E. Watertower St.
Meridian, ID 83642**

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

- 1. Reduced from 60 to 20 the number of days which a license holder has to respond to notification of discovery of a material discrepancy by another license holder;**
- 2. Provide for an exception to the rule requiring license holders to notify other license holders of the discovery of material discrepancy if the licensee is working in the employ of an attorney as an expert witness;**
- 3. Provide for a two-staged process of notification of discovery of material discrepancy, first informally, then in writing, and make notification to the Board optional rather than mandatory if the discoverer does not receive a response that answers the concerns of the discoverer; and**
- 4. Establish a limitation on the amount of time that can pass following discovery of an event for the Board to accept an affidavit of complaint.**

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

increased:

There is no fee associated with this proposed rule.

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

There is no impact to the state general fund or to the dedicated fund of the Board.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the [May 4, 2011 Idaho Administrative Bulletin, Vol. 11-5, Page 53](#).

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

No materials are cited as being incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David L. Curtis, P.E., Executive Director at dave.curtis@ipels.idaho.gov or at (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2011.

DATED this 9th day of June, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0102-1101

005. RESPONSIBILITY TO THE PUBLIC.

01. Primary Obligation. All Licensees and Certificate Holders shall at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties. (5-8-09)

02. Standard of Care. Each Licensee and Certificate Holder shall exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. (3-29-10)

03. Professional Judgment. If any Licensee's or Certificate Holder's professional

judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the Licensee or Certificate Holder shall inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation.

(5-8-09)

04. Obligation to Communicate Discovery of Discrepancy. Except as provided in the Idaho Rules of Civil Procedure 26(b)(4)(B), if a Licensee or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Licensee or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer shall make a reasonable effort to inform, ~~in writing,~~ the Licensee or Certificate Holder whose work is believed to contain the discrepancy, error or omission. Such communication shall reference specific codes, standards or physical laws which are believed to be violated and identification of documents which are believed to contain the discrepancies. The Licensee or Certificate Holder whose work is believed to contain the discrepancy shall respond ~~in writing~~ within ~~sixty~~ **twenty** (620) calendar days to any question about his work raised by another Licensee or Certificate Holder. In the event a response is not received within twenty (20) days, the discoverer shall notify the Licensee or Certificate Holder in writing, who shall have another twenty (20) days to respond. Failure to respond (*with supportable evidence*) on the part of the Licensee or Certificate Holder whose work is believed to contain the discrepancy shall be considered a violation of these rules and may subject the Licensee or Certificate Holder to disciplinary action by the Board. The discoverer ~~shall~~ **may** notify the Board in the event a response ~~satisfactory to the discoverer~~ that does not answer the concerns of the discoverer is not obtained within ~~sixty~~ **the second twenty** (620) days. (5-8-09)()

05. Obligation to Comply with Rules of Continuing Professional Development. All Licensees shall comply with the requirements contained in IDAPA 10.01.04, "Rules of Continuing Professional Development." (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

011. RULE AND STATUTE VIOLATIONS.

01. Affidavits for Rule and Statute Violations. Any person who believes that a Licensee or Certificate Holder by his actions, or failure to properly act, is guilty of fraud, deceit, negligence, incompetence, misconduct, or violation of these rules, or any applicable statute, may file a written affidavit with the Executive Director of the Board which shall be sworn to or affirmed under penalty of perjury, signed and in which the alleged rule and statute violations shall be clearly set forth and that the applicable Licensee or Certificate Holder, or both, should be considered for the appropriate disciplinary action by the Board. Following the receipt of such affidavit, the Board may investigate, hold hearings and adjudicate the charges. ~~Proceedings shall be exempt from all statutes of limitations.~~ The Board will not accept an affidavit more than two (2) years after discovery of the matter by the complainant. (3-29-10)()

02. Investigation of Statute or Rule Violations. The Board may, at its own discretion, initiate investigation of alleged or possible statute or rule violations that have come to its attention. (5-3-03)

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

10.01.04 - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT

DOCKET NO. 10-0104-1101

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 54-1208, Idaho Code.

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

Clarify that routine job assignments are not considered qualified activities for continuing professional development purposes;

Allow newly licensed persons to carry forward professional development hours earned during the biennium prior to the first renewal following the issuance of the license;

Allow continuing professional development credit for authoring each chapter of a book;

Allow professional development hours for peer review of published technical or professional papers, articles or book chapters;

Allow license holders who are residing outside the United States to earn the required professional development hours upon return to the United States; and

Extend the same exemption from compliance to civilians deployed with the military as is extended to the military.

The difference between the proposed text and the pending text is to extend the same exemption from compliance to civilians deployed with the military as is extended to the military.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the [July 6, 2011 Idaho Administrative Bulletin, Vol. 11-7, pages 34-37.](#)

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

There is no impact to the state general fund or to the dedicated fund of the Board.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact David L. Curtis, P.E., Executive Director, at dave.curtis@ipels.idaho.gov or at (208) 373-7210.

DATED this 8th day of August, 2011.

David L. Curtis, P.E., Executive Director
Board of Professional Engineers and Professional Land Surveyors
1510 E Watertower St. Ste 110
Meridian, ID 83642
Voice (208) 373-7210; Fax (208) 373-7213
Email: dave.curtis@ipels.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

Wednesday, July 13, 2011 - 9:00 am

**1510 E. Watertower St.
Meridian, ID 83642**

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

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

- 1. Clarify that routine job assignments are not considered qualified activities for continuing professional development purposes;**
- 2. Allow newly licensed persons to carry forward professional development hours earned during the biennium prior to the first renewal following the issuance of the license;**
- 3. Allow continuing professional development credit for authoring each chapter of a book;**
- 4. Allow professional development hours for peer review of published technical or**

- professional papers, articles or book chapters; and**
- 5. Allow license holders who are residing outside the United States to earn the required professional development hours upon return to the United States.**

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 as a result of this rulemaking:

There is no impact to the state general fund or to the dedicated fund of the Board.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the [May 4, 2011 Idaho Administrative Bulletin, Vol. 11-5, Page 54](#).

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

No materials are cited as being incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David L. Curtis, P.E., Executive Director at dave.curtis@ipels.idaho.gov or at (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2011.

DATED this 9th day of June, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0104-1101

004. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below: (7-1-99)

01. College Semester or Quarter Credit Hour. Credit for college courses. (7-1-99)

02. Continuing Education Unit (CEU). Unit of credit customarily used for continuing education courses. One (1) continuing education unit equals ten (10) hours of class in an approved continuing education course. (7-1-99)

03. Professional Development Hour (PDH). A contact hour (minimum of fifty (50) minutes) of instruction or presentation. The common denominator for other units of credit.

(7-1-99)

04. Activity. Any qualifying action with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice or practices. Routine job assignments are not considered qualified activities. ~~(5-8-09)~~()

05. Licensee. A person who is licensed to practice as a professional engineer or professional land surveyor or both.

(5-8-09)

06. Board. The Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors.

(5-8-09)

07. Documented Self-Study. Documented study of professional/technical journals, published papers, articles, books, software or other areas of training which increase knowledge of the technology above and beyond routine job assignments.

(5-8-09)

08. Active Participation. Serving as an officer or committee chair at either the national, state or local (section or chapter) level.

(5-8-09)

005. REQUIREMENTS.

Every Licensee is required to obtain thirty (30) PDH units during the renewal period biennium (beginning on the first day of the month following the month in which the Licensee was born). Alternatively, the licensee may choose to obtain thirty (30) PDH units cumulative during the two (2) calendar years which are closest to the renewal period biennium. If a Licensee exceeds the biennial requirement in any renewal period or earns PDHs during a period in which he is exempt, a maximum of thirty (30) PDH units may be carried forward into the subsequent renewal period. If the exemption is for the "First Renewal Period" (see Rule 009.01), then at any time in the full biennium before this first license renewal the licensee may earn up to 30 PDHs to carry forward into their second renewal period following licensure. If the licensee chooses to use the calendar year basis, PDH's in excess of thirty (30) cumulative in two (2) years, or PDH's earned during a period in which he is exempt, can be carried forward to the next two (2) year calendar period, not to exceed thirty (30) PDH's carried forward to the next two (2) year calendar period. PDH units may be earned in the following activities, however, PDH units must come from two (2) or more activities.

~~(5-8-09)~~()

01. Successful Completion of College Credits. (7-1-99)

02. Successful Completion of Continuing Education Units. (7-1-99)

03. Successful Completion of Other Courses. Correspondence, televised, videotaped, and other short courses/tutorials for which college credits or CEUs are awarded.

(7-1-99)

04. Attending Qualifying Seminars. Attending qualifying seminars, inhouse courses, workshops, or technical or professional presentations made at meetings, conventions, or

conferences. (7-1-99)

05. Teaching or Instructing. Teaching or instructing in Subsections 005.01 through 005.04 above, above and beyond routine job assignments. (7-1-99)

06. Authoring Published Papers, Articles, or Books. (7-1-99)

07. Membership in Technical or Professional Organizations. (7-1-99)

08. Active Participation in Technical or Professional Organizations. (7-1-99)

09. Patents. (7-1-99)

10. Presentations to Technical, Professional or Civic Organizations. (7-1-99)

11. Documented Self Study. (5-8-09)

006. UNITS.

The conversion of other units of credit to PDH (Professional Development Hour) units is as follows:

1 College semester credit hour equals	45 PDH
1 College quarter credit hour equals	30 PDH
1 Continuing Education Unit equals	10 PDH
1 Hour of attendance in course work, seminars, or technical or professional presentations made at meetings, conventions, or conferences equals	1 PDH
Teaching the above, above and beyond normal job assignments, apply multiple of 2 for teaching the first time only	
Each published technical or professional paper, article, or book <u>chapter</u> not to exceed a total of 10 PDH's per year, above and beyond normal job assignments	5 PDH per paper, article, or book <u>chapter</u>
<u>Each peer review of a published technical or professional paper, article, or book chapter not to exceed a total of 6 PDH's per year, above and beyond normal job assignments</u>	<u>3 PDH per paper, article, or book chapter</u>
Membership in technical or professional organizations (Maximum of two organizations) equals	1 PDH per year per organization
Active participation in technical or professional organizations (Maximum of two organizations) equals	1 PDH per year per organization
Each patent 5 PDH's, not to exceed per year	5 PDH
Presentations to technical, professional, or civic organizations, first presentation only, equals	2 PDH per hour of presentation
Documented self-study not to exceed	3 PDH per year at the rate of ½ PDH per hour of self-study

~~(5-8-09)~~()

(BREAK IN CONTINUITY OF SECTIONS)

009. EXEMPTIONS.

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

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

02. Active Duty in the Armed Forces. A Licensee serving on active duty in the armed forces of the United States, or a civilian deployed with the military, and temporarily assigned duty at a location other than their normal home station for a period of time exceeding one hundred twenty (120) consecutive days in a renewal period or the two (2) calendar year period closest to the renewal biennium shall be exempt from obtaining the professional development hours required during that renewal period or the two (2) calendar year period closest to the renewal biennium. ~~(5-8-09)~~ ()

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

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

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

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

07. Licensees Residing Outside the United States of America. Licensees employed and residing outside the United States may delay the time required for fulfilling the continuing professional development requirements for a maximum of two (2) biennia or four (4) calendar years until the end of the six (6) month period beginning upon their return to the United States. ()

IDAPA 12 - IDAHO DEPARTMENT OF FINANCE

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-1101

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 Sections 26-31-103(2)(b) and 26-31-204(5), Idaho Code.

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

The pending rule updates references to federal laws and regulations and amends IDAPA 12.01.10.101 to comport with state law, namely to clarify that use of the Nationwide Mortgage Licensing System and Registry (NMLSR) by Idaho mortgage brokers/lenders/originators for license issuance and maintenance is not optional, but required. 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 269 and 270.](#)

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

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

DATED this 29th day of November, 2011.

Anthony Polidori
Supervising Examiner/Investigator
Idaho Department of Finance
800 Park Blvd., Suite 200
Boise, ID 83712
(208) 332-8000 (Phone)
(208) 332-8096 (Fax)

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 26-31-103(2)(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, by 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 purpose of the proposed rulemaking is to update references to federal laws and regulations (Real Estate Settlement Procedures Act, Truth in Lending Act, and Regulations X and Z) from “January 1, 2009” to “January 1, 2011” and to amend IDAPA 12.01.10.101 to comport with state law, namely to clarify that use of the Nationwide Mortgage Licensing System and Registry (NMLSR) by Idaho mortgage brokers/lenders/originators for license issuance and maintenance is not optional, but is required.

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 this rulemaking consists merely of housekeeping amendments to update references to incorporated federal laws and regulations and to make IDAPA 12.01.10.101 consistent with existing requirements in the Idaho Residential Mortgage Practices Act, Section 26-31-101 et seq., Idaho Code.

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

For effective supervision of mortgage practices in Idaho, the Rules Pursuant to the Idaho Residential Mortgage Practices Act define the following federal laws and regulations that are incorporated by reference in the Idaho Residential Mortgage Practices Act: (i) Real

Estate Settlement Procedures Act; (ii) Truth in Lending Act; (iii) Regulation X; and (iv) Regulation Z. This proposed rule will update the definitions of the foregoing federal laws and rules by inserting “January 1, 2011” in place of the outdated reference of “January 1, 2009.”

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

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

DATED this 25th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 12-0110-1101

006. DEFINITIONS (RULE 6).

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

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

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

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

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

05. Real Estate Settlement Procedures Act. Means the act set forth in 12 USCA 2601, et seq., as amended to and including January 1, 20~~09~~11. (~~5-8-09~~)()

06. Regulation X. Means Regulation X as promulgated by the Department of Housing and Urban Development and codified in 24 CFR 3500 et seq., as amended to and including January 1, 20~~09~~11. (~~5-8-09~~)()

07. Regulation Z. Means Regulation Z as promulgated by the Board of Governors of the Federal Reserve System and codified in 12 CFR 226 et seq., as amended to and including January 1, 200911. (5-8-09)()

08. Truth in Lending Act. Means the act set forth in 15 USCA 1601 et seq., as amended to and including January 1, 200911. (5-8-09)()

(BREAK IN CONTINUITY OF SECTIONS)

101. NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY (RULE 101).

01. The Nationwide Mortgage Licensing System and Registry (NMLSR). The NMLSR is an Internet-based filing depository operated by the State Regulatory Registry, LLC (SRR), a wholly-owned operating subsidiary of the Conference of State Bank Supervisors (CSBS). The NMLSR is designed to accept license applications and license renewal applications electronically from mortgage brokers, mortgage lenders, and mortgage loan originators; collect associated statutory filing fees on behalf of participating jurisdictions, as well as the expenses associated with an applicant's or licensee's participation in the NMLSR; and provide the public with Internet-based access to information concerning mortgage brokers, mortgage lenders, and mortgage loan originators. The NMLSR began accepting electronic filings of applications from mortgage brokers, mortgage lenders, and mortgage loan originators from Idaho on January 1, 2008. (3-29-10)

~~**02. Reasonable Access to the NMLSR.** All mortgage brokers, mortgage lenders, and mortgage loan originators with reasonable access to the NMLSR via the Internet who seek a license under the Act, or who wish to retain a license previously issued under the Act, must do so through the NMLSR. Applicants for a license or licensees who wish to retain a license under the Act who lack reasonable access to the NMLSR via the Internet may, upon prior approval of the Director and good cause shown, be excused from participation in the NMLSR and may apply for a license or for license renewal through an alternative method designated by the Director.~~ (3-29-10)

032. Licensing Through the NMLSR. All ~~M~~mortgage brokers, mortgage lenders, and mortgage loan originators who seek to obtain or retain a license under the Act must do so through the NMLSR and must pay the charge imposed and retained by the NMLSR to fund the costs of the NMLSR associated with an applicant's or licensee's participation in the system. (3-29-10)()

043. Statutory Fees. The NMLSR shall collect any statutory fees on behalf of the Idaho Department of Finance that are required to be paid to the Idaho Department of Finance by license applicants and licensees pursuant to the Idaho Residential Mortgage Practices Act. The NMLSR is required to forward to the Idaho Department of Finance all statutory fees it collects on behalf of the Idaho Department of Finance, pursuant to the terms of a written agreement between the Idaho Department of Finance and the SRR. (3-29-10)

IDAPA 15 - OFFICE OF THE GOVERNOR
DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

**15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES
AND IDAHO PERSONNEL COMMISSION**

DOCKET NO. 15-0401-1101

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 67-5309, 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 335 through 337.](#)

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

This rulemaking has no fiscal impact on the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donna Weast at 208-854-3079.

DATED this 30th day of November, 2011.

Vicki Tokita
Administrator
Division of Human Resources
304 N. 8th Street
P.O. Box 83720
Boise, ID 83720-0066
Phone: 208-334-2263
Fax: 208-854-3088

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

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 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 67-5309, 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking is necessary to reflect the expansion of veterans' preference for disabled veterans to require an interview when their names appear in the top 25 of a hiring list. This change brings the rules into compliance with Title 65 Chapter 5 which was changed in the 2011 legislature.

This rulemaking will properly distinguish that temporary service would apply towards entrance probation and acting appointment service would apply towards promotional probation. This is in line with the legislation that was passed in the 2011 legislature amending Section 67-5309, Idaho Code.

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:

To comply with deadlines in amendments to governing law or federal programs. This rulemaking aligns administrative rule with the statute changes adopted by the 2011 Legislature.

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 the temporary and proposed changes are only to correct the rules so they align with Idaho Code.

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 Donna Weast at 208-854-3079.

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

DATED this 31st day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0401-1101

102. PLACEMENT ON REGISTER.

01. Score Order. Eligible candidates will be placed on the register for a given classification ranked in descending numerical order based on their final score on the examination for such classification. (5-8-09)

02. Veterans' Preference. Eligible veterans or surviving spouses entitled to five (5) point preference will be placed on the open competitive register in accordance with their final score on the examination augmented by preference points. (Ref. Rule Subsection 093.03 and Section 65-504, Idaho Code) (5-8-09)

03. Disabled Veterans' Preference. Eligible ten percent (10%) or more disabled veterans, Purple Heart recipients, or surviving spouses entitled to ten (10) point preference will be placed on the open-competitive register in order of their final score on the examination augmented by preference points. Veterans who have a current service-connected disability of thirty percent (30%) or more will be offered an interview when their final score on the hiring list places them within the top ~~ten~~ **twenty-five (25)** qualified candidates. If more than ten (10) thirty percent (30%) or greater disabled veterans place in the top ~~ten~~ **twenty-five (25)** qualified scores of a hiring list, at least ten (10) will be offered an interview. (Ref. Rule Subsection 093.03 and Section 65-504, Idaho Code) ~~(5-8-09)~~()

04. Veterans' Preference Points for Initial Appointment Only. The additional points added by reason of veterans' preference will be used the first time a qualified veteran is hired by a state agency and not for the purpose of promotions. (Ref. Section 65-504, Idaho Code) Initial appointments do not include: (5-8-09)

- a.** Jobs held by patients, inmates, or students employed at a state institution; (5-8-09)
- b.** Temporary or casual employment; or (5-8-09)
- c.** An office filled by election. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

150. PROBATIONARY PERIODS.

01. Probationary Period Required. Except as provided in Section 040 of these rules, every appointment and promotion to a classified position is probationary, or in the absence of adequate registers, provisional. (5-8-09)

02. Types of Probationary Periods. The probationary period serves as a working test period to provide the agency an opportunity to evaluate a probationary employee's work performance and suitability for the position. There are three (3) types of probationary periods: (5-8-09)

a. Entrance probation is the probationary service required of an employee at the time of his original appointment or any subsequent appointment to state classified service excluding reinstatement and transfer, the duration of which is one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who must serve two thousand eighty (2,080) hours. (5-8-09)

b. Promotional probation is the probationary service required when an employee is promoted, the duration of which is one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who must serve two thousand eighty (2,080) hours. (5-8-09)

c. Voluntary probation is an agreement between employees and the appointing authority for interagency employment actions such as reinstatement, transfer, or voluntary demotion. A voluntary probation is not to be used for employment actions within the agency. The probationary period is negotiable but may not exceed one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who may serve up to two thousand eighty (2,080) hours. (5-8-09)

03. Extension of Probationary Period. Upon written request demonstrating good cause, the administrator may extend the probationary period of an employee for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service.

Extension must occur before an employee has worked one thousand forty (1,040) hours or two thousand eighty (2,080) hours for peace officers. (Ref. Section 67-5309(j), Idaho Code) (5-8-09)

04. Interruption of Probationary Period. The probationary period in any classification must be completed within a single agency uninterrupted by termination (Ref. Rule Subsection 152.02) or dismissal (Ref. Rule Section 190). An employee who separated during the probationary period must begin a new probationary period upon reappointment or promotion. (5-8-09)

05. ~~Acting and~~ Temporary Service Credit. At the request of the hiring agency, the administrator will allow temporary ~~and acting appointment~~ service time in a given classification to be used toward fulfilling the entrance probationary requirement in that classification as established in Section 67-5309(j), Idaho Code. The temporary ~~or acting appointment~~ duties must be substantially the same as the regular permanent appointment. (Ref. Section 67-5309(x), Idaho Code, and Rule Sections 122 ~~and 129~~ and Subsection 150.01) (~~5-8-09~~)()

06. Acting Service Credit. At the request of the hiring agency, the administrator will allow acting appointment service time in a given classification to be used toward fulfilling the promotional probationary requirement in that classification as established in Section 67-5309(j), Idaho Code. The acting appointment duties must be substantially the same as the regular permanent appointment. (Ref. Section 67-5309(y), Idaho Code, and Rule Sections 129 and Subsection 150.01) ()

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.09 - MEDICAL FEES

DOCKET NO. 17-0209-1102

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 on July 1, 2012, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, 72-723, and 72-803, 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:

An effective date of July 1, 2012 has been added to the medical fee schedule in 17.02.09.031.03. The delayed effective date from sine die to July 1, 2012 will allow providers and payors time to adjust their billing and payment systems.

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 405 through 409.](#)

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 Patti Vaughn, Medical Fee Schedule Analyst, (208) 334-6084.

DATED this November 4, 2011.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, 72-723, and 72-803, 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 25, 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:

Provides the annual adjustment of the medical fee schedule for physician reimbursement in accordance with Section 72-803, Idaho Code. The reference to individual status codes is removed from Subsection 032.02(c)(i), due to occasional additions and deletions made by CMS that could require annual rule changes. As authorized by Section 72-803, Idaho Code, the Conversion Factors in Section 031 are being adjusted.

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 as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because, as authorized by Section 72-803, Idaho Code, the Commission adopted a rule, IDAPA 17.02.09.031.05, providing for the annual adjustment of medical fee conversion factors in order to reflect any changes in inflation or market conditions. Negotiations about such changes would not be productive.

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 Patti Vaughn, Medical Fee Schedule Analyst, 208-334-6084.

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. 17-0209-1102

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

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission (hereinafter "the Commission") hereby adopts the following rule for determining acceptable charges for medical services provided by physicians under the Idaho Workers' Compensation Law. (4-7-11)

01. Acceptable Charge. Payors shall pay providers the acceptable charge for medical services provided by physicians. (4-7-11)

02. Adoption of Standard for Physicians. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the acceptable charge for medical services provided under the Idaho Workers' Compensation Law by physicians. (4-7-11)

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

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR
Anesthesia	00000 - 09999	Anesthesia	\$60.05 <u>60.33</u>

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR
Surgery - Group One	22000 - 22999 23000 - 24999 25000 - 27299 27300 - 27999 29800 - 29999 61000 - 61999 62000 - 62259 63000 - 63999	Spine Shoulder, Upper Arm, & Elbow Forearm, Wrist, Hand, Pelvis & Hip Leg, Knee, & Ankle Endoscopy & Arthroscopy Skull, Meninges & Brain Repair, Neuroendoscopy & Shunts Spine & Spinal Cord	\$140.00
Surgery - Group Two	28000 - 28999 64550 - 64999	Foot & Toes Nerves & Nervous System	\$129.00
Surgery - Group Three	13000 - 19999 20650 - 21999	Integumentary System Musculoskeletal System	\$113.52
Surgery - Group Four	10000 - 12999 20000 - 20615 29000 - 29799 30000 - 39999 40000 - 49999 50000 - 59999 60000 - 60999 62260 - 62999 64000 - 64549 65000 - 69999	Integumentary System Musculoskeletal System Casts & Strapping Respiratory & Cardiovascular Digestive System Urinary System Endocrine System Spine & Spinal Cord Nerves & Nervous System Eye & Ear	\$87.72
Radiology	70000 - 79999	Radiology	\$87.72 <u>88.54</u>
Pathology & Laboratory	80000 - 89999	Pathology & Laboratory	To Be Determined
Medicine - Group One	90000 - 90799 94000 - 94999 97000 - 97799 97800 - 98999	Immunization, Injections, & Infusions Pulmonary / Pulse Oximetry Physical Medicine & Rehabilitation Acupuncture, Osteopathy, & Chiropractic	\$47.00
Medicine - Group Two	90800 - 92999 93000 - 93999 95000 - 96020 96040 - 96999 99000 - 99607	Psychiatry & Medicine Cardiography, Catheterization, & Vascular Studies Allergy / Neuromuscular Procedures Assessments & Special Procedures E / M & Miscellaneous Services	\$68.50

(4-7-11)()

04. Anesthesiology. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units

will not be used for CPT Code 01996. (4-7-11)

05. Adjustment of Conversion Factors. The conversion factors set out in this rule shall be adjusted each fiscal year (FY) by the Commission to reflect changes in inflation or market conditions in accordance with Section 72-803, Idaho Code. (4-7-11)

06. Services Without CPT Code, RVU or Conversion Factor. The acceptable charge for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 031.03, above, determine the acceptable charge for that service, based on all relevant evidence in accordance with the procedures set out in Section 034, below. (4-7-11)

07. Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will be reimbursed as follows: (4-7-11)

- a.** Modifier 50: Additional fifty percent (50%) for bilateral procedure. (4-7-11)
- b.** Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (4-7-11)
- c.** Modifier 80: Twenty-five percent (25%) of coded procedure. (4-7-11)
- d.** Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (4-7-11)

032. ACCEPTABLE CHARGES FOR MEDICAL SERVICES PROVIDED BY HOSPITALS AND AMBULATORY SURGERY CENTERS UNDER THE IDAHO WORKERS' COMPENSATION LAW.

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Commission hereby adopts the following rule for determining acceptable charges for medical services provided by hospitals and ambulatory surgery centers under the Idaho Workers' Compensation Law. (1-1-12)

01. Acceptable Charge. Payors shall pay providers the acceptable charge for medical services provided by hospitals and ambulatory surgery centers. (1-1-12)

02. Adoption of Standards for Hospitals and ASCs. The following standards shall be used to determine the acceptable charge for hospitals and ambulatory surgery centers. (1-1-12)

- a.** Critical Access and Rehabilitation Hospitals. The standard for determining the acceptable charge for inpatient and outpatient services provided by a critical access or rehabilitation hospital is ninety percent (90%) of the reasonable charge. Implantable hardware charges shall be reimbursed at the rate of the actual cost plus fifty percent (50%). (1-1-12)

b. Hospital Inpatient Services. The standard for determining the acceptable charge for inpatient services provided by hospitals, other than critical access and rehabilitation hospitals, is calculated by multiplying the base rate by the current MS-DRG weight for that service. The base rate for inpatient services is ten thousand dollars (\$10,000). Inpatient services that do not have a relative weight shall be paid at eighty-five percent (85%) of the reasonable charge; however, implantable hardware charges billed for services without an MS-DRG weight shall be reimbursed at the rate of actual cost plus fifty percent (50%). (1-1-12)

c. Hospital Outpatient and Ambulatory Surgical Center (ASC) Services. The standard for determining the acceptable charge for outpatient services provided by hospitals (other than critical access and rehabilitation hospitals) and for services provided by ambulatory surgical centers is calculated by multiplying the base rate by the Medicare Hospital Outpatient Prospective Payment System (OPPS) APC weight in effect on the first day of January of the current calendar year. The base rate for hospital outpatient services is one hundred and thirty-eight dollars (\$138). The base rate for ASC services is ninety dollars (\$90). (1-1-12)

i. ~~If Medical services for which~~ there is no ~~APC~~ weight listed ~~for APC status codes A, B, C, D, E, F, G, H, K, L, M, Q, S, T, V, X, or Y, then reimbursement~~ shall be ~~reimbursed at~~ seventy-five percent (75%) of the reasonable charge. ~~(1-1-12)()~~

ii. Status code N items (other than implantable hardware) or items with no CPT or Healthcare Common Procedure Coding System (HCPCS) code shall receive no payment. (1-1-12)

iii. Two or more medical procedures with a status code T on the same claim shall be reimbursed with the highest weighted code paid at one hundred percent (100%) of the APC calculated amount and all other status code T items paid at fifty percent (50%). (1-1-12)

iv. Status code Q items with an assigned APC weight will not be discounted. (1-1-12)

d. Hospitals Outside of Idaho. Reimbursement for services provided by hospitals outside the state of Idaho may be based upon the agreement of the parties. If there is no agreement, services shall be paid in accordance with the workers' compensation fee schedule in effect in the state in which services are rendered. If there is no hospital fee schedule in effect in such state, or if the fee schedule in that state does not allow reimbursement for the services rendered, reimbursement shall be paid in accordance with these rules. (1-1-12)

e. Additional Hospital Payments. When the charge for a medical service provided by a hospital (other than a critical access or rehabilitation hospital) meets the following standards, additional payment shall be made for that service, as indicated. (1-1-12)

i. Inpatient Threshold Exceeded. When the charge for a hospital inpatient MS-DRG coded service exceeds the sum of thirty thousand dollars (\$30,000) plus the payment calculated under the provisions of Subparagraph 032.02.b. of this rule, then the total payment for that service shall be the sum of the MS-DRG payment and the amount charged above that threshold multiplied by seventy-five percent (75%). Implantable charges shall be excluded from the calculation for an additional inpatient payment under this Subparagraph. (1-1-12)

ii. Inpatient Implantable Hardware. Hospitals may seek additional reimbursement beyond the MSDRG payment for invoiced implantable hardware where the aggregate invoice cost is greater than ten thousand dollars (\$10,000). Additional reimbursement shall be the invoice cost plus an amount which is equal to ten percent (10%) of the invoice cost, but which does not exceed three thousand dollars (\$3,000). Handling and freight charges shall be included in invoice cost. (1-1-12)

iii. Outpatient Implantable Hardware. Hospitals and ASCs may seek additional reimbursement beyond the APC payment for invoiced implantable hardware where the aggregate invoice cost is greater than five hundred dollars (\$500). Additional reimbursement shall be the invoice cost plus an amount which is equal to ten percent (10%) of the invoice cost, but which does not exceed one thousand dollars (\$1,000). Handling and freight charges shall be included in invoice cost. (1-1-12)

03. Disputes. The Commission shall determine the acceptable charge for hospital and ASC services that are disputed based on all relevant evidence in accordance with the procedures set out in Section 034 of this rule. (1-1-12)

04. Adjustment of Hospital and ASC Base Rates. The Commission may periodically adjust the base rates set out in Subparagraphs 032.02.b. and 032.02.c. of this rule to reflect changes in inflation or market conditions. (1-1-12)

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.11 - RULES GOVERNING SECURITY FOR COMPENSATION -- SELF-INSURED EMPLOYERS

DOCKET NO. 17-0211-1101

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 Sections 72-508, 72-520, 72-721, 72-722, and 72-723, 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 410 through 420.](#)

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 Jane McClaran, (208) 334-6042.

DATED this 4th day of November, 2011.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, ID 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

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(s) 72-508, 72-520, 72-721, 72-722, and 72-723, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Wednesday, October 12, 2011 10:00 a.m. - 12:00 p.m.	Thursday, October 20, 2011 10:00 a.m. - 12:00 p.m.	Monday, October 24, 2011 10:00 a.m. - 12:00 p.m.
Ameritel Inn - Spectrum 2501 S. 25th Street East Ammon, Idaho 83406	Best Western Coeur d'Alene Inn 700 S. Clearwater Lane 506 W. Appleway Ave. Coeur d'Alene, ID 83814	Industrial Commission 700 S. Clearwater Lane Boise, ID 83712

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:

Adds to the requirements for public and private employers applying for approval to become self-insured; Expands on the acceptable forms of security; Adds provisions to better ensure that security deposits are sufficient to cover the employer's liabilities and provides credit for excess insurance policies; Changes the reporting requirements and forms to capture the outstanding liabilities of a self-insured employer for workers' compensation which helps in determining their security deposit requirements and ensure injured workers are adequately covered.

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 conducted through a subcommittee of the Commission's Advisory Committee. All self-insured employers in the state of Idaho were invited to attend these meetings and those employers provided input to the Industrial Commission on the drafting of these rule revisions. Subcommittee members and the Advisory Committee members reached consensus to proceed

with the changes being submitted.

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 Jane McClaran, 334-6042.

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, 2010.

DATED this 17th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0211-1101

012. DEFINITIONS.

For the purposes of this chapter, the following definitions are applicable: (4-7-11)

01. Compensation. All benefits payable under the provisions of the Idaho Workers Compensation Law. ()

02. Indemnity Benefits. All payments made to or on behalf of workers' compensation claimants, including temporary or permanent disability benefits, permanent partial impairment benefits, death benefits paid to dependents, retraining benefits, and any other type of income benefits, but excluding medical and related benefits. (4-7-11)

03. Indemnity Claim. Any claim made for the payment of indemnity benefits. (4-7-11)

04. Payroll. The gross amount paid by an employer for salaries, wages or commissions earned by its own direct employees, but not including any money paid to another entity or received from another entity for leased employees. (4-7-11)

013. RULES GOVERNING QUALIFICATIONS OF SELF-INSURED EMPLOYERS.

In order to be considered for approval by the Industrial Commission to self-insure under Section 72-301, Idaho Code, an employer shall comply with the following requirements: (4-7-11)

01. Payroll. Have an average annual Idaho payroll over the preceding three (3) years of at least four million dollars (\$4,000,000); (4-7-11)

02. Application. Submit a completed application, available from the Industrial Commission's Fiscal Section, along with the application fee of two hundred fifty dollars (\$250), to the Idaho Industrial Commission, Attention: Fiscal Section, at 700 S. Clearwater Lane, PO Box 83720-0041, Boise, Idaho 83720-0041; telephone (208) 334-6000. (4-7-11)

03. Documentation. Submit documentation satisfactory to the Commission demonstrating the sound financial condition of the employer, such as the most recent CPA reviewed or, if available, audited, financial statement; (4-7-11)

04. Adjuster. Designate in writing a licensed Idaho resident adjuster; (4-7-11)

05. Previous Claims. Provide a history of all workers' compensation claims filed with the employer or the employer's workers' compensation carrier, as well as all compensation paid, during the previous ~~three~~ five (~~3~~5) calendar years. (~~4-7-11~~)()

06. Excess Insurance. Provide an insurance plan and copies of all proposed policies of excess workers' compensation insurance coverage. ()

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

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

069. Custodial Agreement. Set up a custodial agreement with the State Treasurer for securities required to be deposited under Sections 72-301 and 72-302, Idaho Code; (4-7-11)

~~07~~**10. Supplemental Information.** Provide supplemental information as requested; (4-7-11)

~~08~~**11. Initial Security Deposit.** Prior to final approval, deposit an initial security deposit with the Idaho State Treasurer in the form permitted by Section 72-301, Idaho Code, or a self-insurer's bond in substantially the form set forth in Subsection 014.02, of this rule, in the amount of one hundred and fifty thousand dollars (\$150,000), plus five percent (5%) of the first ten million dollars (\$10,000,000.00) of the employer's average annual payroll in the state of Idaho for the three (3) preceding years; along with such additional security as may be required by the Commission based on prior claims history; (4-7-11)

~~09~~**12. Written Approval.** Obtain written approval from the Industrial Commission. (4-7-11)

014. CONTINUING REQUIREMENTS FOR SELF-INSURED EMPLOYERS.

Upon receiving the approval of the Industrial Commission to be a self-insured employer under Section 72-301, Idaho Code, to continue such approval a self-insured employer shall comply with the following requirements: (4-7-11)

01. Payroll Requirements. Maintain an average annual Idaho payroll over the preceding three (3) years of at least four million dollars (\$4,000,000), ~~if such employer was originally approved by the Commission subsequent to April 30, 1984, and two million dollars (\$2,000,000) if such employer was originally approved by the Commission prior to May 1, 1984; provided, however, that any employer who was an approved self-insured employer on July 1, 1974 need not comply with the provisions of this section.~~ Any self-insured employer that does not meet the payroll requirements of this rule for two consecutive semi-annual premium tax reporting periods shall be allowed to maintain their self-insured status for six (6) months from the end of the last reporting period in order to permit them time to increase their payroll or obtain workers' compensation coverage with an insurance carrier authorized to write workers' compensation insurance in the state of Idaho. (4-7-11)()

02. Security Deposit with Treasurer. (4-7-11)

a. Maintain a **primary** security deposit with the Idaho State Treasurer in the form permitted by Section 72-301, Idaho Code, ~~or~~ a self-insurer's bond in substantially the form set forth below, **or in such other form approved by the Commission**, in the amount of one hundred fifty thousand dollars (\$150,000), plus five percent (5%) of the employers' average annual payroll in the state of Idaho for the three (3) preceding years, not in excess of ten million dollars (\$10,000,000) ~~if such employer was originally approved by the Commission subsequent to April 30, 1984; and five million dollars (\$5,000,000) if such employer was originally approved by the Commission prior to May 1, 1984.~~ In addition thereto, the self-insured employer shall deposit additional security in **an such** amount ~~equal to all outstanding and unpaid awards of as the Commission determines is necessary to secure the self-insured employer's total unpaid liability for~~ compensation under the Workers' Compensation Law. (4-7-11)()

b. Self-insured employers shall receive a credit for the primary security deposit against the self-insured employer's obligation to post the additional security required by Subsection 014.02.a. of this rule. ()

c. Excess insurance coverage approved by the Commission may apply as a credit against the self-insured employer's obligation to post the additional security required by Subsection 014.02.a. of this rule. The Commission must be provided with thirty (30) days advance written notice of any change or cancellation of an approved excess insurance policy. ()

bd. All security deposited by the self-insured employer shall be maintained as provided by Section 72-302, Idaho Code. (4-7-11)

ee. Any withdrawal or partial release of security deposited hereunder must be requested in writing and approved by the Commission. (4-7-11)

SELF-INSURER'S COMPENSATION BOND

KNOW ALL MEN BY THESE PRESENTS, THAT _____,
a corporation of the State of _____, hereinafter called the Principal, as Principal, and the
_____, a surety corporation authorized to transact a surety
business in the State of Idaho, as Surety, are held and firmly bound unto the State of Idaho, for the

use and benefit of all those employees of the Principal to whom or to the dependents of whom the Principal may, during the life of this bond, become liable for benefits under the Idaho Workers' Compensation Law, as hereinafter more fully referred to, in the sum equal to and limited by the sum or sums that may become due and/or payable by said Principal to said employees under the terms, provisions and limitations of said Workers' Compensation Law, and in accordance with the terms, agreements, conditions and limitations of this obligation not exceeding, however, the sum of _____ dollars, for the payment of which, well and truly made, the Principal well and truly binds itself, its successors and assigns, and the Surety binds itself, its successors and assigns, jointly and severally, well and truly by these presents.

WHEREAS, in accordance with the provisions of Idaho Code, Title 72, Chapters 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto, and Principal has elected to secure compensation to its employees by depositing and maintaining with the Industrial Commission of Idaho a surety bond issued and executed by the surety herein named, which surety is duly qualified to transact such business in the state of Idaho subject to the approval of the Industrial Commission of the State of Idaho.

NOW, THEREFORE, the condition of this obligation is such that if the said Principal shall pay compensation according to the terms, provisions, and limitations of Idaho Code, Title 72, Chapter 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto, to its injured employees or the dependents of its killed employees contemplated by the terms of and covered under the said law, and shall furnish medical, surgical, nursing and the hospital services and attention and funeral expenses as provided for in said law (all of which shall be understood to be included in the term "compensation" as hereinafter used), then this obligation shall be null and void, otherwise to remain in full force and effect, subject, however to the following express conditions and agreements:

That any employee or the dependent of any employee of the Principal entitled to compensation under said Workers' Compensation Law, shall have the right to enforce in his own name the liability of the Surety hereunder, in whole or in part, for such compensation, either by at any time filing a separate claim against the Surety or by at any time making the Surety a part of the original claim against the employer; provided, however, that payment in whole or in part of such compensation by either the Principal or the Surety shall, to the extent thereof, be a bar to the recovery against the other of the amount so paid.

That as between the employee and the Surety, notice to or knowledge of the occurrence of injury on the part of the employer shall be deemed notice to or knowledge, as the case may be, on the part of the Surety; that the obligation of the Surety, and the Surety, shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the Principal for the payment of compensation under the provisions of the Workers' Compensation Law aforesaid, and that the insolvency or bankruptcy of the Principal and its discharge therein, shall not relieve the Surety from the payment of compensation for injuries, including death resulting therefrom, sustained during the life of this bond by an employee of the Principal covered under the Workers' Compensation Law.

That upon request of the Industrial Commission of Idaho, it will make such changes in this form of bond by endorsement to be attached hereto or by the execution of a surety bond replacing this one, as the said Commission may deem requisite, to bring this bond into conformity with its

rulings as to the form of surety bond required of employers under Idaho Code, Title 72, Chapters 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto.

This bond is issued for an indefinite term to begin on the _____ day of _____, 20__, and will continue in full force and effect until terminated in either of the following two manners: This bond may be cancelled by the Surety by filing sixty (60) days written cancellation notice by registered mail with the Industrial Commission of the State of Idaho. This bond may be cancelled by the Industrial Commission of the State of Idaho by written notice to the Surety hereon, which notice shall specify the date of termination of the bond.

IN TESTIMONY WHEREOF, the said Principal and said Surety have caused these presents to be executed in due form this _____ day of _____, 20__.

Countersigned

By

Resident Agent

Principal

SEAL

SEAL

By

By

Samples of this form are available from the Fiscal Section of the Industrial Commission, 700 S. Clearwater Lane, P. O. Box 83720, Boise, Idaho 83720-0041, Telephone (208) 334-6000.

(4-7-11)

03. Maintain a Licensed Resident Adjuster. Maintain a resident licensed claims adjuster located within the state of Idaho who shall have full authority to service said claims on behalf of the employer including, but not limited to, the following: (4-7-11)

a. Investigate and adjust all claims for compensation; (4-7-11)

b. Pay all compensation benefits due; (4-7-11)

c. Accept service of claims, applications for hearings, orders of the Commission, and all process which may be issued under the Workers' Compensation Law; (4-7-11)

d. Enter into compensation agreements and lump sum settlements with Claimants; (4-7-11)

e. Provide at the employer's expense necessary forms to any employee who wishes to file a claim under the Workers' Compensation Law. (4-7-11)

04. File Reports. Report to the Industrial Commission ~~at the end of each calendar quarter~~ semi-annually, or more often as required by the Commission, total unpaid liability on all outstanding and unpaid awards of compensation open claims. (4-7-11)()

a. The **semi-annual** report of ~~outstanding and unpaid awards~~ **total unpaid liability** shall be filed with the Industrial Commission by the end of the months ~~following the end of each calendar quarter~~ **of January and July.** (4-7-11)()

b. **The report shall provide the aggregate number of open claims, including indemnity with medical and medical only claims, along with the amount of any compensation paid on open claims, as of the end of each June and December.** ()

~~**bc.**~~ The report shall be filed even if there are no ~~outstanding awards~~ **open claims.** In that event, the employer shall certify the fact that there are no ~~outstanding awards~~ **open claims** to be reported. (4-7-11)()

~~**ed.**~~ The report shall be submitted on or in a format that is substantially the same as Form ~~IC36B IC-211~~, ~~“Report of Outstanding Awards—Self-Insured Employers~~ **Report of Total Unpaid Liability,**” which follows this chapter as Appendix A. The report may be produced as a computerized spreadsheet or database printout and shall be submitted to the Commission in writing on paper no larger than eight and one-half inches by eleven inches (8 ½” x 11”) in size. (4-7-11)()

~~**de.**~~ The report shall be signed and certified to be correct by a corporate officer. If an employer has designated more than one adjuster for workers’ compensation claims in Idaho, a corporate officer of the employer shall prepare, certify and file a consolidated report of all ~~outstanding and unpaid compensation awards~~ **liability.** (4-7-11)()

~~**e.**~~ ~~The report shall list all outstanding awards at the beginning and end of the reporting period, commencing with the calendar quarter during which the award is made or benefits are first paid, whichever occurs first, along with the amount of any compensation paid on each claim during the reporting period.~~ (4-7-11)

f. A self-insured employer shall also make such other reports to the Commission as it may require in reference to matters under the Workers’ Compensation Law. (4-7-11)

05. Submit to Audits by Industrial Commission. Each year a self-insured employer shall provide the Industrial Commission with a copy of its annual financial statements, or other acceptable documentation. Each self-insured employer shall submit to audit by the Commission or its designee at any time and as often as it requires to verify the amount of premium such self-insured employer would be required to pay as premium to the State Insurance Fund, and to verify compliance with the provisions of these rules and the Idaho Workers’ Compensation Law. (4-7-11)

06. Comply with Law and Rules. Comply with the statutes of the state of Idaho and the rules of the Industrial Commission to the end that payment of compensation shall be sure and certain and not unnecessarily delayed. The Commission may withdraw its approval of any employer to operate as a self-insurer if it shall appear to the Commission that workers secured by said self-insured employer are not adequately protected and served, or the employer is failing to comply with the provisions of these rules or the Workers’ Compensation Law. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

271. RULE GOVERNING REPORTING INDEMNITY AND MEDICAL PAYMENTS AND MAKING PAYMENT OF INDUSTRIAL SPECIAL INDEMNITY FUND ASSESSMENT.

Pursuant to Section 72-327, Idaho Code, every authorized self-insurer authorized to self-insure its workers' compensation obligations in Idaho shall report annually to the Industrial Commission the total gross amount of indemnity benefits paid on Idaho workers' compensation claims during the applicable reporting period. (4-7-11)

01. Filing. The report of indemnity and medical payments shall be filed with the Industrial Commission simultaneously with the first Semi-Annual Premium Tax Report; which, pursuant to Section 72-523, Idaho Code, is due each year on March 3rd. (~~4-7-11~~)()

02. Form. The report of indemnity and medical payments shall be submitted in writing on, or in a format substantially the same as Form IC2-327, "Report of Indemnity Payments Workers' Compensation Claims Involving Medical Payments Only and Claims Involving Indemnity Payments Report," contained in Appendix B at the end of this chapter. (~~4-7-11~~)()

03. Report Required When No Indemnity Paid. If an entity required to report under this rule has no claims against which indemnity payments have been made during the reporting period, a report shall be filed so indicating. (4-7-11)

04. Penalty for Late Filing. A penalty shall be assessed by the Commission for filing the report of indemnity and medical payments later than March 3rd each year. (~~4-7-11~~)()

a. A penalty of two hundred dollars (\$200) shall be assessed for late filing of seven (7) days or less. (4-7-11)

b. A penalty of one hundred dollars (\$100) per day shall be assessed for late filing of more than seven (7) days. (4-7-11)

c. A penalty assessed by the Commission shall be payable to the Industrial Commission and shall be submitted with the April 1 payment of the industrial special indemnity fund assessment, following notice by the Commission of the penalty assessment. (4-7-11)

05. Estimating Indemnity Payments for Entities That Fail to Report Timely. If an entity required to report indemnity and medical payments under these rules fails to report within the time allowed in these rules, the Commission will estimate the indemnity payments for that entity by using the indemnity amount reported for the preceding reporting period and adding twenty percent (20%). (~~4-7-11~~)()

06. Adjustment for Overpayments or Underpayments. Overpayments or underpayments, including those resulting from estimating the indemnity payments of entities that fail to report timely, will be adjusted on the billing for the subsequent period. (4-7-11)

272. -- 999. (RESERVED)

APPENDIX A

IC36B – REPORT OF OUTSTANDING AWARDS – SELF-INSURED EMPLOYERS

(Name of Self-Insured Employer) _____							
Calendar Year: _____							
For Calendar Quarter Ending: qMarch qJune qSeptember qDecember							
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Date of Injury	Claimant Name (as shown on First Report of Injury)	Type of Claim	Total Awards	Compensation Paid This Report Period	Total Compensation Paid to Date	Adjustments	Unpaid Balance – [(4) minus (5)]
TOTALS							

Send Original to: Fiscal Section, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0044

I, the undersigned corporate officer of the above named self-insured employer, do hereby certify that this report is complete and accurate to the best of my knowledge.

Corporate Officer's Signature: _____

Title: _____

Printed Name: _____

Date: _____

Name and Title of Preparer: _____

Company: _____

Address: _____

Telephone: _____ **E-Mail Address:** _____

Page _____ Of _____

APPENDIX A

<u>IC-211. SELF- INSURED EMPLOYER REPORT OF TOTAL UNPAID LIABILITY</u>							
<u>(Name of Self-Insured Employer)</u>							
<u>Calendar Year: _____</u>							
<u>For Calendar Semiannual Period Ending and As Of:</u>						<u>June</u>	<u>December</u>
<u>(1)</u>	<u>(2)</u>	<u>(3)</u>	<u>(4)</u>	<u>(5)</u>	<u>(6)</u>	<u>(7)</u>	<u>(8)</u>
<u>Total Number of Open Claims</u>	<u>Total Incurred Medical Only</u>	<u>Total Paid Medical Only</u>	<u>Total Unpaid Medical Only (2 – 3 = 4)</u>	<u>Total Incurred Indemnity incl. Medical</u>	<u>Total Paid Indemnity incl. Medical</u>	<u>Total Unpaid Indemnity (5 – 6 = 7)</u>	<u>Total Unpaid Liability (4 + 7 = 8)</u>
	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
<u>Note: Report Open Claim Totals for All Previous Periods of Self Insurance in Idaho.</u>							
<u>Total Unpaid Liability from Column 8:</u>							<u>\$0.00</u>
<u>Excess Insurance Carrier Reimbursement Expected:</u>							<u>\$0.00</u>
<u>Net Remaining Unpaid Liability:</u>							<u>\$0.00</u>
<u>Note: Credit for Excess Insurance is contingent upon meeting criteria acceptable to the Idaho Industrial Commission.</u>							
<u>Excess Carrier Reimbursement Detail:</u>							
<u>(1)</u>	<u>(2)</u>	<u>(3)</u>	<u>(4)</u>	<u>(5)</u>	<u>(6)</u>	<u>(7)</u>	<u>(8)</u>
<u>Date Of Injury</u>	<u>Claimant Name</u>	<u>Total Medical & Indemnity Incurred</u>	<u>Total Medical & Indemnity Paid</u>	<u>Excess Carrier Name</u>	<u>Specific Retention Limit</u>	<u>Excess Reimbursement Expected</u>	<u>Excess Reimbursement Obtained</u>
_____	_____	_____	_____	_____	_____	_____	_____
						<u>Subtotal:</u>	
<u>Self-Insurer's Authorization and Validation</u>							
I, _____ <u>certify that the above information is valid and truthful to the best of my knowledge.</u>							
<u>Corporate Officer's Signature</u>				<u>Printed Name and Title</u>			
<u>Date:</u>							

Report Preparer's Validation:	
I, _____ attest that the above information is valid and truthful to the best of my knowledge.	
Name & Company:	Telephone:
Address:	
Send Original to: Fiscal Section, Industrial Commission, P.O. Box 83720, Boise, Idaho 83720-0041	Form IC-211

~~**APPENDIX B**~~

~~**IC327 REPORT OF INDEMNITY PAYMENTS
EXHIBIT A to SEMI-ANNUAL PREMIUM TAX REPORT**~~

~~Reporting Entity Name:~~ _____

Reporting Period:	January 1—June 30	(Year)
	July 1—December 31	(Year)

~~Date of Preparation:~~ _____

1. ~~Total Claims:~~ _____

2. ~~Total Number of Indemnity Claims:~~ _____

3. ~~Payments Made During the Reporting Period on Indemnity Claims:~~ _____

a. ~~Total Amount of All Payments (including Medical):~~ _____

b. ~~Total Amount of All Indemnity Payments:~~ _____

~~Certification~~

~~State of~~ _____)

_____) ss. _____

~~County of~~ _____)

_____)

~~I, _____, being first duly sworn on oath, state that I have read the foregoing report which sets forth certain information relating to indemnity payments made during the reporting period, that I know the contents, and that I certify the report is true and correct to the best of my knowledge.~~

~~Signature of Preparer~~ _____

~~Title of Preparer~~ _____

~~SUBSCRIBED AND SWORN to before me on this ____ day of _____, _____.~~

Notary Public for _____.

Residing at _____.

My term expires: _____.

APPENDIX B

<u>Idaho Industrial Commission</u>		<u>Physical mail address:</u>	
<u>P.O. Box 83720</u>		<u>700 S. Clearwater Lane</u>	
<u>Boise, Idaho 83720-0041</u>		<u>Boise, Idaho 83712</u>	
<u>IC2-327 - Workers' Compensation Claims Involving Medical Payments Only and Claims Involving Indemnity Payments Report</u>			
<u>Company Name and Address</u>		<u>FEIN:</u>	
		<u>Reporting period:</u>	
<u>MEDICAL ONLY CLAIMS:</u>			
<u>(A) Total number of medical-only claims on which payments were made during the reporting period:</u>			
<u>(B) Total amount paid on medical-only claims during the reporting period:</u>			<u>\$ _____</u>
<u>INDEMNITY CLAIMS</u>			
<u>(C) Total number of indemnity claims on which payments (including any medical payments) were made during the reporting period:</u>			
<u>(C) Total amount of indemnity payments (not including medical payments) during the reporting period:</u>			<u>\$ _____</u>
<u>Total amount of all indemnity claims payments (including medical payments on indemnity claims only.)</u>			<u>\$ _____</u>
<u>Certification</u>			
<u>State of _____</u>		<u>County of _____</u>	
<u>I, _____, being duly sworn on oath, state that I have read the foregoing report which sets forth certain information relating to medical and indemnity payments made during the reporting period, that I know the contents, and that I certify the report is true and correct to the best of my knowledge.</u>			
<u>Signature of Preparer:</u>		<u>Print Name:</u>	
<u>Telephone:</u>			
<u>Email Address:</u>		<u>Fax:</u>	
<u>SUBSCRIBED AND SWORN to before me on this _____ day of _____</u>			
<u>The ISIF assessment billing should be sent to:</u>			
<u>Name:</u>		<u>Notary Public for</u>	
<u>Please Print</u>			

INDUSTRIAL COMMISSION
Security for Compensation – Self-Insured Employers

Docket No. 17-0211-1101
PENDING RULE

<u>Title:</u>	<u>My commission expires:</u>
<u>Address:</u>	
<u>City, State, Zip</u>	
<u>Phone:</u>	
<u>NOTE: Failure to file this form is a misdemeanor under Section 72-327 Idaho Code. This form is to be submitted annually with the Idaho Semi-Annual Workers; Compensation Premium Tax Report. IC2-327 (rev. 6/25/2009)</u>	

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.05 - HEALTH CARRIER EXTERNAL REVIEW

DOCKET NO. 18-0105-1101

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The 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, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211, 41-5905, 41-5906, 41-5908, 41-5909, 41-5911, and 41-5916, 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 100 through 109.](#)

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Eileen Mundorff, 208-334-4326 or Eileen.mundorff@doi.idaho.gov.

DATED this October 6, 2011.

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

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

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2011**.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 41-211, 41-5905, 41-5906, 41-5908, 41-5909, 41-5911, and 41-5916, 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 28, 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:

This rulemaking implements House Bills 131 and 299, amending the Idaho Health Carrier External Review Act to more closely conform to the model external review law developed by the National Association of Insurance Commissioners (NAIC). The changes expand the types of claims eligible for external review to include denials based on appropriateness, health care setting, level of care and effectiveness. The changes also clarify the definition of an “urgent care request,” and permit a person to simultaneously file for internal and external review of an urgent care request in certain circumstances. In addition, self-funded ERISA health plans may opt into the state external review process if they do not wish to use the federal external review process. The rulemaking also includes changes to notices to be given by health carriers to covered persons.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that the temporary adoption of the rule is appropriate for the following reason: The rule is necessary to implement changes to the governing law effective July 1, 2011.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the change is required by a change to the governing law. A draft of the rule was circulated to interested parties.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary and proposed rule, contact Eileen Mundorff, 208-334-4326 or Eileen.Mundorff@doi.idaho.gov.

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

DATED this 4th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0105-1101

020. NOTICE OF RIGHT TO EXTERNAL REVIEW.

01. Disclosure to Covered Persons. Each health carrier must provide a summary description of external review procedures in or attached to the policy, certificate, membership booklet, outline of coverage or other evidence of coverage the health carrier provides to covered persons. Health carriers must use the summary description in Appendix A or one that in the discretion of the Director is substantially identical. This form summary description in Appendix A has been approved by the Director as meeting the requirements of Section 41-5916, Idaho Code, and this rule. Health carriers must submit summary description forms to the Director for review.

~~(4-7-11)~~()

02. Notice to Covered Person. When a health carrier sends written notice to a covered person of a final adverse benefit determination ~~for medical necessity or as investigational~~, the health carrier must send written notice at the same time of the covered person's right to request an external review.

~~(4-7-11)~~()

a. The written notice of the covered person's right to request an external review must use the form set forth in Appendix B or one that in the discretion of the Director is substantially identical. The notice form in Appendix B has been approved by the Director as meeting the requirements of Section 41-5905, Idaho Code, and this rule. Health carriers must submit notice forms to the Director for review.

~~(4-7-11)~~()

b. The written notice sent by the health carrier as required by this subsection must include an authorization form to disclose protected health information in compliance with the federal regulation 45 CFR section 164.508. The authorization forms in Appendix C-1 and C-2 has have been approved by the Director as meeting the requirements of Section 41-5905, Idaho Code, and this rule and health carriers must use these forms or ones that in the discretion of the Director

are substantially identical. Health carriers must submit authorization forms to the Director for review. (4-7-11)()

021. REQUEST FOR EXTERNAL REVIEW.

01. Request Form. The form for a covered person to request an external review will be available from the department and will be posted on the department's web site. (4-7-11)

02. Authorization Form. The covered person's request for an external review must include ~~the~~ an authorization form to disclose protected health information required in Subsection Paragraph 020.032.b. The department will not act on an external review request until the department receives ~~this~~ the applicable form completed by the covered person or the covered person's authorized representative. (4-7-11)()

03. Appointment of an Authorized Representative. A covered person may name another person, including the treating health care provider, to act as the covered person's authorized representative for an external review request. (4-7-11)

022. HEALTH CARRIER NOTICE OF INITIAL DETERMINATION OF AN EXTERNAL REVIEW REQUEST.

Health carriers must use the form set forth in Appendix D or one that in the discretion of the Director is substantially identical for notice of initial determination by a health carrier for a standard external review required by Section 41-5908, Idaho Code, and for an expedited external review required by Section 41-5909, Idaho Code. Health carriers must submit notice forms to the Director for review. (4-7-11)()

(BREAK IN CONTINUITY OF SECTIONS)

024. ~~ANNUAL REPORTING REQUIREMENTS~~ VOLUNTARY ELECTION BY ERISA PLAN ADMINISTRATOR.

~~All independent review organizations and health carriers must file with the Director, on or before March 1st of each year, an annual statement on the form available from the Department of Insurance and posted on the department's web site. An annual report is required regardless of whether any external review requests were sent to the independent review organization or health carrier during the year.~~ (4-7-11)

01. Written Notice and Compliance. If a single employer self-funded ERISA employee benefit plan administrator or designee voluntarily elects to comply with Title 41, Chapter 59, Idaho Code, the administrator or designee must: ()

a. Provide timely and appropriate written notice to the Director of such election. The written notice must include the name of the administrator or designee, the contact name and title of the person to receive correspondence for the administrator or designee, that person's email address, voice and facsimile numbers, and the name of the employer or plan; ()

b. Provide written notice to the plan beneficiary of any final adverse benefit

determination and of the beneficiary's right to an external review pursuant to Title 41, Chapter 59, Idaho Code, as required by Subsection 020.02 of this rule; and ()

c. Comply with all other provisions of Title 41, Chapter 59, Idaho Code, and this rule, as if it were a health carrier, except the administrator or designee is not required to submit for the Director's review the forms attached to this rule as appendices. ()

02. Single Plan Beneficiary. The written notice to the Director required in Subsection 024.01 of this rule for a single plan beneficiary must be included with the notice of initial determination of an external review request in Section 022. The notice must include the plan beneficiary's name and identification number. The administrator or designee may not request the Director terminate an external review for a single plan beneficiary while the review is in progress unless the administrator or designee has reversed the final adverse benefit determination and has notified the beneficiary it will pay benefits for the disputed service or supply. ()

03. Specific Period of Time. The written notice to the Director required in Subsection 024.01 for a specific period of time must include the start date and end date for that period of time. The notice must be received by the Director at least thirty (30) days in advance of the date the specific period of time will begin. Any change in the start or end date for a specific period of time on file with the Director must be received in writing at least thirty (30) days in advance of the date the change will take effect. The termination of the specific period of time will not terminate an external review in progress unless the administrator or designee has reversed the final adverse benefit determination and has notified the beneficiary it will pay benefits for the disputed service or supply. ()

04. Effect of Election. Any single employer self-funded ERISA employee benefit plan administrator or designee that voluntarily elects to comply with Title 41, Chapter 59, Idaho Code, and this chapter of rules, does not, solely by such election and/or compliance, waive any rights, remedies, duties, causes of action, or defenses it otherwise has under ERISA or other applicable law. ()

025. -- 029. (RESERVED)

030. EFFECTIVE DATE -- EXISTING HEALTH BENEFIT PLANS -- GROUNDS FOR DISAPPROVAL.

01. Effective Date of Rule. This rule is applicable to every health benefit plan issued or renewed on and after January 1, 2010. (4-7-11)

02. Health Benefit Plan Compliance. A health benefit plan issued before the effective date of this rule must be brought into compliance with this rule by the anniversary date or renewal date of the plan following the effective date of this rule. (4-7-11)

03. Grounds for Disapproval. ~~Any health benefit plan containing terms inconsistent with the provisions of this rule is misleading, inequitable and unfairly prejudicial to the covered person and the insurance-buying public.~~ In addition to any other sanction or remedy afforded by Title 41, Idaho Code, the use of provisions inconsistent with this rule in a health benefit plan will be grounds for the Director to disapprove the health benefit plan in accordance with Section 41-

1813, Idaho Code, on the basis that the terms are deemed to be misleading and unfairly prejudicial. (4-7-11)()

031. -- 999. (RESERVED)

APPENDICES:

- A Health Carrier Disclosures - "Your Right to an Independent External Review
 - B Health Carrier Notice - "Notice of Your Right to an Independent External Review"
 - C-1 Authorization for Release of Medical Records
 - C-2 Authorization for Release of Drug or Alcohol Abuse Records and Psychotherapy
- Notes
- D Health Carrier's Notice of Initial Determination

Appendix A

The summary description below provides an acceptable format approved by the director as meeting the requirements of Idaho Code Section 41-5916. A health carrier may change the terms "you, your" to "covered person" and "we, our" to the health carrier's name, or similar references consistent with the health carrier's typical terminology.

YOUR RIGHT TO AN INDEPENDENT EXTERNAL REVIEW

Please read this notice carefully. It describes a procedure for review of a disputed health claim by a qualified professional who has no affiliation with your health plan. If you request an independent external review of your claim, the decision made by the independent reviewer will be binding and final on the health carrier. ~~Except in limited circumstances,~~ You will have no further the right to have further review of your claim reviewed by a court, arbitrator, mediator or other dispute resolution entity only if your plan is subject to the Employee Retirement Income Security Act of 1974 (ERISA), as more fully explained below under "Binding Nature of the External Review Decision."

If we issue a final adverse benefit determination of your request to provide or pay for a health care service or supply, you may have the right to have our decision reviewed by health care professionals who have no association with us. You have this right only if our denial decision involved:

The medical necessity, appropriateness, health care setting, level of care, or effectiveness of your health care service or supply, or
Our determination your health care service or supply was investigational.

You must first exhaust our internal grievance and appeal process. Exhaustion of that process includes completing all levels of appeal, or unless you requested or agreed to a delay, our failure to respond to a standard appeal within 35 days in writing or to an urgent appeal within three business days of the date you filed your appeal. We may also agree to waive the exhaustion

requirement for an external review request. You may file for an internal urgent appeal with us and for an expedited external review with the Idaho Department of Insurance at the same time if your request qualifies as an “urgent care request” defined below.

You may submit a written request for an external review to:

Idaho Department of Insurance
ATTN: External Review
700 W State St., 3rd Floor
Boise ID 83720-0043

For more information and for an external review request form:

See the department’s website at <http://www.doi.idaho.gov>, or
Call the department’s telephone number, (208) 334-4250, or toll-free in Idaho, 1-800-721-3272.

You may represent yourself in your request or you may name another person, including your treating health care provider, to act as your authorized representative for your request. If you want someone else to represent you, you must include a signed “Appointment of an Authorized Representative” form with your request.

Your written external review request to the Department of Insurance must include a completed form authorizing the release of any of your medical records the independent review organization may require to reach a decision on the external review, including any judicial review of the external review decision pursuant to ERISA, if applicable. The department will not act on an external review request without your completed authorization form.

If your request qualifies for external review, our final adverse benefit determination will be reviewed by an independent review organization selected by the department. We will pay the costs of the review.

Standard External Review Request: You must file your written external review request with the department within four months after the date we issue a final notice of denial.

1. Within seven days after the department receives your request, the department will send a copy to us.
2. Within 14 days after we receive your request from the department, we will review your request for eligibility. Within five business days after we complete that review, we will notify you and the department in writing if your request is eligible or what additional information is needed. If we deny your eligibility for review, you may appeal that determination to the department.
3. If your request is eligible for review, the department will assign an independent review organization to your review within seven days of receipt of our notice. The department will also notify you in writing.
4. Within seven days of the date you receive the department’s notice of assignment to an independent review organization, you may submit any additional information in writing to the independent review organization that you want the organization to consider in its review.
5. The independent review organization must provide written notice of its decision to you, to

us and to the department within 42 days after receipt of an external review request.

Expedited External Review Request: You may file a written “urgent care request” with the department for an expedited external review of a pre-service or concurrent service denial. You may file for an internal urgent appeal with us and for an expedited external review with the department at the same time.

“Urgent care request” means a claim relating to an admission, availability of care, continued stay or health care service for which the covered person received emergency services but has not been discharged from a facility, or any pre-service or concurrent care claim for medical care or treatment for which application of the time periods for making a regular external review determination:

1. Could seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function;
2. In the opinion of the treating health care professional with knowledge of the covered person’s medical condition, would subject the covered person to severe pain that cannot be adequately managed without the disputed care or treatment; or
3. The treatment would be significantly less effective if not promptly initiated.

The department will send your request to us. We will determine, no later than the second full business day, if your request is eligible for review. We will notify you and the department no later than one business day after our decision if your request is eligible. If we deny your eligibility for review, you may appeal that determination to the department.

If your request is eligible for review, the department will assign an independent review organization to your review upon receipt of our notice. The department will also notify you. The independent review organization must provide notice of its decision to you, to us and to the department within 72 hours after the date of receipt of the external review request. The independent review organization must provide written confirmation of its decision within 48 hours of notice of its decision. If the decision reverses our denial, we will notify you and the department of ~~the approval of coverage~~ our intent to pay the covered benefit as soon as reasonably practicable, but not later than one business day after ~~making the determination~~ receiving notice of the decision.

Binding Nature of the External Review Decision: If your plan is subject to federal ERISA laws (generally, any plan offered through an employer to its employees), the external review decision by the independent review organization will be final and binding on us. You may have additional review rights provided under federal ERISA laws.

If your plan is not subject to ERISA requirements, the external review decision by the independent review organization will be final and binding on both you and us. **This means that if you elect to request external review, you will be bound by the decision of the independent review organization. You will not have any further opportunity for review of our denial after the independent review organization issues its final decision.** If you choose not to use the external review process, other options for resolving a disputed claim may include mediation, arbitration or filing an action in court.

Under Idaho law, the independent review organization is immune from any claim relating to its

opinion rendered or acts or omissions performed within the scope of its duties unless performed in bad faith or involving gross negligence.

Appendix B

The notice below provides an acceptable format approved by the director as meeting the requirements of Idaho Code Section 41-5905. A health carrier may change the terms “you, your” to “covered person” and “we, our” to the health carrier’s name, or similar references consistent with the health carrier’s typical terminology.

NOTICE OF YOUR RIGHT TO AN INDEPENDENT EXTERNAL REVIEW

Please read this notice carefully. It describes a procedure for review of a disputed health claim by a qualified professional who has no affiliation with your health plan. If you request an independent external review of your claim, the decision made by the independent reviewer will be binding and final on the health carrier. ~~Except in limited circumstances,~~ **You will have no further the right to have further review of your claim reviewed by a court, arbitrator, mediator or other dispute resolution entity only if your plan is subject to the Employee Retirement Income Security Act of 1974 (ERISA) -- see below under “Binding Nature of the External Review Decision” for more information.**

We have denied your request to provide or pay for a health care service or supply. You may have the right to have our decision reviewed by health care professionals who have no association with us. You have this right only if our denial decision involved:

- The medical necessity, appropriateness, health care setting, level of care, or effectiveness of your health care service or supply, or
- Our determination your health care service or supply was investigational.

No later than four months from the date of this denial, you may submit a written request for an external review to:

Idaho Department of Insurance
ATTN: External Review
700 W State St., 3rd Floor
Boise ID 83720-0043

For more information and for an external review request form:

- See the department’s website at <http://www.doi.idaho.gov>, or
- Call the department’s telephone number, (208) 334-4250, or toll-free in Idaho, 1-800-721-3272.

You may represent yourself in your request or you may name another person, including your treating health care provider, to act as your authorized representative for your request. If you want someone else to represent you, you must include a signed “Appointment of an Authorized Representative” form with your request.

Your written external review request to the Department of Insurance must include a completed form authorizing the release of any of your medical records the independent review organization may require for review to reach a decision on the external review. The department will not act on an external review request without your completed authorization form.

If your request qualifies for external review, our decision will be reviewed by an independent review organization selected by the department. We will pay the costs of the review.

Standard External Review Request: You must file your written external review request with the department **within four months** after the date we issued this notice of denial.

1. Within seven days after the department receives your request, the department will send a copy to us.
2. Within 14 days after we receive your request from the department, we will review your request for eligibility. Within five business days after we complete that review, we will notify you and the department in writing if your request is eligible or what additional information is needed. If we deny your eligibility for review, you may appeal that determination to the department.
3. If your request is eligible for review, the department will assign an independent review organization to your review within seven days of receipt of our notice. The department will also notify you in writing.
4. Within seven days of the date you receive the department's notice of assignment to an independent review organization, you may submit any additional information in writing to the independent review organization that you want the organization to consider in its review.
5. The independent review organization must provide written notice of its decision to you, to us and to the department within 42 days after receipt of an external review request.

Expedited External Review Request: You may file a written "urgent care request" with the department for an expedited external review of a pre-service or concurrent service denial. You may file for an internal urgent appeal with us and for an expedited external review with the department at the same time.

"Urgent care request" means a claim relating to an admission, availability of care, continued stay or health care service for which the covered person received emergency services but has not been discharged from a facility, or any pre-service or concurrent care claim for medical care or treatment for which application of the time periods for making a regular external review determination:

1. Could seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function;
2. In the opinion of the treating health care professional with knowledge of the covered person's medical condition, would subject the covered person to severe pain that cannot be adequately managed without the disputed care or treatment; or
3. The treatment would be significantly less effective if not promptly initiated.

The department will send your request to us. We will determine, no later than the second full business day, if your request is eligible for review. We will notify you and the department no later than one business day after our decision if your request is eligible. If we deny your eligibility for review, you may appeal that determination to the department.

If your request is eligible for review, the department will assign an independent review organization to your review upon receipt of our notice. The department will also notify you. The independent review organization must provide notice of its decision to you, to us and to the department within 72 hours after the date of receipt of the external review request. The independent review organization must provide written confirmation of its decision within 48 hours of notice of its decision. If the decision reverses our denial, we will notify you and the department of ~~the approval of coverage~~ our intent to pay the covered benefit as soon as reasonably practicable, but not later than one business day after ~~making the determination~~ receiving notice of the decision.

Binding Nature of the External Review Decision: *[NOTE TO HEALTH CARRIERS: The carrier must include one of the applicable paragraphs below for the covered person's health benefit plan.]*

[Your plan is subject to federal ERISA laws (generally, any plan offered through an employer to its employees). The external review decision by the independent review organization will be final and binding on the health insurer, but you may have additional review rights provided under federal ERISA laws.]

*[The external review decision by the independent review organization will be final and binding on both you and us. **This means that if you elect to request external review of your claim, you will be bound by the decision of the independent review organization. You will not have any further opportunity for review of your claim after the independent review organization issues its final decision.** If you choose not to use the external review process, other options for resolving a disputed claim may include mediation, arbitration or filing an action in court.]*

Under Idaho law, the independent review organization is immune from any claim relating to its opinion rendered or acts or omissions performed within the scope of its duties unless performed in bad faith or involving gross negligence.

Appendix C-1



AUTHORIZATION FOR RELEASE OF MEDICAL RECORDS

I have requested an external review pursuant to Idaho Code Section 41-5906. In order to obtain that review, I understand that I must sign below to authorize my health carrier, whose decision is the subject of this request, and its subcontractors and all applicable medical providers, to release all information relating to the decision to be reviewed including, but not limited to, my files and medical record information, which may include mental health information to the Idaho

Department of Insurance (DOI). I authorize the DOI to provide or to instruct the health carrier and/or its subcontractors and providers to provide such information to the independent review organization (IRO) assigned by the DOI to perform the external review.

I, _____, hereby reaffirm my request for an external review. I attest that the information provided in this request is true and accurate to the best of my knowledge. I authorize my health carrier, its subcontractors and agents, and my health care providers to release all relevant medical or treatment records to the independent review organization (IRO) and the Idaho Department of Insurance (DOI). I understand the IRO will use this information to make a determination on my external review and the information will be kept confidential and not be released to anyone else. This release is valid for one year unless it expires sooner upon the IRO rendering a final decision or upon revocation. I understand that the decision of the IRO may be binding and that neither the DOI nor the IRO may authorize services in excess of those covered by my health plan.

I acknowledge that I may revoke this authorization at any time. My revocation will be effective upon receipt, but will not affect actions already taken on the basis of the authorization. In any event, this authorization expires upon the IRO rendering a final decision regarding this external review.

Signature of Covered Person (or authorized Date
representative)*

*(Parent, Guardian, Conservator or Other - Please Specify)

Printed Name of Authorized Representative

Complete the following form only if applicable:

Appendix C-2



**AUTHORIZATION FOR RELEASE OF DRUG OR ALCOHOL ABUSE RECORDS
AND PSYCHOTHERAPY NOTES**

I have requested an external review pursuant to Idaho Code Section 41-5906. In order to obtain that review, I understand that I must sign below to authorize my health carrier, whose decision is the subject of this request, and its subcontractors and all applicable medical providers, to release

all information relating to the decision to be reviewed including, but not limited to, my files and medical record information, which may include mental health information to the Idaho Department of Insurance (DOI). I authorize the DOI to provide or to instruct the health carrier and/or its subcontractors and providers to provide such information to the independent review organization (IRO) assigned by the DOI to perform the external review. I acknowledge that information to be used or disclosed as a result of this authorization may include records that are protected by federal and/or state laws applicable to substance abuse and psychotherapy. I SPECIFICALLY AUTHORIZE THE RELEASE OF CONFIDENTIAL INFORMATION RELATING TO PSYCHOTHERAPY, DRUG AND/OR ALCOHOL ABUSE. The recipient of drug and/or alcohol abuse and psychotherapy information disclosed as a result of this authorization will need my further written authorization to re-disclose this information.

I, _____, hereby reaffirm my request for an external review. I attest that the information provided in this request is true and accurate to the best of my knowledge. I authorize my health carrier, its subcontractors and agents, and my health care providers to release all relevant medical or treatment records to the independent review organization (IRO) and the Idaho Department of Insurance (DOI). I SPECIFICALLY AUTHORIZE THE RELEASE OF CONFIDENTIAL INFORMATION RELATING TO PSYCHOTHERAPY, DRUG AND/OR ALCOHOL ABUSE. I understand the IRO will use this information to make a determination on my external review and the information will be kept confidential and not be released to anyone else. This release is valid for one year unless it expires sooner upon the IRO rendering a final decision or upon revocation. I understand that the decision of the IRO may be binding and that neither the DOI nor the IRO may authorize services in excess of those covered by my health plan.

I acknowledge that I may revoke this authorization at any time. My revocation will be effective upon receipt, but will not affect actions already taken on the basis of the authorization. In any event, this authorization expires upon the IRO rendering a final decision regarding this external review.

Signature of Covered Person (or authorized Date
representative)*

*(Parent, Guardian, Conservator or Other - Please Specify)

Printed Name of Authorized Representative

*Parent (if patient is under 18 years old), guardian (if other than patient), conservator, attorney or other. If other than parent of minor, attach a written authorization to represent patient.

Return to:
Idaho Dept of Insurance
PO Box 83720
Boise, ID 83720-0043

Appendix D

HEALTH CARRIER'S NOTICE OF INITIAL DETERMINATION

[Date]

[Covered Person/Authorized Representative]

[Address]

RE: Initial Determination of Your Request for an External Review

We completed our preliminary review of your request for an external review sent to us by the Idaho Department of Insurance. As part of our review, we considered:

1. Eligibility of the covered person under the health benefit plan at the time the health care service was requested, or, for a post-service review, the health care service was performed;
2. If the health care service is a covered service under the health benefit plan, except for our determination the health care service does not meet our requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, or the service or supply is investigational;
3. If the covered person has exhausted our internal grievance process, or if we failed to provide a timely determination ~~to~~ for a grievance under that process; or if we waived the exhaustion requirement under that process; or if we failed to strictly follow our duties in affording a timely, full and fair opportunity for you to take advantage of that grievance process; or if the request qualifies as an urgent care request and you've simultaneously applied for an expedited internal review; and
4. All information and forms required to process an external review, including your signed authorization to disclose protected health information.

[If the request is complete and eligible for review:

We determined your request is complete and eligible for external review. We sent a copy of this notice to the Idaho Department of Insurance. The Department of Insurance will assign an independent review organization to perform the review and will notify you of the name of that organization.]

[OR if the request is not complete:

We have determined your request is not complete. In order to complete your request, you must provide the following: *(Provide details of what information or materials are needed to make the request complete.)*]

[OR if the request is not eligible for external review:

We have determined your request is not eligible for external review. Your request is ineligible for the following reasons: *(Provide details of the reasons for denial.)*

If you disagree with our initial determination that your request is ineligible, you may file a written appeal with the Director of the Idaho Department of Insurance within 30 days of the date of this notice. Your appeal must include adequate detail and documentation to show proof of your

eligibility. The Director may determine a request is eligible based on the terms and conditions of the covered person's health benefit plan and the applicable provision of Idaho Code, Title 41, Chapter 59.]

[Include the following for all notices:]

For further information, please contact the Idaho Department of Insurance, (208) 334-4250, or toll-free, 1-800-721-3272. The department's fax number is (208) 334-4398. The department's website ~~is~~ <http://www.doi.idaho.gov>.

Sincerely,

[Health Carrier]

C: Idaho Department of Insurance/External Review

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.46 - RECOGNITION OF NEW MORTALITY TABLES FOR USE IN DETERMINING THE MINIMUM STANDARD OF VALUATION FOR ANNUITIES AND PURE ENDOWMENT CONTRACTS

DOCKET NO. 18-0146-1101

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 Sections 41-211 and 41-612, 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:

A transcription error occurred during the publication of the proposed rule that resulted in incorrect text being published in Subsection 012.02. Subsection 012.02 is being reprinted here using the correct codified text. The changes shown as underscored text are the same changes that were published in the proposed rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections or subsections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 421 through 424.](#)

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Georgia Siehl, 208-334-4314, georgia.siehl@doi.idaho.gov.

DATED this 31st day of October, 2011.

Thomas A. Donovan
Deputy Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Phone: 208-334-4250
Fax: 208-334-4398

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled, if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, no 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 purpose of this rule is to supplement permitted mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts by life and annuity insurance companies operating in Idaho with the addition of two new tables: the 1994 Group Annuity Reserving (1994 GAR) Table and the Annuity 2000 Mortality Table.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted because the proposed changes are from a National Association of Insurance Commissioners model regulation, and the Idaho domiciled life and annuity insurance company supports adoption of such changes, which are also believed to be widely accepted within the industry.

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

The four annuity tables allowed by this rule are incorporated by reference. They are not repeated in this rule due to length and complexity. The four tables incorporated by reference consist of the two new tables noted above and two tables that were adopted by the existing version of the rule but that had not been previously formally incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Georgia Siehl, (208) 334-4314, georgia.siehl@doi.idaho.gov.

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

DATED this 1st Day of September, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0146-1101

000. LEGAL AUTHORITY.

The statutory authority for this rule is Title 67, Chapter 52, Idaho Code, and Idaho Code, Sections 41-211 and 41-612. ~~(7-1-93)~~()

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 18.01.46, “Recognition of New Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities and Pure Endowment Contracts.” ()

02. Scope. The purpose of this rule is to recognize ~~new~~ the following mortality tables; ~~1983 Table ‘a’ and 1983 GAM Table~~; for use in determining the minimum standard valuation for annuity and pure endowment contracts: the 1983 Table ‘a,’ the 1983 Group Annuity Mortality (1983 GAM) Table, the 1994 Group Annuity Reserving (1994 GAR) Table, and the Annuity 2000 Mortality Table. ~~(7-1-93)~~()

~~002. — 003.~~ **(RESERVED)**

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written

statements which pertain to the interpretation of this rule, or to the documentation of compliance with this rule. These documents will be available for public inspection and copying in accordance with the Idaho Public Records Law, Title 9, Chapter 3, Idaho Code. ()

003. ADMINISTRATIVE APPEALS.

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

004. INCORPORATION BY REFERENCE.

This rule incorporates by reference four (4) separate mortality tables. These mortality tables are: ()

01. 1983 Table A. A table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and shown on page 708 of Volume 33 of the Transactions of Society of Actuaries 1981 and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners. <http://www.soa.org/library/research/transactions-of-society-of-actuaries/1981/january/tsa81v3325.pdf>, Page 708 ()

02. 1983 GAM (Group Annuity Mortality) Table. A mortality table developed by the Society of Actuaries Committee on Annuities and shown on pages 880-881 of Volume 35 of the Transactions of Society of Actuaries 1983 and adopted as a recognized mortality table for annuities in December 1983 by the National Association of Insurance Commissioners. <http://www.soa.org/library/research/transactions-of-society-of-actuaries/1983/january/tsa83v3527.pdf>, Pages 880 – 881 ()

03. 1994 Group Annuity Reserving (GAR) Table. A mortality table developed by the Society of Actuaries Group Annuity Valuation Table Task Force and shown on pages 866-867 of Volume 47 of the Transactions of Society of Actuaries 1995. <http://www.soa.org/library/research/transactions-of-society-of-actuaries/1990-95/1995/january/tsa95v4722.pdf>, Pages 886 - 887 ()

04. Annuity 2000 Mortality Table. The mortality table developed by the Society of Actuaries Committee on Life Insurance Research and shown on page 266 of Volume 47 of the Transactions of Society of Actuaries 1995 – 96 Reports. <http://www.soa.org/library/research/transactions-reports-of-mortality-moribidity-and-experience/1990-99/1995/january/TSR9510.pdf>, Page 266 ()

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

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

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

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

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

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with this rule are subject to the provisions of the Idaho Public Records Law, Title 9, Chapter 3, Idaho Code. ()

0057. -- 0409. (RESERVED)

00410. DEFINITIONS.

01. 1983 Table 'a'. As used in this rule "1983 Table 'a'" means that mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and shown on page 708 of Volume 33 of the Transactions of Society of Actuaries 1981 and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners. (7-1-93)()

02. 1983 GAM Table. As used in this rule "1983 GAM Table" means that mortality table developed by the Society of Actuaries Committee on Annuities and shown on pages 880-881 of Volume 35 of the Transactions of Society of Actuaries 1983 and adopted as a recognized mortality table for annuities in December 1983 by the National Association of Insurance Commissioners. (7-1-93)()

03. 1994 GAR Table. As used in this rule "1994 GAR Table" means that mortality table developed by the Society of Actuaries Group Annuity Valuation Table Task Force and shown on pages 866-867 of Volume 47 of the Transactions of Society of Actuaries 1995. ()

04. Annuity 2000 Mortality Table. As used in this rule "Annuity 2000 Mortality Table" means that mortality table developed by the Society of Actuaries Committee on Life Insurance Research and shown on page 266 of Volume 47 of the Transactions of Society of Actuaries 1995 – 96 Reports. ()

011. INDIVIDUAL ANNUITY OR PURE ENDOWMENT CONTRACTS.

01. Individual Annuity Mortality Table. Except as provided in Subsections 011.02 and 011.03, of this rule, ~~the~~ 1983 Table 'a' is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after July 1, 1982. (7-1-93)()

02. Minimum Standard for Valuation. Except as provided in Subsection 011.03 of this rule, either ~~the~~ 1983 Table 'a' ~~is to~~ or the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1987. (7-1-93)()

03. The Annuity 2000 Mortality Table. Except as provided in Subsection 011.04 of this rule, the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after the effective date of Subsections 011.03 and 011.04. ()

04. The 1983 Table 'a'. The 1983 Table 'a' without projection is to be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after the effective date of Subsections 011.03 and 011.04 of this rule solely when the contract is based on life contingencies and issued to fund periodic benefits arising from: ()

a. Settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions; ()

b. Settlements involving similar actions such as workers' compensation claims; or ()

c. Settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments. ()

012. GROUP ANNUITY OR PURE ENDOWMENT CONTRACTS.

01. Group Annuity Mortality Tables. Except as provided in Subsections 012.02 and 012.03 of this rule, ~~the~~ 1983 GAM Table, ~~and~~ the 1983 Table 'a' and the 1994 GAR Table are recognized and approved as group annuity mortality tables for valuation and, at the option of the company, ~~either any one (1) of these~~ tables may be used for purposes of valuation for any annuity or pure endowment purchased on or after July 1, 1982, under a group annuity or pure endowment contract. (~~7-1-93~~)()

02. Minimum Standard of Valuation. Except as provided in Subsection 012.03 of this rule, ~~either~~ ~~the~~ 1983 GAM Table ~~is to~~ or the 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1987, under a group annuity or pure endowment contract. (~~7-1-93~~)()

03. 1994 GAR Table. The 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after the effective date of Subsection 012.03 under a group annuity or pure endowment contract. ()

013. FORMULA.

In using the 1994 GAR table, the mortality rate for a person age x in year (1994 + n) is calculated as follows:

$$q_x^{1994+n} = q_x^{1994} (1-AA_x)^n$$

Where the q_x^{1994} and AA_x s are specific in the 1994 GAR table. ()

0134. SEVERABILITY.

If any provision of this rule or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby. (7-1-93)

0145. -- 999. (RESERVED)

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.50 - ADOPTION OF THE INTERNATIONAL FIRE CODE

DOCKET NO. 18-0150-1101

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 41-254, 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 425 and 426.](#)

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mark Larson, Idaho State Fire Marshal, Idaho Department of Insurance at 208-334-4370.

DATED this 28th day of October, 2011.

Mark Larson, State Fire Marshal
Department of Insurance
Fire Marshal Division
700 West State Street, Third Floor
Boise, ID 83720
Phone: 208-334-4370
Fax: 208-334-4398

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 41-254, 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 3 changes proposed are intended to:

Change 1. Eliminate the opportunity for the adopted fire code to interfere with a governmental entity's ability to establish conditions of employment.

Change 2. To restore an exemption for the placement of fire extinguishers for certain types of building uses.

Change 3. To clarify when fire sprinklers are required in a building selling upholstered furniture.

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

There are NO FEES associated with this proposed change

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes reflect a consensus formed as the result of interactive discussions on the subject matters among the interested parties. A draft of the proposed changes has been circulated among the interested parties.

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 Mark Larson, Idaho State Fire Marshal, Idaho Department of Insurance at 208-334-4370.

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 30th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0150-1101

011. DEPARTMENT OF FIRE PREVENTION, SECTION 103.2 -- APPOINTMENTS, INTERNATIONAL FIRE CODE.

Delete the following language: "... and the fire code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority." ()

012. GENERAL AUTHORITY AND RESPONSIBILITIES, SECTION 104.1, INTERNATIONAL FIRE CODE.

Add the following second paragraph to Section 104.1, General, International Fire Code: (5-3-03)

01. Fire Chief's Authority. The fire chief is authorized to administer and enforce this code. Under the chief's direction, the fire department is authorized to enforce all ordinances of the jurisdiction pertaining to: (5-3-03)

- a. The prevention of fires; (5-3-03)
- b. The suppression or extinguishment of dangerous or hazardous fires; (5-3-03)
- c. The storage, use and handling of hazardous materials; (5-3-03)
- d. The installation and maintenance of automatic, manual and other private fire alarm systems and fire- extinguishing equipment; (5-3-03)
- e. The maintenance and regulation of fire escapes; (5-3-03)
- f. The maintenance of fire protection and the elimination of fire hazards on land and in buildings, and other property, including those under construction; (5-3-03)
- g. The maintenance of means of egress; and (5-3-03)
- h. The investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials, for authority related to control and investigation of emergency

scenes, see Section 104.11.

(5-3-03)

~~0123~~. -- 015. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

**~~027. SECTION 906.1, PORTABLE FIRE EXTINGUISHERS, WHERE REQUIRED~~
~~AUTOMATIC SPRINKLER SYSTEMS, SECTION 903.2.7 GROUP M,~~
~~INTERNATIONAL FIRE CODE.~~**

~~Item 1 Exception: delete the exception.~~ Add the following language to Item 4: "...or mattresses exceeds 5000 square feet (464m²)." (4-6-05)()

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.01.01 - RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS

DOCKET NO. 24-0101-1101

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 54-312, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 503 through 506.](#)

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

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

DATED this 4th day of November, 2011.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
700 W State
Boise, ID 83702
Phone: (208) 334-3233
Fax: (208) 334-3945

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 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 Board of Architectural Examiners is updating the editions of the National Council of Architect Registration Boards (NCARB) Handbook for Interns and Architects and the Rules of Conduct which are incorporated by reference. It is also changing the continuing education required annually to a calendar year basis and increasing the number of hours required from eight (8) to twelve (12) effective January 1, 2014. This change will bring the continuing education up to national standards.

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 the rule changes were discussed in a noticed open meeting.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written

comments must be directed to the undersigned and must be delivered on or before October 26, 2011.

DATED this 29th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0101-1101

004. INCORPORATION BY REFERENCE (RULE 4).

The document titled 20~~09~~¹¹ -201~~02~~ NCARB Handbook for Interns and Architects, dated July 20~~09~~¹¹, referenced in Subsection 250.01, is herein incorporated by reference. The document titled NCARB Rules of Conduct as published by the National Council of Architectural Registration Boards, Dated July 20~~09~~¹¹, referenced in Section 750, is hereby incorporated by reference. All documents incorporated by reference can be obtained at the office of the Bureau and on the Board web site. (3-29-10)()

(BREAK IN CONTINUITY OF SECTIONS)

450. CONTINUING EDUCATION (RULE 450).

In order to protect the public health and safety and promote the public welfare, the Board has adopted the following rules for continuing education. (3-20-04)

01. Continuing Education Requirement. Each Idaho licensed architect must successfully complete a minimum of eight (8) hours of continuing education in architectural health, safety and welfare annually for license renewal. Effective January 1, 2014, and for each year thereafter, each Idaho licensed architect must successfully complete a minimum of twelve (12) hours of continuing education in architectural health, safety and welfare in the calendar year prior to license renewal. (3-20-04)()

a. ~~Beginning January 1, 2005, e~~Each licensee shall submit to the Board a license renewal application form, together with the required fees, certifying by signed affidavit that compliance with the annual CE requirements have been met during the previous twelve (12) months. Effective January 1, 2014, and for each year thereafter, each licensee shall submit to the Board a license renewal application form, together with the required fees, certifying by signed affidavit that compliance with the annual CE requirements have been met during the previous calendar year. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. (4-6-05)()

b. A licensee shall be considered to have satisfied their CE requirements for the first renewal of their initial license. Licensees who have failed to meet the annual continuing education requirement may petition the Board for additional time to complete their continuing education

requirements. (3-20-04)

c. ~~After January 1, 2005 and p~~Prior to reinstatement of a license lapsed, canceled or otherwise non-renewed for less than five (5) years, the applicant shall provide proof of attendance consisting of eight (8) hours of continuing education for each year the license was lapsed. Effective January 1, 2014, prior to reinstatement of a license lapsed, canceled or otherwise non-renewed for less than five (5) years, the applicant shall provide proof of attendance consisting of twelve (12) hours of continuing education for each year the license was lapsed. A license lapsed, canceled or otherwise not renewed for more than five (5) years may be reinstated in accordance with Section 67-2614, Idaho Code. ~~(4-6-05)~~()

d. A licensee may carryover a maximum of ~~eight six~~ (86) hours of continuing education to meet the next year's continuing education requirement. ~~(3-20-04)~~()

e. One (1) continuing education hour shall be equal to one (1) learning unit, as determined by the American Institute of Architects, or one (1) clock hour of education, as determined by the Board. (3-20-04)

02. Architectural Health, Safety and Welfare Requirement. To qualify for continuing education, a course must involve architectural health, safety and welfare, which generally relates to the structural integrity or unimpairedness of a building or building sites and includes the following subject areas: (3-20-04)

a. ~~Architectural planning and pre design, accessibility, acoustics, building design, code of ethics, codes, acts, laws and rules governing the practice of architecture, construction administration, construction laws, construction functions, materials, methods and systems, environmental issues, energy efficiency, asbestos, lead based paint, toxic emissions, environmental analysis and environmental issues of building materials and systems, fire, building fire codes, flames spread, smoke contribution, explosives, fire safety systems, fire detection alarm standards, insurance issues, interior design, material use, functions and features, materials systems, roofing, waterproofing, wall systems, mechanical, plumbing and electrical system concepts, materials and methods, security of buildings, natural hazards related to building design, earthquakes, high wind and floods, preservation, renovation, restoration and adaptive reuse and sustainable design, site and soil analysis, site design, specification writing, structural issues, survey methods and techniques, and such other subjects as determined by the Board.~~ Legal, which includes laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public. ~~(3-20-04)~~()

b. Building systems, which includes structural, mechanical, electrical, plumbing, communications, security, and fire protection. ()

c. Environmental, which includes energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, and insulation. ()

d. Occupant comfort, which includes air quality, lighting, acoustics, ergonomics. ()

e. Materials and methods, which includes construction systems, products, finishes.

furnishings, and equipment. ()

f. Preservation, which includes historical, reuse, and adaptation. ()

g. Pre-Design, which includes land use analysis, programming, site selection, site and soils analysis, and surveying. ()

h. Design, which includes urban planning, master planning, building design, site design, interiors, safety and security measures. ()

i. Construction documents, which includes drawings, specifications, and delivery methods. ()

j. Construction contract administration, which includes contracts, bidding, contract negotiations. ()

03. Approved Credit. Continuing education courses must be in the subject of architectural health, safety and welfare and be presented by: (3-20-04)

a. Providers approved by the National Architectural Accreditation Board (NAAB) schools of architecture; or (3-20-04)

b. Providers approved by the National Council of Architect Registration Board (NCARB); or (3-20-04)

c. Providers approved by the American Institute of Architects (AIA); or (3-20-04)

d. Providers as otherwise approved by the Board. All requests for approval or pre-approval of continuing education credits must be made to the Board in writing and must be accompanied by a statement that includes the name of the instructor or instructors, his or her qualifications, the date, time and location of the course, the specific agenda for the course, the number of continuing education hours requested, and a statement of how the course is believed to be in the nature of architectural health, safety and welfare. (3-20-04)

04. Verification of Attendance. It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. This verification shall be maintained by the licensee for a period of ~~three~~ five (35) years and provided to the Board upon request of the Board or its agent. ~~(3-20-04)~~()

05. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for those licensees who fail to certify or otherwise provide acceptable documentation of meeting the CE requirements. Licensees who make a false attestation regarding compliance with the CE requirements shall be subject to disciplinary action by the Board. (3-20-04)

06. Exemptions. A licensed architect shall be deemed to have complied with the CE requirements if the licensee attests in the required affidavit that for not less than ten (10) months of the preceding one (1) year period of licensure, the architect has met one (1) of the following

criteria: (3-20-04)

a. Has served honorably on active duty in the military service (exceeding ninety (90) consecutive days). (3-20-04)

~~**b.** *Is a resident of another jurisdiction recognized by the Board having a continuing professional education requirement for registration as an architect and has complied with all requirements of that state or district for practice therein.*~~ (3-20-04)

eb. Is a government employee working as an architect and assigned to duty outside the United States. (3-20-04)

ec. Special Exemption. The Board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The architect must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. (3-20-04)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.22.01 - RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD

DOCKET NO. 24-2201-1101

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 54-5310, 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, pages 219 and 220.](#)

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

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

DATED this 4th day of November, 2011.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
700 W State
Boise, ID 83702
Phone: (208) 334-3233
Fax: (208) 334-3945

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-5310, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Liquefied Petroleum Gas Safety Board is updating the edition of the document incorporated by reference entitled “Liquefied Petroleum Gas Code.” Adopting the 2011 edition will ensure current safety standards in the dispensing and storage of propane.

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 the rule changes were discussed in a noticed open meeting.

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

The Board is adopting the 2011 edition of the Liquefied Petroleum Gas Code published by the National Fire Protection Association (NFPA) to ensure current safety standards in the dispensing and storage of propane.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2011.

DATED this 7th day of July, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-2201-1101

004. INCORPORATION BY REFERENCE (RULE 4).

The document titled ~~National Fire Protection Association Code 58~~ Liquefied Petroleum Gas Code, 2004/11 Edition, commonly known as NFPA 58, published by National Fire Protection Association (NFPA), is herein incorporated by reference and is available for public inspection at the Board's office. Copies of the 2011 Liquefied Petroleum Gas Code are available for purchase from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322.

~~(4-2-08)~~()

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.03.01 - RULES GOVERNING GROUP INSURANCE

DOCKET NO. 38-0301-1101

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 67-5226, 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) 67-5701 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 146 through 150.](#)

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 Cynthia Ness, Program Manager. 208-332-1865.

DATED this 25th day of November, 2011.

Cynthia Ness, Program Manager
Department of Administration/Office of Group Insurance
304 N.8th Street Room 432
Boise, Idaho 83720-0035
PO Box 83720
Phone 332-1865, fax332-1888

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

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 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 67-5701, 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To comply with Federal Law to raise State Employee and State Retirees dependent's eligibility age limits.

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

Compliance with deadline in amendments to governing law or federal programs.

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 a need to do temporary rule making to comply with mandated federal law.

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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cynthia Ness 332-1865.

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 September 28, 2011.

DATED this July 6, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 38-0301-1101

011. DEFINITIONS.

01. Child. Child includes a natural child, stepchild, adopted child or child in the process of adoption from the time placed with the eligible active employee or eligible retiree. The term also includes a child legally dependent upon the eligible active employee, the eligible active employee's spouse, the eligible retiree or the eligible retiree's spouse for support where a normal parent-child relationship exists with the expectation that the eligible active employee or eligible retiree will continue to rear that child to adulthood. The definition does not include a child where one or both of that child's natural parents live in the same household with the eligible active employee or eligible retiree, as a parent-child relationship is not deemed to exist even though the eligible active employee, eligible retiree or their spouses provide support. (3-29-10)

02. Date of Hire. The first day an individual begins work for the state or his employer. (3-29-10)

03. Director. The director of the Department of Administration. (3-29-10)

04. Eligible Active Employee. An officer or employee of a state agency, department or institution, including a state official, elected official or employee of another governmental entity which has contracted with the state of Idaho for group insurance coverage, who is working twenty (20) hours or more per week, and whose term of employment is expected to exceed five (5) consecutive months. (3-29-10)

05. Eligible Dependent of an Eligible Active Employee. An eligible dependent of an eligible active employee who is enrolled in group insurance, is a person who is any of the following: (3-29-10)

a. The spouse of an eligible active employee. (3-29-10)

b. ~~An unmarried~~ child ~~under up to~~ the age of twenty~~one~~ ~~six~~ (21~~6~~) of an eligible active employee or an eligible active employee's spouse, ~~unless the dependent child is eligible to enroll in their own employer based group coverage.~~ (3-29-10)()

~~**c.** An unmarried child under the age of twenty-five (25) who is legally dependent upon the eligible active employee or the eligible active employee's spouse for support where a normal parent-child relationship exists with the expectation that the eligible active employee will~~

~~continue to rear that child to adulthood, and is eligible to be claimed as a dependent on the eligible active employee's most recent United States Individual Income Tax return. (3-29-10)~~

06. Eligible Dependent of an Eligible Retiree. An eligible dependent of an eligible retiree who is enrolled in group insurance, is a person who is any of the following: (3-29-10)

a. The non-Medicare-eligible spouse of an eligible retiree. (3-29-10)

b. ~~An unmarried~~ child ~~under~~ up to the age of twenty ~~one~~ ~~six~~ (21~~6~~) of an eligible retiree or an eligible retiree's spouse, unless the dependent child is eligible to enroll in their own employer based group coverage. (3-29-10)()

~~**e.** An unmarried child under the age of twenty five (25) who is legally dependent upon the eligible retiree or the eligible retiree's spouse for support where a normal parent-child relationship exists with the expectation that the eligible retiree will continue to rear that child to adulthood, and is eligible to be claimed as a dependent on the eligible retiree's most recent United States Individual Income Tax return. (3-29-10)~~

07. Eligible Retiree. A person who is any of the following: (3-29-10)

a. An officer or employee of a state agency, department or institution, including state and elected officials, who retired on or before June 30, 2009, and who is not Medicare eligible. (3-29-10)

b. An officer or employee of a state agency, department or institution, including state and elected officials, who meets all of the following: (3-29-10)

i. He retires after June 30, 2009, and retires directly from state employment. (3-29-10)

ii. He is not Medicare eligible. (3-29-10)

iii. He was hired on or before June 30, 2009, ~~or~~ and has at least twenty thousand eight hundred (20,800) credited state service hours on or before June 30, 2009, is reemployed, reelected or reappointed after June 30, 2009, and accrues an additional six thousand two hundred forty (6,240) continuous credited state service hours. (3-29-10)()

c. A person receiving benefits from a state of Idaho retirement system who has at least ~~ten (10) years or~~ twenty thousand eight hundred (20,800) credited state service hours in a state of Idaho retirement system, and who is not Medicare eligible. (3-29-10)()

08. Group Insurance. Medical, dental, vision, life, disability and other types of insurance coverage provided through a carrier who has contracted with the Office of Group Insurance to provide such insurance to eligible active employees, eligible retirees and their dependents. (3-29-10)

09. Health Care Coverage. Medical insurance coverage provided through a carrier who has contracted with the Office of Group Insurance to provide medical insurance to eligible

active employees, eligible retirees and their dependents. (3-29-10)

10. Medicare Coverage Gap. Under a Medicare-supplement plan, there is a gap in coverage for prescription medications between the initial coverage limit (two thousand seven hundred dollars (\$2,700) in 2009) and the catastrophic coverage threshold (four thousand three hundred fifty dollars (\$4,350) in 2009). Within this gap, the Medicare recipient pays one hundred percent (100%) of the cost of prescription medications before catastrophic coverage begins. (3-29-10)

11. Medicare Eligible. A person who is age sixty-five (65) or older and qualifies to receive Medicare. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

032. LOSS OF ELIGIBILITY.

01. Eligible Active Employee Separation. An eligible active employee and his dependents are no longer eligible for group insurance when the employee separates employment. An employee or former employee may be qualified to extend group insurance coverage after separation under provisions of federal and state law. (3-29-10)

02. ~~Unmarried Eligible Dependents—Child At or Over Age Twenty Five.~~ ~~An unmarried child under the age of twenty five (25) who is legally dependent upon the eligible active employee or eligible retiree for support where a normal parent-child relationship exists with the expectation that the eligible employee or eligible retiree will continue to rear that child to adulthood, and is eligible to be claimed as a dependent on the eligible active employee's or eligible retiree's most recent United States Individual Income Tax return, is no longer eligible for group insurance at the end of the calendar month the child becomes twenty five (25) years old.~~ An Eligible Dependent loses coverage when he no longer meets eligibility requirements in Subsection 011.05 of this rule. Group insurance coverage will terminate on the last day of the month in which the child turns 26. ~~(3-29-10)()~~

03. Retiree Becomes Medicare Eligible. A retiree is no longer eligible for health care coverage when the retiree becomes Medicare eligible. A Medicare-eligible retiree's dependent spouse, who is not Medicare eligible, and eligible dependent children, remain eligible for health care coverage until the spouse becomes Medicare eligible. (3-29-10)

04. Retiree's Dependent Spouse Becomes Medicare Eligible. A retiree's dependent spouse and ~~other dependents~~ children are no longer eligible for health care coverage when the retiree's dependent spouse becomes Medicare eligible. ~~(3-29-10)()~~

(BREAK IN CONTINUITY OF SECTIONS)

040. MEDICARE PRESCRIPTION MEDICATION REIMBURSEMENT PROGRAM.

Effective January 1, 2010 through December 31, 201~~1~~³, any Medicare-eligible retiree or his Medicare-eligible dependent spouse, who is no longer eligible for health care coverage due to Medicare eligibility, may petition the director for reimbursement of prescription medications up to, but not to exceed, two thousand dollars (\$2,000) per calendar year, per Medicare-eligible retiree and per Medicare-eligible dependent spouse. (3-29-10)()

01. Eligibility for Medicare Prescription Medication Reimbursement. If an eligible retiree or his eligible dependent spouse meet the following conditions, he can request reimbursement for his respective out-of-pocket expenses for prescription medications. Each individual must meet all criteria each calendar year: (3-29-10)

a. The Medicare-eligible retiree or his Medicare-eligible dependent spouse has met or exceeded the initial Medicare coverage limit for prescription medication expenses under his Medicare-supplement plan. (3-29-10)

b. The Medicare-eligible retiree or his Medicare-eligible dependent spouse is in the Medicare coverage gap, and has paid two thousand dollars (\$2,000) or more out of pocket for prescription medications. (3-29-10)

c. The Medicare-eligible retiree's or his Medicare-eligible dependent spouse's total out-of-pocket prescription medication expenses have not exceeded the Medicare catastrophic coverage threshold. (3-29-10)

02. Deadline to Request Reimbursement from the Director. A Medicare-eligible retiree or his Medicare-eligible dependent spouse must submit a petition and a request for reimbursement to the director on or before March 31 of each year for the petition and request to be considered timely. (3-29-10)

a. All reimbursement requests for ~~2010~~ out-of-pocket prescription medication expenses must be received on or before March 31, ~~2011, and requests for 2011 out-of-pocket prescription medication expenses must be received on or before March 31, 2012,~~ of the following calendar year to be considered. Petitions and reimbursement requests received after March 31, ~~2011 (for 2010 expenses), and March 31, 2012 (for 2011 expenses),~~ of the covered year will be denied for being untimely. (3-29-10)()

03. Contents of the Petition and Reimbursement Requests. The Medicare-eligible retiree's or Medicare-eligible dependent spouse's petition and reimbursement request shall specifically state the reasons why the director should grant the Medicare-eligible retiree's or the Medicare-eligible dependent spouse's petition and reimbursement request, including but not limited to evidence that the petitioner has met all of the eligibility criteria above. (3-29-10)

a. Reimbursement requests must include all of the following information on an itemized receipt or statement: (3-29-10)

- i. Date of service. (3-29-10)
- ii. Description of prescription medication. (3-29-10)
- iii. Total amount of expenses. (3-29-10)
- iv. Patient name. (3-29-10)
- v. Any amount covered by other insurance, if applicable. (3-29-10)

04. Director's Review of the Petition and Reimbursement Request. The director shall review the petition and reimbursement request, and may ask for additional information or documentation from the petitioner to assist the director in reaching a decision on the petition and reimbursement request. (3-29-10)

05. Director's Decision of the Petition and Reimbursement Request. The director shall approve or deny the petition and reimbursement request, and shall provide reasons for any denial within ten (10) business days after receipt of the petition or the receipt of requested information or documentation, whichever is later. (3-29-10)

06. Appeal of Denial. A petitioner may appeal the director's denial within thirty (30) days of the denial. The appeal shall state the reasons why the director's decision is in error. The appeal shall be reviewed by the Group Insurance Advisory Committee within thirty (30) calendar days of receipt of the appeal. (3-29-10)

a. The Group Insurance Advisory Committee may review the appeal and make a decision on the basis of the information and documentation provided by the Medicare-eligible retiree or his Medicare-eligible dependent spouse, may request additional information or documentation, and may take written or oral testimony. (3-29-10)

b. The Group Insurance Advisory Committee shall issue a written decision on the Medicare-eligible retiree's or his Medicare-eligible dependent spouse's appeal within ninety (90) days of the date of the appeal. (3-29-10)

c. The Group Insurance Advisory Committee shall deny any appeal for any of the following reasons: (3-29-10)

- i. The individual is not Medicare eligible. (3-29-10)
- ii. The individual has not yet retired from state employment. (3-29-10)
- iii. The Medicare-eligible retiree or the Medicare-eligible dependent spouse has not met all of the criteria described in Subsection 040.01 of these rules. (3-29-10)
- iv. The appeal is untimely or the original petition was submitted untimely. (3-29-10)

07. Subsequent Reimbursement Requests After Approval of Petition. A Medicare-eligible retiree or his Medicare-eligible dependent spouse, whose petition for prescription

medication reimbursement has been approved by the director, may submit subsequent requests for reimbursement to the Office of Group Insurance, until the individual has received two thousand dollars (\$2000) for reimbursed prescription medication, per calendar year, under these rules.

(3-29-10)

08. Reimbursement Considered Taxable Income. Any reimbursed prescription medication expenses by and through these rules are considered taxable income to the reimbursed party.

(3-29-10)

IDAPA 45 - HUMAN RIGHTS COMMISSION

45.01.01 - RULES OF THE IDAHO HUMAN RIGHTS COMMISSION

DOCKET NO. 45-0101-1102

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-5906(12) and 44-2704(2), Idaho Code, the Americans with Disabilities Act as amended, 42 USC 1201 et seq., and federal regulations at 29 CFR 1630.

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, pages 251 through 260.](#)

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 Deputy Attorney General Jeanne T. Goodenough, 317 West Main Street, Boise, Idaho 83735-0660. Phone: (208) 223 2873 ext. 4229. Email: jeanne.goodenough@labor.idaho.gov.

DATED this 3rd day of November, 2011.

Jeanne T. Goodenough
Deputy Attorney General
Idaho Human Rights Commission
317 West Main Street
Boise, ID 83735-0660
(208) 334 2873 ext. 4229
FAX (208) 334 6125

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-5906(12) and 44-2704(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Commission's rules have not been updated for several years. Non-substantive changes are being made to increase clarity, to eliminate unnecessary definitions, to replace references to "person" with "individual," and other minor wording improvements, as well as bring the rule into compliance with changes to federal law.

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 there are no substantive changes to the rules.

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 Deputy Attorney General Jeanne T. Goodenough, 317 West Main Street, Boise, Idaho 83735-0660. Phone: (208) 334 2873 ext. 4229. Email: jeanne.goodenough@labor.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 August 24,

2011.

DATED this 29th day of June, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 45-0101-1102

002. WRITTEN INTERPRETATIONS.

~~Explanations for rule changes are available for public inspection in the Office of the Human Rights Commission, 317 West Main Street, Boise, Idaho 83735-0660.~~ Brochures explaining various provisions of anti-discrimination laws are ~~also~~ available at the ~~address given above~~ office of the Idaho Human Rights Commission. (7-1-97)()

(BREAK IN CONTINUITY OF SECTIONS)

005. DECLARATORY RULINGS.

Any ~~person~~ individual who petition~~ing~~s for a declaratory ruling on the applicability of a statute or rule administered by the Human Rights Commission must substantially comply with this rule. The petition ~~shall~~ must be addressed to the Administrator and ~~shall~~ will: (7-1-93)()

01. Identification. Identify the petitioner and state the petitioner's interest in the matter; (7-1-93)

02. State Ruling. State the declaratory ruling that the petitioner seeks; and (7-1-93)

03. Other Rationale. ~~Indicate~~ Cite the statute, rule, or other controlling law and the factual allegations upon which the petitioner relies to support the petition. (7-1-93)()

~~**04. Legal Assertions.** Legal assertions in the petition should be accompanied by citations of cases or statutory provisions.~~ (7-1-93)

006. OFFICE -- OFFICE HOURS -- ADDRESS -- RECORDS.

The office of the Idaho Human Rights Commission is located at 317 West Main Street, Boise, Idaho 83735-0660. The Commission's email address is inquiry@ihrc.idaho.gov. Office hours are from 8:00 a.m. to 5:00 p.m. Mountain Time, except Saturday, Sunday, and legal holidays. This is the office where all filings must be made and where records are kept. The Administrator of the agency is the custodian of records. (7-1-97)()

007. -- 009. (RESERVED)

010. DEFINITIONS.

~~**01. Administrator.** The Administrator appointed by the Commission pursuant to the~~

~~Human Rights Act. (7-1-93)~~

~~02. Commission. The Idaho Human Rights Commission as created by the Human Rights Act. (7-1-93)~~

~~03. Commissioner. A duly appointed member of the Idaho Human Rights Commission. (7-1-93)~~

01. Act. The Human Rights Commission Act, Section 67-5901, Idaho Code, et seq. ()

042. Complainant. Any *person* **individual** who files a complaint with the Commission pursuant to the *Human Rights Act*. (7-1-93)()

053. Complaint. A statement filed with the Commission pursuant to these ~~R~~**r**ules alleging an unlawful practice within the meaning of the *Human Rights Act*. The complaint may be in the form of a letter but, whenever *timely* possible, should be written on a complaint form provided by the Commission or on the complaint form used by the Equal Employment Opportunity Commission (**EEOC**), and signed by the Complainant ~~or their legal representative~~ **under penalty of perjury.** (7-1-97)()

~~06. Conciliation Agreement. A written agreement settling the issues raised by the complaint and signed by the parties after a determination on the merits of the complaint by the Commission. (7-1-93)~~

074. Covered Entity. Those *persons* **individuals** and organizations within the jurisdiction of the *Human Rights Act*, as set forth in Sections 65-5901 and 67-5902, Idaho Code. (7-1-98)()

~~08. Discriminatory Wage Act. The Act set forth in Title 44, Chapter 17, Idaho Code, "Discriminatory Wage Rates Based Upon Sex." (7-1-93)~~

095. E.E.O.C. The United States Equal Employment Opportunity Commission or any of its designated representatives. (7-1-93)()

~~10. Human Rights Act. As used herein, the term "Human Rights Act" shall mean the Human Rights Commission Act of 1969, as amended and codified as Title 67, Chapter 59, Idaho Code. (7-1-93)~~

~~11. Mental Condition. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and learning disabilities. (7-1-93)~~

~~1206. Party or Parties.~~ **Party or Parties.** The Complainant, the Respondent, the Commission, and any other *person* **individual or entity** authorized by the Commission to intervene in any proceeding. (7-1-93)()

~~13. Physical Condition. Any physiological disorder, condition, cosmetic~~

~~disfigurement, anatomical loss, or abnormality affecting one (1) or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin and endocrine.~~
(7-1-93)

~~**14. Record of Such a Disability.** A person may have “a record of such a disability” when he/she has a history of or has been misclassified as having a physical or mental condition that substantially limits one (1) or more major life activities.~~
(7-1-97)

~~**15. Regarded as Having Such a Disability.** A person may be “regarded as having such a disability” when he/she:~~
(7-1-97)

~~**a.** Has a physical or mental impairment that does not substantially limit a major life activity but is treated by a covered entity as constituting such a limitation;~~
(7-1-98)

~~**b.** Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others towards such an impairment; or~~
(7-1-93)

~~**c.** Has none of the impairments listed above but is treated by a covered entity as having such an impairment.~~
(7-1-98)

~~**16. Religion.** All aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.~~
(3-15-02)

~~**107. Respondent.** Any person The party against whom a complaint is filed in accordance with the Human Rights Act and these Rrules.~~
(7-1-93)()

~~**18. Settlement Agreement.** A written agreement settling the issues raised by the complaint and signed by the parties prior to the Commission's making a determination on the merits of the complaint.~~
(7-1-93)

~~**19. Sex.** The terms “because of sex” or “on the basis of sex” include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work. Subsection 010.19 shall not require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion. Provided, that nothing herein shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.~~
(3-15-02)

~~**20. Substantial Limitation.** A physical or mental condition constitutes a “substantial limitation” when a person is unable to perform a major life activity, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working, that the average person in the general population can perform or is significantly restricted as to~~

~~the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity. (3-15-02)~~

~~**a.** The following factors should be considered in determining whether a physical or mental condition constitutes a substantial limitation: (3-15-02)~~

~~i. The nature and severity of the impairment; (3-15-02)~~

~~ii. The duration or expected duration of the impairment; and (3-15-02)~~

~~iii. The permanent or long term impact, or the expected permanent or long term impact of or resulting from the impairment. (3-15-02)~~

~~**b.** With respect to the major life activity of working, a physical or mental condition constitutes a “substantial limitation” when a person is significantly restricted in the ability to perform either a class of jobs or a broad range of jobs in various classes as compared to the average person having comparable training, skills and abilities. The inability to perform a single, particular job does not constitute a substantial limitation in the major life activity of working. (3-15-02)~~

~~**c.** The following factors may be considered in determining whether a physical or mental condition constitutes a “substantial limitation” on the major life activity of “working”:
(3-15-02)~~

~~i. The geographical area to which the individual has reasonable access; (3-15-02)~~

~~ii. The job from which the individual has been disqualified because of an impairment, and the number and types of jobs utilizing similar training, knowledge, skills or abilities, within that geographical area, from which the individual is also disqualified because of the impairment (class of jobs); and/or (3-15-02)~~

~~iii. The job from which the individual has been disqualified because of an impairment, and the number and types of other jobs not utilizing similar training, knowledge, skills or abilities, within that geographical area, from which the individual is also disqualified because of the impairment (broad range of jobs in various classes). (3-15-02)~~

011. REPRESENTATION OF PARTIES.

In proceedings before the Commission, Complainants, Respondents, witnesses and any other ~~persons~~ **individuals or entities** authorized by the Commission to intervene must be represented as follows: (3-30-01)()

01. ~~Natural Person~~ **Individual.** An ~~natural person~~ **individual** must represent himself or herself or be represented by an attorney, or a family member. (3-30-01)()

02. **Partnership.** A partnership must be represented by a partner, a duly authorized employee, or an attorney. (3-30-01)

03. Corporation. A corporation must be represented by an officer, a duly authorized employee, or an attorney. (3-30-01)

04. Other Entity. A municipal corporation, state, federal, tribal, or local government agency, or entity, incorporated association, or non-profit organization must be represented by an officer, a duly authorized employee or an attorney. (3-30-01)

012. INTERPRETATION OF STATE LAW.

In evaluating allegations of discrimination on the basis of race, color, religion, sex or national origin under the Act, the Commission will rely on the interpretations of Title VII of the Civil Rights Act, 42 USC 2000e et seq. and federal regulations at 29 CFR Parts 1604 through 1607. The Commission will rely on interpretations of the Age Discrimination in Employment Act, 42 USC 621 et seq., and regulations at 29 CFR Part 1625 in determining allegations of age discrimination. ()

0123. -- 099. (RESERVED)

100. TEMPORARY ~~DISABILITIES~~ IMPAIRMENTS.

Minor illnesses or conditions which are only temporarily disabling will not be considered to be disabilities under this the aAct. ~~Examples of such conditions include, but are not limited to: broken bones, sprains, or colds.~~ (7-1-97)()

101. DISABILITIES.

The prohibition of discrimination on the basis of disability in the Act will be construed in compliance with the Americans with Disabilities Act as amended, 42 USC 1201 et seq. and federal regulations at 29 CFR Part 1630. ()

01. Contagious Diseases. ~~An person suffering from~~ individual who has a chronic contagious disease is an person individual with a disability if he/ ~~or~~ she meets the requirements of Section 67-5902(15), Idaho Code. That person individual is entitled to an individualized medical inquiry to determine if he/ ~~or~~ she is qualified for the job in question. Factors to be considered include the nature, duration and severity of the risk of infection, and the probability that the disease would be transmitted and would cause varying degrees of harm. (7-1-97)()

02. Alcoholism. Alcoholism is a disability if the requirements of Section 67-5902(15), Idaho Code, are met. No accommodation is necessary if the disability creates a health or safety threat. (See Section 67-5910(2)(d), Idaho Code.) Whenever alcoholism includes current use of alcohol, an employer may condition job retention upon the employee's successful completion of a treatment program and documented participation in an aftercare program. (7-1-97)

03. Drug Addiction. Drug addiction is a disability if the requirements of Section 67-5902(15), Idaho Code, are met. No accommodation is necessary if the disability creates a health or safety threat. (See Section 67-5910(2)(d), Idaho Code.) No accommodation is necessary for drug addiction ~~which that~~ includes current illegal use, possession, or selling of a controlled substance. An employer may condition job retention upon the employee's successful completion of a treatment program and documented participation in an aftercare program. (7-1-97)()

04. Reasonable Accommodations. Reasonable accommodations are adjustments or

modifications to the work assignment or work environment to enable ~~an person~~ individual with a disability to fulfill employment responsibilities. They may include, but are not limited to:

(7-1-97)()

a. Making the worksite accessible to and usable by ~~persons~~ individuals with a disability; (7-1-97)()

b. Modification of equipment or tools so they can be used by ~~an person~~ individual with a disability; (7-1-97)()

c. Job restructuring; (7-1-93)

d. Modified work schedules, particularly as they may be necessary for the ~~person~~ individual to receive treatment for a disability; (7-1-93)()

e. Acquisition of adaptive aids or devices; (7-1-93)

f. Reassignment to a vacant position. (7-1-93)

05. Accommodations of a Personal Nature. Employers ~~shall are~~ not ~~be~~ required to provide accommodations of a personal nature, such as wheelchairs and hearing aids; ~~And~~ ~~or shall~~ are they ~~be~~ required to hire two (2) full-time employees to fill one (1) position. (7-1-93)()

06. Cooperation. ~~An person~~ individual with a disability who seeks an accommodation must cooperate in the consideration of various accommodation options. An employer is not required to provide the “best” accommodation or the one most desired by the employee or applicant. The determination of “reasonableness” will be made on a case- by-case basis. (7-1-97)()

07. Pre-Employment Inquiry. An employer, labor organization, or employment agency ~~shall may~~ not make pre-employment inquiry of an applicant as to whether the applicant has a physical or mental impairment, ~~or as to~~ the nature or severity of such impairment, ~~or a worker’s compensation claim~~. A covered entity may make pre-employment inquiries into the ability of an applicant to perform job-related functions, or may ask an applicant to describe or to demonstrate how, with or without reasonable accommodation, the applicant will be able to perform job-related functions. (7-1-93)()

102. -- 199. (RESERVED)

200. MEDICAL ISSUES.

01. Medical Examinations and Inquiries. Medical examinations and inquiries are permitted as follows: (7-1-97)

a. A covered entity may require a medical examination or inquiry after making an offer of employment to an applicant and before he/ ~~or~~ she begins employment duties, and may condition an offer of employment on the results of such examination or inquiry, if all entering employees in the same job category are subjected to such an examination or inquiry regardless of

disability. Medical inquiries or examinations conducted in accordance with this section do not have to be job-related and consistent with business necessity. If certain criteria are used to screen out an applicant, however, the exclusionary criteria must be job-related and consistent with business necessity. (7-1-97)()

b. A covered entity may require a medical examination or make an inquiry of an employee that is job-related and consistent with business necessity. Inquiries may be made into the ability of an employee to perform job-related functions. (7-1-93)

c. A covered entity may conduct voluntary medical examinations and activities, including voluntary medical histories, which are part of an employee health program. (7-1-93)

02. Disabilities Not Presently Job-Related. An employer ~~shall~~ **may** not discriminate against an applicant or employee because of a disability ~~which that~~ is not presently job-related but ~~which that~~ may worsen and become job-related in the future. (3-30-01)()

03. Confidentiality, Exceptions. Information about the medical condition or history of an applicant or employee should be considered confidential except that: (7-1-93)

a. Supervisors and managers may be informed regarding restrictions on the work or duties of ~~persons~~ **individuals** with a disability and regarding any accommodations or health or safety precautions; ~~and~~ (7-1-97)()

b. First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; ~~and~~. (7-1-93)()

~~**c.** Enforcement agencies shall be provided relevant information upon request when investigating complaints under state or federal law. (7-1-93)~~

201. -- 299. (RESERVED)

300. COMPLAINTS.

01. Who May File. A complaint may be filed by any of the following: (7-1-93)

a. ~~Any person~~ **individual** for himself/ or herself, ~~or also on behalf of himself/herself and other similarly situated individuals~~ **a family member on behalf of a minor, or an individual with guardianship, power of attorney, or similar legal authority over another, who** claim~~ing~~**s** to be aggrieved by an alleged unlawful discriminatory practice as defined in the Act; (7-1-97)()

b. A Commissioner or ~~the~~ **Administrator** ~~may~~ request~~ing~~ the Commission to initiate a complaint, ~~provided he/she has sufficient reason to believe that an unlawful discriminatory practice as defined in the Act has occurred or is occurring. Upon such request~~ **the** Commission ~~shall~~ **will** review the reasons provided by the initiating Commissioner or Administrator and may initiate a complaint if satisfied that there is reason to believe that an unlawful discriminatory practice as defined in the Act has occurred or is occurring; (7-1-97)()

c. ~~Any person~~ **individual who** claim~~ing~~**s** that he/ ~~or~~ she has been discharged,

expelled, or otherwise discriminated against by an employer, labor organization, or employment agency because he/ ~~or~~ she opposed practices forbidden under the ~~Human Rights~~ Act, or because he/ ~~or~~ she has filed a complaint, testified, assisted or participated in any manner in an investigation, hearing or other procedure before the Commission. (7-1-97)()

02. Commission Assistance. Assistance in filing complaints ~~shall~~ will be available to any Complainant by a Commissioner, the Administrator, or staff member. The Commission reserves the right to refuse to accept a complaint for filing if, in the opinion of the Administrator, there is no reason to suspect that illegal discrimination may have occurred, or if the action is barred by the terms of Subsection 300.06.a. (7-1-97)()

03. Contents of Complaint. A complaint should contain the following: (7-1-93)

a. The full name, mailing address, and telephone number (if any) of the Complainant or Complainants; (7-1-93)

b. The full name, mailing address, and telephone number (if any and if known) of the Respondent or Respondents; (7-1-93)

c. A brief written statement sufficiently clear to identify the practices and to describe generally the action or practice alleged to be unlawful; (7-1-98)

d. The date or dates on which the alleged unlawful discriminatory practices occurred and, if the alleged unlawful practice is of a continuous nature, the dates between which said continuing practices are alleged to have occurred; (7-1-93)

e. A statement as to any other action which has been instituted in any other forum or agency based on the same grievance as is alleged in the complaint. (7-1-93)

04. Medical Documentation. ~~Persons~~ Individuals filing disability discrimination complaints may be required to furnish the Commission with opinions or records from duly licensed health professionals regarding (a) the nature of their disabilities, and (b) any limitations, including work restrictions, caused by the disability. Medical reports from the following sources will be accepted: physicians and osteopathic physicians, nurse practitioners, counselors, psychologists, occupational therapists, clinical social workers, dentists, audiologists, speech pathologists, podiatrists, optometrists, chiropractors, physical therapists, and substance abuse treatment providers, insofar as any opinion or evaluation within the scope of the relevant license applies to the individual's physical or mental impairment. Failure to provide medical reports within a reasonable period of time may be cause for dismissal of a complaint. (7-1-97)()

05. Method of Filing. A complaint may be filed ~~by~~ by personal delivery, mail, email, or facsimile delivered to the Commission office in Boise. (7-1-97)()

06. Time for Filing. The following time limitations apply to the filing of complaints with the Commission: (7-1-93)

a. A complaint must be filed within one (1) year after the alleged unlawful practice occurs. If the alleged unlawful practice is of a continuing nature, the date of the occurrence of said

unlawful practice ~~shall~~ **will** be deemed to be any date subsequent to the commencement of the unlawful practice up to and including the date on which the complaint ~~shall have been~~ **is** filed if the alleged unlawful practice continues. (7-1-93)()

b. ~~Upon receipt of~~ **The date** a complaint **is received** at the Commission's office, ~~the date of such receipt shall~~ **will** be noted ~~there~~ on **the complaint**. For purposes of compliance with Section 67-5908(4), Idaho Code, the date of notation ~~shall~~ **will** be the date of filing. (7-1-93)()

c. Notwithstanding any other provisions of these rules, a complaint ~~shall~~ **will** be deemed to have met the timelines requirement of Subsection 300.06.a. when the Commission receives, in any manner described in Subsection 300.05.a., a written statement sufficiently precise to identify the practices and to describe generally the action or practice alleged to be unlawful. (7-1-97)()

07. Complaints Deferred by E.E.O.C. Any complaint deferred to the Commission by the E.E.O.C. ~~shall~~ **will** be treated, for purposes of filing requirements, according to the rules ~~as~~ stated above. (7-1-93)()

08. Amended Complaints. A complaint may be amended, before the determination by the Commission and at the discretion of the Administrator, to cure technical defects or omissions, or to clarify ~~and~~ or amplify allegations by the Complainant. (7-1-97)()

09. Supplemental Complaint. The Complainant may file a supplemental complaint setting forth actions ~~which~~ **that** have allegedly occurred subsequent to the date of the original or amended complaint, and said supplemental complaint, if timely filed, will be considered together in the same proceeding with the original or amended complaint whenever practicable. (7-1-93)()

10. Withdrawal of Complaint. Upon the request of the Complainant, on a form provided by the Administrator stating the reasons for such request, a complaint, or any part thereof, may be withdrawn ~~upon~~ **with** the written consent of the Administrator. If a complaint is withdrawn pursuant to the provision of these rules, the Administrator ~~shall~~ **will** close the case and notify the parties. (7-1-93)()

11. Initial Actions. ~~Upon the filing of a complaint~~ **When filed**, ~~said~~ **a** complaint ~~shall~~ **will** be docketed, assigned a complaint number, and assigned to the staff for ~~settlement mediation~~ or investigation ~~and conciliation~~. (7-1-93)()

12. Service on Respondent. As promptly as possible, the Commission ~~shall cause~~ **will serve** a copy of ~~said~~ **the** complaint ~~to be served~~ on the Respondent by: (5-3-03)()

- a. Personal delivery; (5-3-03)
- b. Mail; ~~or~~ (5-3-03)()
- c. Email; or ()

ed. Facsimile. (5-3-03)

13. Mediation. Upon the filing of a complaint, the Commission or its delegated staff member ~~shall~~ **will** endeavor to resolve the matter by informal means. Such informal means may include, at the discretion of the Commission staff, ~~the holding of~~ a mediation conference at a time and place acceptable to all participants; ~~if held, a mediation conference shall be for the purposes of to~~ clarifying the positions of the parties to the complaint and ~~of exploring~~ any bases for no-fault settlement. A mediation conference is not, ~~and shall not be considered for any purposes to be,~~ a contested case hearing under Section 67-5209, Idaho Code. (7-1-97)()

14. Settlement. ~~If~~ Terms of **any** settlement ~~are~~ agreed to by the parties at any time prior to a determination by the Commission ~~as to~~ **on** the merits of the charge, ~~said terms shall will~~ be reduced to writing in a Settlement Agreement. Upon the signing of a Settlement Agreement by all parties, the Administrator will ~~cause the case to be~~ closed **the case**. (7-1-93)()

15. Answers. The Respondent ~~shall~~ **must** answer or otherwise respond to the complaint in writing within thirty (30) days of receiving it. A copy of ~~said~~ **Respondent's** answer, including any attachments ~~thereto~~ **submitted**, will be sent by the Commission staff to the Complainant. Upon application, the Commission may for good cause ~~shown~~ extend the time within which the answer may be filed. The answer ~~shall~~ **must** be fully responsive to each allegation contained in the complaint. Any allegation in the complaint ~~which that~~ is not denied or admitted in the answer ~~shall will~~ be deemed admitted unless the Respondent ~~shall~~ states in the answer ~~he/she that~~ **Respondent** is without knowledge or information sufficient to form a belief. If the Respondent fails to answer or otherwise respond to the complaint within thirty (30) days of receipt or such time as may be extended by the Commission, the Commission may act on the complaint based on the information provided by the Complainant. Upon application, the Commission may for good cause shown permit the Respondent to amend its answer to the complaint. Any amendments to the complaint, or any supplemental complaint, ~~shall will~~ be served upon the Respondent as promptly as possible. Answers to amended or supplemental complaints, if necessary, ~~shall must~~ be submitted within ten (10) working days. Time for submitting such answers may be extended by the Commission to thirty (30) days for good cause ~~shown~~. (7-1-97)()

16. Interrogatories Requests for Information. At any time after the filing of a complaint, the Commission staff may issue to either the Complainant or the Respondent ~~interrogatories requests for information~~ regarding any matter; ~~that is~~ not privileged, ~~which and that~~ is relevant to the subject matter involved. ~~It is not ground for objection that the information sought will be inadmissible in court if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.~~ (7-1-93)()

17. Interrogatory Answers Returned. Answers to ~~the interrogatories requests for information~~ **shall must** be returned to the Commission office ~~within thirty (30) days from the date of service of said interrogatories~~ **at a time determined by the investigator**. (7-1-93)()

~~**18. Extension.** Upon application by a party, for good cause shown, the Administrator may grant one (1) extension of time for filing answers to interrogatories, said extension not to exceed an additional fifteen (15) days.~~ (7-1-93)

~~19. **Orders.** In the event that a party objects to certain interrogatories, and after an attempt has been made to resolve any difference between the Commission and the party, the Commission may issue an order compelling the party to answer the interrogatories. This order must be signed by at least two (2) Commissioners. An order issued under this rule shall be enforceable by application to the District Court. (7-1-93)~~

~~2018. **Narrative Statement.** The Commission staff may, in specific cases, seek from a party request a narrative statement of response in addition to or rather than answers to interrogatories from a party. In such cases, the narrative statement should must include all information which that the party desires to be considered by the Commission, in determining whether to credit the allegations of the complaint. (7-1-93)()~~

~~219. **File Briefs.** Any party to a complaint filed with the Commission may file briefs or other written memoranda setting out his or her position or interpretation of the law. (7-1-97)~~

~~220. **Summary of Investigation.** At the completion of the investigation, the staff member to whom the case is assigned shall will prepare a report containing a summary of the investigation and submit it to the Administrator to review. (7-1-93)()~~

~~231. **Administrative Closure.** At any point during the handling of a particular case, the Administrator may close the case for administrative reasons. Such reasons shall that include, but are not limited to: (7-1-99)()~~

- ~~a. Failure of the Complainant to accept a full relief settlement offer; (7-1-93)~~
- ~~b. Failure of the Complainant to cooperate with the Commission in the processing of the case, including failure to answer interrogatories requests for information or failure to provide medical information as requested; (7-1-93)()~~
- ~~c. Inability to locate the Complainant; (7-1-93)~~
- ~~d. It appearing upon investigation that the case is not jurisdictional within the jurisdiction of the Commission; (7-1-93)()~~
- ~~e. The Complainant's filing of a suit in either state or federal court alleging the same unlawful practices as complained of to the Commission. (7-1-93)()~~

~~242. **Notification of Closure.** The Administrator shall will notify the parties of such an administrative closure, including the grounds therefor the decision, as promptly as possible. (7-1-93)()~~

~~253. **Decision on the Merits.** At the completion of the investigation and approval of the summary by the Administrator, the Commission or a designated panel of at least three (3) Commissioners shall will determine whether there is probable cause to believe that the Respondent has been or continues to be engaged in any unlawful discriminatory practices defined in the Act. (7-1-93)()~~

~~264. **No Probable Cause.** If the Commission or designated panel finds no probable~~

cause ~~to credit on~~ the allegations of the complaint, a statement of no probable cause and order of dismissal will be issued for the Commission by the Administrator. The summary of investigation, statement, and order ~~shall will~~ be sent to Complainant and Respondent, thereby closing the case.

(5-3-03)()

275. Probable Cause. If the Commission or designated panel finds probable cause ~~to credit on~~ the allegations of the complaint, a statement of probable cause ~~shall will~~ be issued. The summary of investigation and statement ~~shall will~~ be sent to the Complainant and the Respondent.

(5-3-03)()

286. Conciliation. If the Commission finds probable cause ~~to credit on~~ the allegations of the complaint, the Commission staff ~~shall will~~ endeavor through conference with the parties to redress and eliminate the possible unlawful discriminatory practice by conciliation.

(7-1-93)()

297. Conciliation Agreement. If ~~the commission staff shall succeed in endeavors to conciliate~~ ~~conciliation is successful~~, a written Conciliation Agreement ~~shall will~~ be prepared, ~~which shall set forth that states~~ all measures to be taken by any party, and if appropriate, compliance provisions. The Conciliation Agreement ~~shall must~~ be signed by the parties, and the Administrator ~~shall cause the will close the case to be closed~~.

(7-1-93)()

3028. Failure of Agreement. ~~In the event of~~ ~~If the parties~~ ~~failure~~ to reach terms of conciliation, ~~agreeable to all parties, the Administrator shall so certify and assign the case to the Commission's legal counsel. The~~ Commission, ~~after review by its legal counsel, shall will~~ determine whether or not to pursue the case in the District Court.

(7-1-93)()

3129. No Action. If the Commission determines not to pursue the case in District Court, the Administrator ~~shall so will~~ notify Complainant and Respondent, close the case, and advise Complainant of his or her right to pursue the case through a private cause of action.

(7-1-93)()

320. Action. If the Commission decides to pursue a case, it ~~shall direct its legal counsel to will~~ file an action in District Court in the name of the Commission ~~for the use on behalf~~ of the ~~person or persons alleging discrimination~~ **Complainant**.

(7-1-93)()

331. Confidentiality of Records. ~~In order to protect the interests of all parties in reaching successful settlements of discrimination charges without resorting to court action, The records of the Commission are confidential according to Section 9-340B(8), Idaho Code. The~~ Commission and its employees will not reveal information about a case to nonparties except as may be necessary to conduct a full and fair investigation ~~or to cooperate with other government law enforcement agencies~~.

(7-1-93)()

34. Federal Compliance. ~~In the interest of consistency and to avoid confusion on the part of persons governed by both the State and Federal anti-discrimination laws, the Commission will generally follow the interpretations of the Federal anti-discrimination laws in examining the merits of a complaint filed with it under this Act. If a person files a complaint under Title 67, Chapter 59, Idaho Code, and Title 44, Chapter 17, Idaho Code, the Commission will attempt to avoid duplication in investigation and settlement efforts, whenever possible.~~

(7-1-97)

352. Document Destruction. The Commission ~~will~~ may retain closed investigatory files for three (3) years from the date of closure at which time these documents may ~~be~~ destroyed at the discretion of the Administrator. ~~(7-1-97)~~()

363. Notice of Right to Sue. At the time of case closure, the Administrator will issue a notice of administrative dismissal notifying the ~~e~~Complainant of his or her right to file a civil action in District Court. Any such suit must be filed within ninety (90) days of the date of this notice. ~~(7-1-99)~~()

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.06 - PERSI RETIREMENT RULES

DOCKET NO. 59-0106-1101

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 February 1, 2011, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, 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:

Update rule 162 to adopt new contingent annuitant factors (Table C) for members who retire on or after July 1, 2011.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [May 4, 2011, Idaho Administrative Bulletin, Vol. 11-5, pages 101 through 109.](#)

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfoy, PERSI, 287-9271.

DATED this 27th day of May, 2011.

Don Drum, Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-287-9230; Fax: 208-334-3408

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 59-1314(1) and 72-1405, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than May 18, 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:

Update rule 162 to adopt new contingent annuitant factors (Table C) for members who retire on or after July 1, 2011.

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, Idaho Code, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, PERSI, 287-9271.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 25, 2011.

DATED this 7th day of April, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0106-1101

162. ACTUARIAL ASSUMPTION TABLES (RULE 162).

The actuarial tables used for determining optional and early retirement benefits are as follows:

TABLE A -- Page 1
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
If the date of last contribution is prior to 10/1/92

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.770	.690	.610	.530	.450
1	.998	.968	.938	.908	.878	.843	.763	.683	.603	.523	
2	.995	.965	.935	.905	.875	.837	.757	.677	.597	.517	
3	.993	.963	.933	.903	.873	.830	.750	.670	.590	.510	
4	.990	.960	.930	.900	.870	.823	.743	.663	.583	.503	
5	.988	.958	.928	.898	.868	.817	.737	.657	.577	.497	
6	.985	.955	.925	.895	.865	.810	.730	.650	.570	.490	
7	.983	.953	.923	.893	.863	.803	.723	.643	.563	.483	
8	.980	.950	.920	.890	.860	.797	.717	.637	.557	.477	
9	.978	.948	.918	.888	.858	.790	.710	.630	.550	.470	
10	.975	.945	.915	.885	.855	.783	.703	.623	.543	.463	
11	.973	.943	.913	.883	.853	.777	.697	.617	.537	.457	

First sixty months reduction: .2500% Next sixty months reduction: 0.6667% (1-1-94)

TABLE A -- Page 2
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
If the date of last contribution is on or after 10/1/92 but prior to 10/1/93

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.777	.705	.632	.560	.487
1	.998	.968	.938	.908	.878	.844	.771	.699	.626	.554	
2	.995	.965	.935	.905	.875	.838	.765	.693	.620	.548	
3	.993	.963	.933	.903	.873	.832	.759	.687	.614	.542	
4	.990	.960	.930	.900	.870	.826	.753	.681	.608	.536	
5	.988	.958	.928	.898	.868	.820	.747	.675	.602	.530	
6	.985	.955	.925	.895	.865	.814	.741	.669	.596	.524	
7	.983	.953	.923	.893	.863	.808	.735	.663	.590	.518	
8	.980	.950	.920	.890	.860	.802	.729	.657	.584	.512	

Months	Years									
9	.978	.948	.918	.888	.858	.796	.723	.651	.578	.506
10	.975	.945	.915	.885	.855	.790	.717	.645	.572	.500
11	.973	.943	.913	.883	.853	.784	.711	.639	.566	.494

First sixty months reduction: 0.2500% Next sixty months reduction: 0.6042% (3-20-97)

TABLE A -- Page 3
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
If the date of last contribution is on or after 10/1/93 but prior to 10/1/94

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.785	.720	.655	.590	.525
1	.998	.968	.938	.908	.878	.845	.780	.715	.650	.585	
2	.995	.965	.935	.905	.875	.839	.774	.709	.644	.579	
3	.993	.963	.933	.903	.873	.834	.769	.704	.639	.574	
4	.990	.960	.930	.900	.870	.828	.763	.698	.633	.568	
5	.988	.958	.928	.898	.868	.823	.758	.693	.628	.563	
6	.985	.955	.925	.895	.865	.817	.752	.687	.622	.557	
7	.983	.953	.923	.893	.863	.812	.747	.682	.617	.552	
8	.980	.950	.920	.890	.860	.807	.742	.677	.612	.547	
9	.978	.948	.918	.888	.858	.801	.736	.671	.606	.541	
10	.975	.945	.915	.885	.855	.796	.731	.666	.601	.536	
11	.973	.943	.913	.883	.853	.790	.725	.660	.595	.530	

First sixty months reduction: 0.2500% Next sixty months reduction: 0.5417% (3-20-97)

TABLE A -- Page 4
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
Date of last contribution is on or after 10/1/94 or later

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.0	.970	.940	.910	.880	.850	.792	.735	.677	.620	.562
1	.998	.968	.938	.908	.878	.845	.788	.730	.673	.615	
2	.995	.965	.935	.905	.875	.840	.783	.725	.668	.610	

Months	Years									
3	.993	.963	.933	.903	.873	.836	.778	.721	.663	.606
4	.990	.960	.930	.900	.870	.831	.773	.716	.658	.601
5	.988	.958	.928	.898	.868	.826	.769	.711	.654	.596
6	.985	.955	.925	.895	.865	.821	.764	.706	.649	.591
7	.983	.953	.923	.893	.863	.816	.759	.701	.644	.586
8	.980	.950	.920	.890	.860	.812	.754	.697	.639	.582
9	.978	.948	.918	.888	.858	.807	.749	.692	.634	.577
10	.975	.945	.915	.885	.855	.802	.745	.687	.630	.572
11	.973	.943	.913	.883	.853	.797	.740	.682	.625	.567

(3-20-97)

TABLE B -- Page 1
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH
BENEFITS

Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age
Death Benefits: Additional Years and Months Until Member Would Qualify
for an Unreduced Service Retirement Allowance
AFTER Applying Table A factors

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.923	.853	.787	.727	.671	.620	.572	.528	.488	.451
1	.993	.917	.847	.782	.722	.667	.616	.568	.525	.485	
2	.987	.911	.841	.777	.717	.662	.612	.565	.521	.481	
3	.980	.905	.836	.772	.713	.658	.608	.561	.518	.478	
4	.974	.899	.830	.767	.708	.654	.604	.557	.515	.475	
5	.967	.893	.825	.762	.703	.649	.600	.554	.511	.472	
6	.961	.887	.819	.756	.699	.645	.596	.550	.508	.469	
7	.955	.881	.814	.751	.694	.641	.592	.546	.504	.466	
8	.948	.876	.808	.746	.689	.636	.588	.543	.501	.463	
9	.942	.870	.803	.742	.685	.632	.584	.539	.498	.460	
10	.936	.864	.798	.737	.680	.628	.580	.535	.494	.457	
11	.930	.858	.793	.732	.676	.624	.576	.532	.491	.454	

(1-1-94)

TABLE B -- Page 2
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH BENEFITS

*Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age
 Death Benefits: Additional Years and Months Until Member Would Qualify
 for an Unreduced Service Retirement Allowance
 AFTER Applying Table A factors*

Months	Years										
	10	11	12	13	14	15	16	17	18	19	20
0	.451	.416	.384	.355	.327	.302	.279	.258	.238	.220	.203
1	.448	.413	.382	.352	.325	.300	.277	.256	.236	.218	
2	.445	.411	.379	.350	.323	.298	.276	.254	.235	.217	
3	.442	.408	.377	.348	.321	.296	.274	.253	.233	.215	
4	.439	.405	.374	.345	.319	.294	.272	.251	.232	.214	
5	.436	.402	.372	.343	.317	.293	.270	.249	.230	.213	
6	.433	.400	.369	.341	.315	.291	.268	.248	.229	.211	
7	.430	.397	.367	.339	.313	.289	.267	.246	.227	.210	
8	.427	.394	.364	.336	.311	.287	.265	.244	.226	.208	
9	.424	.392	.362	.334	.308	.285	.263	.243	.224	.207	
10	.422	.389	.359	.332	.306	.283	.261	.241	.223	.206	
11	.419	.387	.357	.330	.304	.281	.260	.240	.221	.204	

(1-1-94)

TABLE B -- Page 3
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH BENEFITS

*Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age
 Death Benefits: Additional Years and Months Until Member Would Qualify
 for an Unreduced Service Retirement Allowance
 AFTER Applying Table A Factors*

Months	Years					
	20	21	22	23	24	25
0	.203	.187	.173	.160	.148	.136
1	.202	.186	.172	.159	.147	.135
2	.200	.185	.171	.158	.146	.134
3	.199	.184	.170	.157	.145	.134
4	.198	.183	.169	.156	.144	.133

	Months		Years				
	5	.196	.181	.167	.155	.143	.132
6	.195	.180	.166	.154	.142	.131	
7	.194	.179	.165	.153	.141	.130	
8	.192	.178	.164	.152	.140	.129	
9	.191	.177	.163	.151	.139	.128	
10	.190	.175	.162	.150	.138	.127	
11	.189	.174	.161	.149	.137	.127	

(1-1-94)

TABLE C -- Page 1
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
CONTINGENT ANNUITANT FACTORS
For persons retiring before July 1, 1995

	Age Difference in Years	Factors	
		Option 1	Option 2
	15 *	0.600	0.750
	14	0.610	0.758
	13	0.621	0.766
	12	0.631	0.775
	11	0.642	0.782
Member	10	0.652	0.789
Older	9	0.663	0.797
Than	8	0.674	0.804
Contingent Annuitant	7	0.685	0.812
	6	0.697	0.821
	5	0.708	0.830
	4	0.720	0.838
	3	0.732	0.846
	2	0.746	0.855
	1	0.762	0.865
	0	0.780	0.876
	1	0.799	0.887
	2	0.823	0.902

	Age Difference in Years	Factors	
	3	0.836	0.910
	4	0.847	0.918
	5	0.856	0.924
Member	6	0.865	0.930
Younger	7	0.873	0.935
Than	8	0.881	0.940
Contingent Annuitant	9	0.888	0.944
	10	0.897	0.949
	11	0.906	0.955
	12	0.916	0.961
	13	0.926	0.967
	14	0.934	0.969
	15 or more	0.940	0.970

*For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the factor for Option 1 and subtract .006 from the factor for Option 2. (4-7-11)

TABLE C -- Page 2
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
CONTINGENT ANNUITANT FACTORS
For persons retiring on or after July 1, 1995

	Age Difference in Years	Factors	
		Option 1	Option 2
	15 *	0.690	0.810
	14	0.700	0.816
	13	0.710	0.822
	12	0.720	0.828
	11	0.730	0.834
Member	10	0.735	0.840
Older	9	0.740	0.846
Than	8	0.745	0.852
Contingent Annuitant	7	0.750	0.858
	6	0.755	0.864
	5	0.760	0.870
	4	0.765	0.876
	3	0.770	0.882

	Age Difference in Years	Factors	
	2	0.785	0.888
	1	0.800	0.894
	0	0.815	0.900
	1	0.835	0.915
	2	0.855	0.925
	3	0.875	0.935
	4	0.890	0.945
	5	0.900	0.950
Member	6	0.910	0.955
Younger	7	0.920	0.960
Than	8	0.930	0.965
Contingent Annuitant	9	0.940	0.967
	10	0.944	0.969
	11	0.946	0.971
	12	0.948	0.973
	13	0.950	0.975
	14	0.952	0.977
	15 or more	0.954	0.979

*For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the factor for Option 1 and subtract .006 from the factor for Option 2. (Amended 96) (4-7-11)

TABLE C -- Page 3
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
CONTINGENT ANNUITANT FACTORS
For persons retiring on or after July 1, 2011

	Age Difference in Years	Factors	
		Option 1	Option 2
	<u>15 *</u>	<u>0.729</u>	<u>0.851</u>
	<u>14</u>	<u>0.736</u>	<u>0.856</u>
	<u>13</u>	<u>0.743</u>	<u>0.861</u>
	<u>12</u>	<u>0.750</u>	<u>0.866</u>

	<u>Age Difference in Years</u>	<u>Factors</u>	
	<u>11</u>	<u>0.757</u>	<u>0.871</u>
<u>Member</u>	<u>10</u>	<u>0.764</u>	<u>0.876</u>
<u>Older</u>	<u>9</u>	<u>0.771</u>	<u>0.881</u>
<u>Than</u>	<u>8</u>	<u>0.778</u>	<u>0.886</u>
<u>Contingent Annuitant</u>	<u>7</u>	<u>0.785</u>	<u>0.891</u>
	<u>6</u>	<u>0.792</u>	<u>0.896</u>
	<u>5</u>	<u>0.799</u>	<u>0.902</u>
	<u>4</u>	<u>0.808</u>	<u>0.908</u>
	<u>3</u>	<u>0.818</u>	<u>0.914</u>
	<u>2</u>	<u>0.833</u>	<u>0.920</u>
	<u>1</u>	<u>0.848</u>	<u>0.926</u>
	<u>0</u>	<u>0.863</u>	<u>0.932</u>
	<u>1</u>	<u>0.875</u>	<u>0.938</u>
	<u>2</u>	<u>0.887</u>	<u>0.944</u>
	<u>3</u>	<u>0.895</u>	<u>0.949</u>
	<u>4</u>	<u>0.902</u>	<u>0.954</u>
	<u>5</u>	<u>0.909</u>	<u>0.959</u>
<u>Member</u>	<u>6</u>	<u>0.916</u>	<u>0.963</u>
<u>Younger</u>	<u>7</u>	<u>0.923</u>	<u>0.966</u>
<u>Than</u>	<u>8</u>	<u>0.930</u>	<u>0.968</u>
<u>Contingent Annuitant</u>	<u>9</u>	<u>0.940</u>	<u>0.970</u>
	<u>10</u>	<u>0.944</u>	<u>0.972</u>
	<u>11</u>	<u>0.946</u>	<u>0.974</u>
	<u>12</u>	<u>0.948</u>	<u>0.976</u>
	<u>13</u>	<u>0.950</u>	<u>0.978</u>
	<u>14</u>	<u>0.952</u>	<u>0.980</u>
	<u>15 or more</u>	<u>0.954</u>	<u>0.982</u>

*For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the factor for Option 1 and subtract .01 from the factor for Option 2. ()

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.06 - PERSI RETIREMENT RULES

DOCKET NO. 59-0106-1102

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 March 1, 2011, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, 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.

To cancel scheduled increase in contribution rates to the unused sick leave fund by public schools and to maintain at current rates.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [May 4, 2011, Idaho Administrative Bulletin, Vol. 11-5, pages 110 and 111.](#)

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, PERSI, 287-9271.

DATED this 27th day of May, 2011.

Don Drum, Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-287-9230; Fax: 208-334-3408

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than May 18, 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:

To cancel scheduled increase in contribution rates to the unused sick leave fund by public schools and to maintain at current rates.

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, Idaho Code, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, PERSI, 287-9271.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 25, 2011.

DATED this 7th day of April, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0106-1102

552. SICK LEAVE FUNDING RATES (RULE 552).

The sick leave pools shall be funded by employer contributions as follows: (3-30-01)

01. State Agencies and Junior College Districts. All employer groups participating in the pools established by Sections 33-2109A and 67-5333, Idaho Code, shall contribute point sixty-five percent (.65%) of employee covered payroll. (3-29-10)

02. Schools. All employer groups participating in the pool established by Section 33-1228, Idaho Code, shall contribute the percentage of employee covered payroll based on the number of days of paid sick leave permitted during the contract year for certified teachers as set forth in the following table:

Beginning:	July 1, 2006	July 1, 2007	July 1, 2008
9-10 days	1.16%	1.18%	1.21%
11-14 days	1.26%	1.35%	1.44%
More than 14 days	Individual rate to be set by the Retirement Board based on current cost and actuarial data and reviewed annually		

Where a four (4) day work week or similar policies have been adopted, adjustments shall be made to convert the number of days of paid sick leave to the contribution level necessary to maintain equity within the pool. (Amended 3-30-01)(~~Amended 4-11-06~~). (~~4-11-06~~)()

03. Subdivisions. All employer groups participating in the pool established by Section 59-1365, Idaho Code, shall make contributions as provided in Rule 578. (3-30-01)