

# **PENDING RULES**

## **COMMITTEE RULES**

### **REVIEW BOOK**

**Submitted for Review Before**  
**House Business Committee**  
**64th Idaho Legislature**  
**First Regular Session -- 2017**



*Prepared by:*

*Office of the Administrative Rules Coordinator  
Department of Administration*

*January 2017*

# **HOUSE BUSINESS COMMITTEE**

## **ADMINISTRATIVE RULES REVIEW**

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## **IDAPA 01 – BOARD OF ACCOUNTANCY**

### **01.01.01 – IDAHO ACCOUNTANCY RULES**

#### **DOCKET NO. 01-0101-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-204(1) Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2016 Idaho Administrative Bulletin, [Vol. 16-9, pages 17-18](#).

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

DATED this 20th Day of October, 2016.

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

#### **THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE**

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

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2016.

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:

Rule 511 is being added to emphasize that licensees who let their license lapse and elect not to have their license moved to a status of “inactive” or “retired” status may use the word “former” without violating Section 54-211 or 54-220, Idaho Code.

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

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

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

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Kent A. Absec, (208) 334-2490.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2016.

DATED this 22nd Day of July, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 01-0101-1601**

**511. FORMERLY LICENSED**

Any person who was licensed by the Board and who chose to let their license lapse or had their license lapsed by the Board, may place the word “former” adjacent to their CPA or LPA title on any business card, letterhead, or any other document or device so long as at the time the license lapsed, the person was in good standing with the Board. (\_\_\_\_)

**51~~1~~<sup>2</sup>. -- 599. (RESERVED)**

## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.01.06 – RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE**

**DOCKET NO. 07-0106-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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, 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 in order to adopt and amend the 2017 edition of the National Electrical Code (NEC). The rulemaking retains all the existing amendments to the NEC; however, the exception related to Arc-Fault Circuit-Interrupter Protection is simplified to ensure more clarity.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 59-61](#).

**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 2017 National Electrical Code is expected to cost the Division of Building Safety 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.

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

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
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, 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, 2016.

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 2017 National Electrical Code (NEC) adds several new articles to the NEC that provide safety requirements for emerging technology. Articles have been added to address energy storage systems and direct current micro-grid installations. The 2017 NEC will also provide necessary guidance on the difference between small scale and large scale solar systems. There are numerous revisions and clarifications that will make it easier to understand and apply. The current rule amendment related to Arc-Fault Circuit-Interrupter (AFCI) Protection can be confusing to electricians because it also removes the requirements that prescribed how to install AFCI branch circuits. This rulemaking revises the amendment to that section of the NEC whereby it would maintain the provisions which indicate how the AFCI branch circuit is to be installed, while clarifying that in dwelling units it is only required to branch circuit and outlets supplying bedrooms.

The proposed rule would adopt the 2017 edition of the National Electrical Code (NEC). The proposed rule would retain all the existing amendments to the NEC; however, the exception related to Arc-Fault Circuit-Interrupter Protection is simplified to ensure more clarity. However, the effect of that exception remains the same.

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

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

The adoption of the 2017 National Electrical Code is expected to cost the Division of Building Safety 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.

**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, 2016 Idaho Administrative Bulletin, [Vol. 16-5, pages 38-39](#).

**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 formerly adopted and incorporated by reference National Electrical Code (NEC), 2014 Edition, is being amended. The 2017 NEC adds several new articles to the NEC that provides safety requirements for emerging technology. Articles have been added to address energy storage systems and direct current micro-grid installations. The 2017 NEC will also provide necessary guidance on the difference between small scale and large scale solar systems. There are numerous revisions and clarifications that will make it easier to understand and apply. More detailed information about any change to the 2017 NEC may be available upon request to the Division of Building Safety.



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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 23rd day of August, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0106-1601**

**011. ADOPTION AND INCORPORATION BY REFERENCE OF THE NATIONAL ELECTRICAL CODE, ~~2014 EDITION~~.**

**01. Documents.** Under the provisions of Section 54-1001, Idaho Code, the National Electrical Code, 201~~4~~ 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, 201~~4~~, with the following amendments: (3-20-14)( )

**a.** Article 210.8(A)(7) Sinks. Delete article 210.8(A)(7) and replace with the following: Sinks - located in areas other than kitchens where receptacles are installed within one and eight tenths (1.8) meters (six (6) feet) of the outside edge of the sink. (3-20-14)

**b.** Article 210.8(A)(10). Delete article 210.8(A)(10). (3-20-14)

**c.** Article 210.8(D). Delete article 210.8(D). (3-20-14)

**d.** Article 210.52(E)(3). Delete article 210.52(E)(3) and replace with the following: Balconies, Decks, and Porches. Balconies, decks, and porches having an overall area of twenty (20) square feet or more that are accessible from inside the dwelling unit shall have at least one (1) receptacle outlet installed within the perimeter of the balcony, deck, or porch. The receptacle shall not be located more than two (2.0) meters (six and one half (6½) feet) above the balcony, deck, or porch surface. (3-20-14)

**e.** Where the height of a crawl space does not exceed one and four tenths (1.4) meters or four and one half (4.5) feet it shall be permissible to secure NM cables, that run at angles with joist, to the bottom edge of joist. NM cables that run within two and one tenth (2.1) meters or seven (7) feet of crawl space access shall comply with Article 320.23. (3-20-14)

**f.** Article 675.8(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. (3-20-14)

**g.** Article 550.32(B). 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)

**h.** 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-away 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)

i. Compliance with Article 210.12 Arc-Fault Circuit-Interrupter Protection. Article 210.12 shall apply in full. Exception: In dwelling units Arc-Fault Circuit-Interrupter Protection shall only apply to all branch circuits and outlets supplying bedrooms. All other locations in dwelling units are exempt from the requirements of Article 210.12. (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)

**02. Availability.** A copy of the National Electrical Code 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. (3-20-14)

**IDAPA 07 – DIVISION OF BUILDING SAFETY**  
**07.02.05 – RULES GOVERNING PLUMBING SAFETY LICENSING**  
**DOCKET NO. 07-0205-1601**  
**NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2605, 54-2606 and 54-2610, 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 are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2016 Idaho Administrative Bulletin, [Vol. 16-9, pages 45-46](#).

**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 at (208) 332-8986.

DATED this 26th day of October 2016.

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

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
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**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2605, 54-2606 and 54-2610, 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, 2016.

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 construction industry in Idaho is facing a critical shortage of skilled workers, including plumbers. As it currently stands, many plumbers come to Idaho from states that do not require schooling which leaves them unable to qualify for testing as a journeyman. This rulemaking change would allow for such a person to qualify for a journeyman's exam by demonstrating they have eight (8) years of plumbing experience, in lieu of the current requirement of four (4) years' experience and four (4) years of schooling.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the contents of this rulemaking related to the experience and education requirements for out-of-state plumbers who seek licensure as journeymen in Idaho has been discussed at numerous Plumbing Board meetings over the past several years. Initially, a rule was established and approved by the Legislature in 2015 setting forth the licensure requirements; however, after further discussion with plumbing contractors, the Board determined to further revise the requirements for out-of-state applicants. This rule provides a benefit to Idaho plumbing contractors who may need to hire journeymen who have plumbing experience acquired in another state, but who have not been required to perform schooling in that state. For those journeymen who have sufficient plumbing experience in the form of a minimum of eight (8) years' experience working as a plumbing journeyman in the trade, this rule would allow them to be eligible to take the plumbing journeyman exam in Idaho.

**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 at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2016.

DATED this 4th Day of August, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0205-1601**

**012. JOURNEYMAN.**

**01. Qualifications for Journeyman Plumber.** An applicant for a journeyman plumber's certificate of competency shall 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 certificate of competency. In order to obtain a journeyman certificate of competency, an individual shall submit an application for examination and license. The application shall be accompanied by proof the applicant has completed an approved course of instruction for four (4) years as provided in Subsection 011.02 of these rules. The journeyman examination may be taken by an individual who has successfully completed an Idaho Plumbing Board-approved course of instruction for four (4) years as

described in Subsection 011.03 of these rules. The examination fee shall be as prescribed by Section 54-2614, Idaho Code, and shall accompany the application. (4-11-15)

**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 examination. 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. (4-11-15)

**03. Out of State Journeyman Applications.** (4-11-15)

**a.** Exhibition of a license issued by another recognized jurisdiction may be accepted as proof of meeting the experience and schooling requirements listed in Subsections 012.01 and 012.02 of these rules. An application for a journeyman certificate of competency from an individual previously licensed as a journeyman in another jurisdiction recognized by the Idaho Plumbing Board shall include satisfactory proof of licensure in such jurisdiction. The applicant shall pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. (4-11-15)

**b.** An application for a journeyman certificate of competency from an individual who has never been previously licensed as a journeyman in a jurisdiction recognized by the Idaho Plumbing Board shall include evidence that demonstrates that the applicant has four (4) years of plumbing work experience of a nature at least equivalent to that which a plumbing apprentice must perform in Idaho, as well as four (4) years of schooling equivalent to that which a plumbing apprentice must complete in Idaho. Alternatively, such an applicant may submit proof verifying eight (8) years, defined as a minimum of sixteen thousand (16,000) hours of plumbing work experience of a nature at least equivalent to that which a plumbing apprentice must perform in Idaho. Upon submission of sufficient proof of having completed such experience and schooling requirements, such applicant shall also pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. ~~(4-11-15)~~ ( )

**IDAPA 07 – DIVISION OF BUILDING SAFETY**  
**07.02.06 – RULES CONCERNING IDAHO STATE PLUMBING CODE**  
**DOCKET NO. 07-0206-1601**  
**NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The Idaho Plumbing Board is adopting this pending rule to update the Idaho State Plumbing Code with the adoption of sections of the Uniform Plumbing Code that positively affect the plumbing trade. Many of these changes are less restrictive and advantageous to contractors and property owners by providing them with more options. Additionally, the rules provide the Division with the ability to make interpretations of the rules in the event that it is advisable to do so in order to provide clarity or direction to those making plumbing installations. A correction is being made to the pending rule to correct a clerical error in the proposed rule citing a Plumbing Code section at IDAPA 07.02.06.011.39.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 65-80](#).

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

The proposed amendments will not have a significant fiscal impact on plumbing contractors and general contractors, but have the potential to positively affect contractors and property owners as a result of having more options in determining what fixtures and equipment they choose to install. The proposed changes have no fiscal impact on the State General Fund, and minimal negative impact on the dedicated plumbing fund in order to update code books.

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

DATED this 4th day of November, 2016.

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 54-2601 and 54-2605, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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

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

In 2012, the Idaho Plumbing Board established the Idaho State Plumbing Code with the intention to only consider adoption of a new edition of the underlying Uniform Plumbing Code every six years, or two code cycles. In the past five years there have been many code changes that have positively affected the plumbing trade. Many of these changes are less restrictive and advantageous to contractors and property owners by providing them with more options. Examples of such changes include relaxing the requirements for the approval of plumbing fixtures and equipment, and provisions providing the ability for homeowners to more freely determine what kind of plumbing installations they may desire such as shower thresholds, or non-potable rainwater catchment systems. Additionally, the Division would like the ability to make interpretations of the rules in the event that it is advisable to do so in order to provide clarity or direction to those making plumbing installations.

The rulemaking adopts the 2015 Uniform Plumbing Code (UPC) to serve as the base plumbing code for the Idaho State Plumbing Code to be published in 2017, including certain appendices. It removes unnecessary provisions and tables from the rules which are already included in the 2015 UPC, and includes provision related to the use of certain fixtures, as well as alternate materials and methods used by plumbers. Additionally, it provides greater flexibility for inspection officials, or the Authority Having Jurisdiction (AHJ) to use its discretion in enforcing certain code requirements related to testing of plumbing systems and fire sprinkler installations. Finally, the proposed rule also includes a provision indicating that the Division may have written interpretations of the rules available for review.

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

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

The proposed amendments will not have a significant fiscal impact on plumbing contractors and general contractors, but have the potential to positively affect contractors and property owners as a result of having more options in determining what fixtures and equipment they choose to install. The proposed changes have no fiscal impact on the State General Fund, and minimal negative impact on the dedicated plumbing fund in order to update code books.

**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 April 6, 2016 Idaho Administrative Bulletin, [Vol. 16-4, pages 14-15](#).

**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:

In the past five years there have been many plumbing code changes that have positively affected the plumbing trade. Many of these changes are less restrictive and advantageous to contractors and property owners by providing



them with more options. The rulemaking adopts the 2015 Uniform Plumbing Code (UPC) to serve as the base plumbing code for the Idaho State Plumbing Code to be published in 2017, including certain appendices. Currently, the State of Idaho uses the 2009 Uniform Plumbing Code (UPC) as the base code. The new 2015 code removes unnecessary provisions and tables from the rules which are already included in the 2015 UPC, and includes provision related to the use of certain fixtures, as well as alternate materials and methods used by plumbers. A copy of an index identifying important changes to the 2012 and 2015 UPC is attached to this summary. More detailed information about any change to the 2015 UPC may be available upon request to the Division of Building Safety.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 23rd day of August, 2016.

**LSO Rules Analysis Memo**

Italicized red text that is **double underscored** is new text that has been added to the pending rule.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0206-1601**

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency ~~has no~~ may have written statements that pertain to the interpretation of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at cost at the Idaho Division of Building Safety offices.  
(2-26-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**011. ADOPTION AND INCORPORATION BY REFERENCE OF THE IDAHO STATE PLUMBING CODE.**

The Idaho State Plumbing Code published in 201~~2~~<sup>7</sup>, including Appendices “A, B, C, D, E, G, I, J, K and L,” (herein ISPC) is adopted and incorporated by reference with amendments as prescribed by the Idaho Plumbing Board and contained in this Section. The Idaho State Plumbing Code is modeled after the ~~2009~~<sup>15</sup> Uniform Plumbing Code (UPC). The Idaho State Plumbing Code is available at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150, Meridian, Idaho 83642; 1250 Ironwood Dr., Ste. 220, Coeur d’Alene, Idaho 83814; and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. It may also be accessed electronically online at <http://dbs.idaho.gov/>.  
(3-25-13)( )

**01. Section 105.3 Testing of Systems.** ( )

**a. Delete and replace the following: Plumbing systems shall be tested and approved in accordance with this code or the Authority Having Jurisdiction. Tests may be conducted in the presence of the Authority Having Jurisdiction or the Authority Having Jurisdiction’s duly appointed representative.** ( )

**b. No test or inspection shall be required where a plumbing system, or part thereof, is set up for**



exhibition purposes and has no connection with a water or drainage system. In cases where it would be impractical to provide the required water or air tests, or the presences of the Authority Having Jurisdiction, or for minor installations and repairs, the Authority Having Jurisdiction, in accordance with procedures established thereby, shall be permitted to make such inspection as deemed advisable in accordance with the intent of this code. Joints and connections in the plumbing system shall be gastight and watertight for the pressures required by the test. ( )

**042.** Section 218 **Definitions.** Delete definition of "Plumbing System." Incorporate definition of "Plumbing System" as set forth in Section 54-2604, Idaho Code. (3-15-02)( )

**023.** Section 315.4.4 **Excavations.** Add: Where unsuitable or soft material is encountered, excavate to a depth not less than two (2) pipe diameters below the pipe and replace with select backfill. Such backfill shall be sand, fine gravel, or stone and shall provide lateral support for the pipe. Where rock is encountered, the trench shall be excavated to a minimum depth of six (6) inches (152 mm) below the bottom of the pipe. Sand shall be added to provide uniform bedding and support for the pipe. The pipe shall not rest on any rock at any point, including joints. (3-25-13)( )

**03.** ~~Section 316.1.6 Solvent Cement Plastic Pipe Joints. PVC DWV may be joined by the use of one-step solvent cement listed or labeled per U.P.C. Section 301.1.1.~~ (3-25-13)

**04.** Section 401.2 **Qualities of Fixtures.** Replace with the following: Plumbing fixtures shall be constructed of dense, durable, non-absorbent materials and shall have smooth, impervious surfaces, free from unnecessary concealed fouling surfaces. ( )

**05.** Section 403.3 **Exposed Pipes and Surfaces.** Delete. ( )

**046.** Section 402.7.4 ~~Metered Faucets~~ **Transient Public Lavatories.** Self-closing or self-closing metering faucets may be installed on lavatories intended to serve the transient public, such as those in, but not limited to, service stations, train stations, airports, restaurants, convention halls, and rest stops. Installed metered faucets shall deliver a maximum of zero point two six (0.26) gallons (one point zero (1.0) liter) of water per use. (3-25-13)( )

**07.** Section 408.5 **Finished Curb or Threshold.** Delete the last sentences of the first paragraph and replace with the following: The finished floor of the receptor shall slope uniformly from the sides toward the drain not less than one-eighth (1/8) inch per foot (20.8 mm/m), nor more than one-half (1/2) inch per foot (41.8 mm/m). ( )

**058.** Section ~~411.8.1~~ **408.7.5 Tests for Shower Receptors.** Delete. (4-11-15)( )

**06.** ~~Section 412.0 Minimum Number of Required Fixtures. Delete Section 412.0 and all subsections contained thereunder and replace with the following:~~ (3-25-13)

~~a. 412.1 Fixture Count. Plumbing fixtures shall be provided for the type of building occupancy and in the minimum number shown in Table 412.1. The total occupant load and occupancy classification shall be determined in accordance with the building code. Occupancy classification not shown in Table 412.1 shall be considered separately by the Authority Having Jurisdiction. The minimum number of fixtures shall be calculated at fifty percent (50%) male and fifty percent (50%) female based on the total occupant load. Where information submitted indicates a difference in distribution of the sexes such information shall be used in order to determine the number of fixtures for each sex. Once the occupancy load and occupancy are determined, Table 412.1 shall be applied to determine the minimum number of plumbing fixtures required. Where applying the fixture ratios in Table 412.1 results in fractional numbers, such numbers shall be rounded to the next whole number. For multiple occupancies, fractional numbers shall be first summed and then rounded to the next whole number.~~ (3-25-13)

~~b. 412.1.1 Family or Assisted-Use Toilet and Bathing Facilities. Where family or assisted-use toilet and bathing rooms are required, in applicable building regulations, the facilities shall be installed in accordance with those regulations.~~ (3-25-13)

~~c. 412.2 Separate Facilities. Separate toilet facilities shall be provided for each sex, with the following exceptions:~~ (3-25-13)

- ~~i. Residential installations. (3-25-13)~~
- ~~ii. In occupancies with a total occupant load of ten (10) or less, including customers and employees, one (1) toilet facility, designed for use by no more than one (1) person at a time, shall be permitted for use by both sexes. (3-25-13)~~
- ~~iii. In business and mercantile occupancies with a total occupant load of fifty (50) or less including customers and employees, one (1) toilet facility, designed for use by no more than one (1) person at a time, shall be permitted for use by both sexes. (3-25-13)~~
- ~~d. 412.3 Fixture Requirements for Special Occupancies. Additional fixtures shall be permitted to be required where unusual environmental conditions or referenced activities are encountered. In food preparation areas, fixture requirements shall be permitted to be dictated by health codes. (3-25-13)~~
- ~~e. 412.4 Toilet Facilities Serving Employees and Customers. Each building or structure shall be provided with toilet facilities for employees and customers. Requirements for customers and employees shall be permitted to be met with a single set of restrooms accessible to both groups. Required toilet facilities for employees and customers located in shopping malls or centers shall be permitted to be met by providing a centrally located toilet facility accessible to several stores. The maximum travel distance from entry to any store to the toilet facility shall not exceed three hundred (300) feet (91.4 m). Required toilet facilities for employees and customers in other than shopping malls or centers shall have a maximum travel distance not to exceed five hundred (500) feet (152.4 m). (3-25-13)~~
- ~~f. 412.4.1 Access to Toilet Facilities. In multi-story buildings, accessibility to the required toilet facilities shall not exceed one (1) vertical story. Access to the required toilet facilities for customers shall not pass through areas designated as for employee use only such as kitchens, food preparation areas, storage rooms, closets, or similar spaces. Toilet facilities accessible only to private offices shall not be counted to determine compliance with this section. (3-25-13)~~
- ~~g. 412.5 Toilet Facilities for Workers. Toilet facilities shall be provided and maintained in a sanitary condition for the use of workers during construction. (3-25-13)~~
- ~~07. Table 4-1 Minimum Plumbing Facilities. Delete Table 4-1 and replace with the following Table 412.1:~~

**TABLE 412.1**  
**MINIMUM PLUMBING FACILITIES**

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

<b>TYPE OF OCCUPANCY<sup>2</sup></b>	<b>WATER CLOSETS (FIXTURES PER PERSON)<sup>3</sup></b>		<b>URINALS (FIXTURES PER PERSON)</b>	<b>LAVATORIES (FIXTURES PER PERSON)</b>		<b>BATHTUBS OR SHOWERS (FIXTURES PER PERSON)</b>	<b>DRINKING FOUNTAINS + FACILITIES (FIXTURES PER PERSON)</b>	<b>OTHER</b>
<i>A-1 Assembly occupancy (fixed or permanent seating) – theatres, concert halls and auditoriums</i>	Male 1: 1-100 2: 101-200 3: 201-400	Female 1: 1-25 2: 26-50 3: 51-100 4: 101-200 6: 201-300 8: 301-400	Male 1: 1-200 2: 201-300 3: 301-400 4: 401-600	Male 1: 1-200 2: 201-400 3: 401-600 4: 601-750	Female 1: 1-100 2: 101-200 4: 201-300 5: 301-500 6: 501-750		1: 1-250 2: 251-500 3: 501-750	1 service sink or laundry tray
	Over 400, add 1 fixture for each additional 500 males and 1 fixture for each additional 125 females.		Over 600, add 1 fixture for each additional 300 males.	Over 750, add 1 fixture for each additional 250 males and 1 fixture for each additional 200 females.			Over 750, add 1 fixture for each additional 500 persons.	
<i>A-2 Assembly occupancy – restaurants, pubs, lounges, night clubs and banquet halls</i>	Male 1: 1-50 2: 51-150 3: 151-300 4: 301-400	Female 1: 1-25 2: 26-50 3: 51-100 4: 101-200 6: 201-300 8: 301-400	Male 1: 1-200 2: 201-300 3: 301-400 4: 401-600	Male 1: 1-150 2: 151-200 3: 201-400	Female 1: 1-150 2: 151-200 4: 201-400		1: 1-250 2: 251-500 3: 501-750	1 service sink or laundry tray
	Over 400, add 1 fixture for each additional 250 males and 1 fixture for each 125 females.		Over 600, add 1 fixture for each additional 300 males.	Over 400 add 1 fixture for each additional 250 males and 1 fixture for each additional 200 females.			Over 750, add 1 fixture for each additional 500 persons.	

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

<b>TYPE OF OCCUPANCY<sup>2</sup></b>	<b>WATER CLOSETS (FIXTURES PER PERSON)<sup>3</sup></b>		<b>URINALS (FIXTURES PER PERSON)</b>	<b>LAVATORIES (FIXTURES PER PERSON)</b>		<b>BATHTUBS OR SHOWERS (FIXTURES PER PERSON)</b>	<b>DRINKING FOUNTAINS + FACILITIES (FIXTURES PER PERSON)</b>	<b>OTHER</b>
<i>A-5 Assembly occupancy (outdoor activities or sporting events) amusement parks, grandstands and stadiums</i>	Male 1: 1-100 2: 101-200 3: 201-400	Female 1: 1-25 2: 26-50 3: 51-100 4: 101-200 6: 201-300 8: 301-400	Male 1: 1-100 2: 101-200 3: 201-400 4: 401-600	Male 1: 1-200 2: 201-400 3: 401-750	Female 1: 1-100 2: 101-200 4: 201-300 5: 301-500 6: 501-750		1: 1-250 2: 251-500 3: 501-750	1 service sink or laundry tray
	Over 400, add 1 fixture for each additional 500 males and 1 fixture for each additional 125 females.		Over 600, add 1 fixture for each additional 300 males.	Over 750, add 1 fixture for each additional 250 males and 1 fixture for each additional 200 females.			Over 750, add 1 fixture for each additional 500 persons.	
<i>B-Business occupancy (office, professional or service type transactions) banks, vet clinics, hospitals, car wash, banks, beauty salons, ambulatory health care facilities, laundries and dry cleaning, educational institutions (above high school), or training facilities not located within school, post offices and printing shops</i>	Male 1: 1-50 2: 51-100 3: 101-200 4: 201-400	Female 1: 1-15 2: 16-30 3: 31-50 4: 51-100 8: 101-200 11: 201-400	Male 1: 1-100 2: 101-200 3: 201-400 4: 401-600	Male 1: 1-75 2: 76-150 3: 151-200 4: 201-300 5: 301-400	Female 1: 1-50 2: 51-100 3: 101-150 4: 151-200 5: 201-300 6: 301-400		1 per 150	1 service sink or laundry tray
	Over 400, add 1 fixture for each additional 500 males and 1 fixture for each additional 150 females.		Over 600, add 1 fixture for each additional 300 males.	Over 400, add 1 fixture for each additional 250 males and 1 fixture for each additional 200 females.				
<i>E-Educational occupancy private or public schools</i>	Male 1 per 50	Female 1 per 30	Male 1 per 100	Male 1 per 40	Female 1 per 40		1 per 150	1 service sink or laundry tray

TYPE OF OCCUPANCY <sup>2</sup>		WATER CLOSETS (FIXTURES PER PERSON) <sup>3</sup>		URINALS (FIXTURES PER PERSON)	LAVATORIES (FIXTURES PER PERSON)		BATHTUBS OR SHOWERS (FIXTURES PER PERSON)	DRINKING FOUNTAINS + FACILITIES (FIXTURES PER PERSON)	OTHER
F1, F2 Factory or Industrial occupancy-fabricating or assembly-work		Male 1: 1-50 2: 51-75 3: 76-100	Female 1: 1-50 2: 51-75 3: 76-100		Male 1: 1-50 2: 51-75 3: 76-100	Female 1: 1-50 2: 51-75 3: 76-100	1 shower for each 15 persons exposed to excessive heat or to skin contamination with poisonous, infectious or irritating material.	1: 1-250 2: 251-500 3: 501-750	
		Over 100 add 1 fixture for each additional 40 persons.			Over 100 add 1 fixture for each additional 40 persons.			Over 750 add 1 fixture for each additional 500 persons.	1 service sink or laundry tray
I-1 Institutional occupancy (houses more than 16 persons on a 24-hour basis)- substance abuse centers, assisted living, group homes, or residential facilities		Male- 1 per 15	Female- 1 per 15		Male- 1 per 15	Female- 1 per 15	1 per 8	1 per 150	1 service sink or laundry tray
I-2 Institutional occupancy-medical, psychiatric, surgical or nursing-homes	Hospitals and nursing homes-individual rooms and ward room	1 per room			1 per room		1 per room	1 per 150	1 service sink or laundry tray
		1 per 8 patients			1 per 10 patients		1 per 20 patients		
	Hospital-Waiting or Visitor Rooms	1 per room			1 per room			1 per room	
	Employee-Use	Male 1: 1-15 2: 16-35 3: 36-55	Female 1: 1-15 3: 16-35 4: 36-55		Male 1 per 40	Female 1 per 40			
		Over 55, add 1 fixture for each additional 40 persons.							

TYPE OF OCCUPANCY <sup>2</sup>		WATER CLOSETS (FIXTURES PER PERSON) <sup>3</sup>		URINALS (FIXTURES PER PERSON)	LAVATORIES (FIXTURES PER PERSON)		BATHTUBS OR SHOWERS (FIXTURES PER PERSON)	DRINKING FOUNTAINS + FACILITIES (FIXTURES PER PERSON)	OTHER
I-3 Institutional occupancy (houses more than 5 people)	Prisons	1 per cell			1 per cell		1 per 20	1 per cell block/floor	
	Correctional facilities or juvenile center	1 per 8			1 per 10		1 per 8	1 per floor	1 service sink or laundry tray
	Employee Use	Male 1: 1-15 2: 16-35 3: 36-55	Female 1: 1-15 3: 16-35 4: 36-55		Male 1 per 40	Female 1 per 40		1 per 150	
		Over 55, add 1 fixture for each additional 40 persons.							
I-4 Institutional occupancy (any age that receives care for less than 24 hours)		Male 1: 1-15 2: 16-35 3: 36-55	Female 1: 1-15 3: 16-35 4: 36-55		Male 1 per 40	Female 1 per 40		1 per 150	1 service sink or laundry tray
		Over 55, add 1 fixture for each additional 40 persons.							
M Mercantile occupancy (the sale of merchandise and accessible to the public)		Male 1: 1-100 2: 101-200 3: 201-400	Female 1: 1-100 2: 101-200 4: 201-300 6: 301-400	Male 0: 1-200 1: 201-400	Male 1: 1-200 2: 201-400	Female 1: 1-200 2: 201-300 3: 301-400		1: 1-250 2: 251-500 3: 501-750	1 service sink or laundry tray
		Over 400 add 1 fixture for each additional 500 males and 1 fixture for each 200 females.		Over 400 add 1 fixture for each additional 500 males.	Over 400 add 1 fixture for each additional 500 males and 1 fixture for each 400 females.			Over 750 add 1 fixture for each additional 500 persons.	
R-1 Residential occupancy (minimal stay) hotels, motels, bed and breakfast homes		1 per sleeping room			1 per sleeping room		1 per sleeping room		1 service sink or laundry tray

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



TYPE OF OCCUPANCY <sup>2</sup>	WATER CLOSETS (FIXTURES PER PERSON) <sup>3</sup>		URINALS (FIXTURES PER PERSON)	LAVATORIES (FIXTURES PER PERSON)		BATHTUBS OR SHOWERS (FIXTURES PER PERSON)	DRINKING FOUNTAINS + FACILITIES (FIXTURES PER PERSON)	OTHER
R-3 Residential occupancy (one and two family dwellings)	1 per one and two family dwelling			1 per one and two family dwelling		1 per one and two family dwelling		1 kitchen sink and 1 automatic clothes washer connection per one and two family dwelling
R-4 Residential occupancy (residential care or assisted living)	Male 1 per 10	Female 1 per 8		Male 1 per 12	Female 1 per 12	1 per 8	1 per 150	1 service sink or laundry tray
	Add 1 fixture for each additional 25 males and 1 fixture for each additional 20 females.			Add 1 fixture for each additional 20 males and 1 fixture for each additional 15 females.				
S-1, S-2 Storage occupancy storage of goods, warehouse, aircraft hanger, food products, appliances	Male 1: 1-100 2: 101-200 3: 201-400	Female 1: 1-100 2: 101-200 3: 201-400		Male 1: 1-200 2: 201-400 3: 401-750	Female 1: 1-200 2: 201-400 3: 401-750		1: 1-250 2: 251-500 3: 501-750	1 service sink or laundry tray
	Over 400, add 1 fixture for each additional 500 males and 1 fixture for each additional 150 females.			Over 750, add 1 fixture for each additional 500 persons.			Over 750, add 1 fixture for each additional 500 persons.	
Notes:								
1 The figures shown are based upon one fixture being the minimum required for the number of persons indicated or any fraction thereof.								
2 A restaurant is defined as a business that sells food to be consumed on the premises.								
a. The number of occupants for a drive-in restaurant shall be considered as equal to the number of parking stalls.								
b. Hand-washing facilities shall be available in the kitchen for employees.								
3 The total number of required water closets for females shall be not less than the total number of required water closets and urinals for males.								

(3-25-13)

**089.** Section ~~414.5~~ **409.4** Limitation of Hot Water in Bathtubs and Whirlpool Bathtubs. Delete.

(4-11-15)( )

**09.** Section ~~418.0~~. Pressure balance or thermostatic mixing valves are not required for high flow (over

~~eight (8) g.p.m.) tub filler valves with hand shower sets attached.~~

~~(3-25-13)~~

10. Section ~~504.1~~ **507.13 Inspection of Chimneys or Vents.** Add the following to the end of section 504.1: Water heating appliances using Category 3 or 4 exhaust venting shall be tested in its entirety with five (5) pounds of air for fifteen (15) minutes. Plastic vents shall be constructed using manufacturer's instructions. ~~(3-25-13)~~ **( )**

11. Section ~~508.7.2~~ **Seismic Provisions.** Delete.

~~(4-11-15)~~ **( )**

12. Section ~~508.14~~ **507.13 Installation in Residential Garages.** Replace ~~508.14 (1)~~ **507.13** with the following: Any plumbing appliance or appurtenance in residential garages and in adjacent spaces that open to the garage and are not part of the living space of a dwelling unit shall be installed so that burners, burner-ignition devices or other sources of ignition are located not less than eighteen (18) inches (450 mm) above the floor unless listed as flammable vapor ignition resistant. ~~(3-25-13)~~ **( )**

~~13. Section 603.4.16.5 Residential Sprinkler System. Add the following to the end of section 603.4.16.5: and the requirements of the Authority Having Jurisdiction (AHJ).~~

~~(3-25-13)~~

~~14. Table 6-4 Materials for Building Supply and Water Distribution Pipings and Fittings. Add the following to Table 6-4:~~

<b>Material</b>	<b>Building Supply Pipe &amp; Fittings</b>	<b>Water Distribution Pipe &amp; Fittings</b>	<b>Referenced Standard(s) Pipe</b>	<b>Referenced Standard(s) Fittings</b>
<del>PE-RT</del> (Polyethylene of Raised Temperature)	<del>X</del>	<del>X</del>	<del>ASTM F2769</del>	<del>ASTM F1807, ASTM F2098, ASTM F2169, ASTM F2736, ASTM F2769</del>
<del>PP</del> (Polypropylene)	<del>X</del>	<del>X</del>	<del>ASTM F 2389</del>	<del>ASTM F2389, CSA B137.11</del>

~~(4-11-15)~~

~~15. Section 606. Joints and Connections. Add the following at the end of Section 606:~~

~~(4-11-15)~~

~~a. Section 606.3 Polyethylene of Raised Temperature (PE-RT). Polyethylene of Raised Temperature (PE-RT) tubing shall be marked with the appropriate standard designation(s) listed in Table 6-4 for which the tubing has been approved. PE-RT tubing shall be installed in accordance with the manufacturer's installation instructions. Fittings, metal insert fittings, metal compression fittings and plastic fittings shall be manufactured to and marked in accordance with the standards for fittings in Table 6-4.~~

~~(4-11-15)~~

~~b. Section 606.4 Polypropylene (PP) Piping and Joints. Polypropylene pipe and fittings shall be installed in accordance with the manufacturer's installation instructions.~~

~~(4-11-15)~~

~~c. Section 606.4.1 Heat Fusion Joints. Heat fusion joints for PP pipe and fitting joints shall be installed with socket heat fused polypropylene fittings, fusion outlets, butt fusion polypropylene fittings or pipe, or electro fusion polypropylene fittings. Joint surfaces shall be clean and free from moisture. The joint shall be undisturbed until cool. Joints shall be made in accordance with ASTM F 2389 or CSA B137.11.~~

~~(4-11-15)~~

~~d. Section 606.4.2 Mechanical and Compression Sleeve Joints. Mechanical and compression sleeve joints shall be installed in accordance with the manufacturer's installation instructions.~~

~~(4-11-15)~~

~~e. Section 606.4.3 Threaded Joints. PP pipe shall not be threaded. PP transition fittings for connection to other piping materials shall only be threaded by use of brass or stainless steel inserts molded in the fitting.~~

~~(4-11-15)~~

**13. Table 603.2 Backflow Prevention Devices, Assemblies and Methods.** ( )

**a.** Delete from the table the entire row related to freeze resistant sanitary yard hydrant devices. ( )

**b.** Delete the backflow preventer for Carbonated Beverage Dispensers text from the first column of the table and replace with the following: Backflow preventer for Carbonated Beverage Dispensers (Reduced Pressure Principle Backflow Prevention Assembly). ( )

**14. Section 603.5.12 Beverage Dispensers.** Delete and replace with the following: Potable water supply to beverage dispensers, carbonated beverage dispensers, or coffee machines shall be protected by an air gap or a Reduced Pressure Principle Backflow Prevention Assembly in accordance with ASSE 1013. For carbonated beverage dispensers, piping material installed downstream of the backflow preventer shall not be affected by carbon dioxide gas. ( )

**15. Section 603.5.17 Potable Water Outlets and Valves.** Delete. ( )

**16. Section 603.5.21 Chemical Dispensers.** Add the following new section 603.5.21: The water supply to chemical dispensers shall be protected against backflow. The chemical dispenser shall comply with ASSE 1055 or the water supply shall be protected by one of the following methods: ( )

**a.** Air gap; ( )

**b.** Atmospheric vacuum breaker (AVB); ( )

**c.** Pressure vacuum breaker backflow prevention assembly (PVB); ( )

**d.** Spill-resistant pressure vacuum breaker (SVB); or ( )

**e.** Reduced-pressure principle backflow prevention assembly (RP). ( )

**17. Section ~~606.5 Listed Polyethylene (PE)~~ 605.6.2 Mechanical Joints.** Add to the end of the section the following: Listed PE (polyethylene), one hundred sixty (160) psi minimum, water service and yard piping may be installed within a building (above ground and below ground) with one (1) joint, provided that only listed and approved metallic transition fittings shall be used. Polyethylene (PE) plastic pipe or tubing and fitting joining methods shall be installed in accordance with the manufacturer's installation instructions. ~~Mechanical joints between PE pipe or tubing and fittings shall include inserts and mechanical compression fittings that provide a pressure seal resistance to pullout. Joints for insert fittings shall be made by cutting the pipe square, using a cutter designed for plastic piping, and removal of sharp edges. Two (2) stainless steel clamps shall be placed over the end of the pipe. Fittings shall be checked for proper size based on the diameter of the pipe. The end of pipe shall be placed over the barbed insert fitting, making contact with the fitting shoulder. Clamps shall be positioned equal to one hundred eighty (180) degrees (three point one four—3.14 rad) apart and shall be tightened to provide a leak tight joint. Compression type couplings and fittings shall be permitted for use in joining PE piping and tubing. Stiffeners that extend beyond the clamp or nut shall be prohibited. Bends shall be not less than thirty (30) pipe diameters, or the coil radius where bending with the coil. Bends shall not be permitted closer than ten (10) pipe diameters of a fitting or valve. Mechanical joints shall be designed for their intended use.~~ (4-11-15)( )

**168. Section 609.1 Installation.** Delete the following sentence: ~~Water service~~ Building supply yard piping shall be not less than twelve (12) inches (305 mm) below the average local frost depth; and replace it with the following: The cover shall be not less than forty-two (42) inches (1068mm) below grade. (3-25-13)( )

**179. Section 609.4 Testing.** Testing. Deleting the phrase "Except for plastic piping," at the beginning of the third sentence and add the following sentence at the end of the section: Plastic piping is to be tested in accordance with manufacturer's installation standards. (3-25-13)

**189. Section 609.10 Water Hammer.** Does not apply to residential construction. (3-25-13)

**21. Section 609.11 Pipe Insulation.** Delete. ( )

~~1922.~~ **Table 6-5 610.3 and Appendix Table A-2 A 103.1.** Change fixture unit loading value for both public and private for bathtub or combination bath/shower, and clothes washers to two (2) fixture units. (3-25-13)( )

~~203.~~ **Section 610.2 Pressure Loss.** Add the following: All new one (1) and two (2) family residences built slab on grade or that will have a finished basement at the time of final inspection must have a pre-plumbed water softener loop. The kitchen sink must have one (1) hot soft line and one (1) cold soft line and one (1) cold hard line. Exterior cold hose bibbs intended for irrigation purposes must be piped with hard water. (3-25-13)( )

~~214.~~ **Table 6-8 611.4 Sizing of Residential Softeners.** Amend Footnote 3 to read: Over four (4) bathroom groups, softeners shall be sized according to the manufacturer's standards. (3-25-13)( )

~~22. Table 7-1 Materials for Drain, Waste, Vent Pipe and Fittings.~~ Add the following to Table 7-1:

Material	Underground Drain, Waste, Vent Pipe and Fittings	Above-ground Drain, Waste, Vent Pipe and Fittings	Building Sewer Pipe & Fittings	Referenced Standard(s) Pipe	Referenced Standard(s) Fittings
PE (Polyethylene)			X2	ASTM F714	ASTM D2683, ASTM D3261, ASTM F1055, ASTM F2206

~~2PE piping and fittings used for building sewers shall be installed per manufactures installation instructions and IS 26-2006 Idaho State Plumbing Code.~~ (4-11-15)

**25. Section 612.0 Residential Sprinkler System.** Add the following to the end of the first sentence in section 612.1: and the requirements of the Authority Having Jurisdiction (AHJ). ( )

~~236.~~ **Table 7-3 702.1 Drainage Fixture Unit Valves (DFU).** Change fixture unit loading value for clothes washers, domestic for private to two (2) fixture units. (3-25-13)( )

~~247.~~ **Section 703.1 Minimum Size.** Add the following at the end of section 703.1: No portion of the drainage or vent system installed underground, underground under concrete or below a basement or cellar shall be less than two (2) inches in diameter. (3-25-13)( )

~~25. Section 703.2 and 710.5. Add Exception.~~ In single family dwellings, one (1) fixture unit may be allowed for each gallon per minute of flow from a pump or a sump ejector. (3-15-02)

~~268.~~ **Section 704.2 Single Vertical Drainage Pipe.** Two inch (2") and smaller double sanitary tees may be used for back to back or side by side fixture trap arms without increasing the barrel size. (4-6-05)( )

~~279.~~ **Section 704.3 Commercial Sinks.** Delete. (5-3-03)( )

~~2830.~~ **Table 7-5 703.2 Maximum Unit Loading and Maximum Length of Drainage and Vent Piping.** Change fixture unit loading value for one and a half (1 1/2) inch horizontal drainage to two (2) fixture units. (7-1-98)( )

**31. Section 705.5.2 Solvent Cement Joints.** Add to the end of the section the following: PVC DWV may be joined by the use of one-step solvent cement listed or labeled per U.P.C. Section 301.1.1. ( )

~~2932.~~ **Section 707.04 Cleanouts Locations.** Add the following: A clean out shall be installed for double

sanitary tees two (2) inches (50 mm) or less in diameter that receive the discharge from fixture connections. Exception in Section 707.4 shall not apply. A full-sized accessible cleanout shall be installed in the vertical immediately above the floor or at the base of each waste or soil stack. A full-size cleanout extending to or above finished grade line shall be installed at the junction of the building drain and the building sewer. Cleanouts shall be installed at fifty (50) foot intervals in horizontal drain lines two (2) inches or smaller. (3-25-13)( )

~~30. Section 707.4 Cleanouts. A full-sized accessible cleanout shall be installed in the vertical immediately above the floor or at the base of each waste or soil stack. A full-size cleanout extending to or above finished grade line shall be installed at the junction of the building drain and the building sewer (ref.: Section 719.1). Cleanouts shall be installed at fifty (50) foot intervals in horizontal drain lines two (2) inches or smaller.~~ (3-15-02)

~~343.~~ Section ~~710.9~~ **710.3(4) Sewage Ejectors and Pumps.** Add: Exception (4): One (1) pump shall be permitted for “public use” occupancies provided that such tank receives the discharge of not more than one (1) water closet and ten (10) fixture units (See Section 710.9 Alarms). (3-25-13)( )

~~34.~~ Section **710.5 Size Building Drains and Sewers.** Add the following exception: In single family dwellings, one (1) fixture unit may be allowed for each gallon per minute of flow from a pump or a sump ejector. ( )

~~325.~~ Section **712.1 Media.** In the first sentence, delete the phrase “except that plastic pipe shall not be tested with air.” (3-25-13)

~~336.~~ Section **717.0 Size of Building Sewers.** Add the following to the end of section 717.01: Exception: The building drain and building sewer is not less than four (4) inches extending from its connection with the city or private sewer system and shall run full size to inside the foundation or building lines. (3-25-13)( )

~~37.~~ Section **723.0 General.** Delete the following sentence: “Plastic DWV piping systems shall not be tested by the air test method.” ( )

~~348.~~ Section ~~801.23.3~~ **Food Handling Fixtures.** Add: Food preparation sinks, pot sinks, scullery sinks, dishwashing sinks, silverware sinks, commercial dishwashing machines, silverware-washing machines, steam kettles, potato peelers, ice cream dipper wells, and other similar equipment and fixtures must be indirectly connected to the drainage system by means of an air gap. The piping from the equipment to the receptor must not be smaller than the drain on the unit, but it must not be smaller than one (1) inch (twenty-five and four tenths (25.4) mm). (5-3-03)( )

~~359.~~ Section ~~801.5.41~~ **Connections from Water Distribution System General.** Add to the end of the first paragraph the following: Provisions must be made for the discharge of the water softener to terminate in an approved location. The drain line for a water softener must be three-fourths (3/4) inch minimum. A washer box with a dual outlet is an approved location as long as it is on the same floor or one (1) floor below the softener unit and the water softener drain line is a minimum three-fourths (3/4) inch. (3-25-13)( )

~~3640.~~ Section ~~807.43~~ **Domestic Dishwashing Machines.** A domestic dishwashing machine may be installed without the use of an airgap if the drain hose is looped to the bottom side of the counter top and secured properly. (3-15-02)( )

~~3741.~~ Section **906.1 Roof Termination.** Delete the existing provision and replace with the following: (4-2-08)( )

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

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

- c. Sidewall venting must meet the intent of Section 906.2 of the ISPC. (3-25-13)

~~3842.~~ **Section 908.1 ~~Exception~~ Vertical Wet Venting.** Add to the end of the section the following: A horizontal wet vent may be created provided it is created in a vertical position and all other requirements of Section 908 of the ISPC are met. ~~(3-25-13)~~( )

~~3943.~~ **Section 909.0 Special Venting for Island Fixtures.** Add: Parameters for the limited use of Air Admittance Valves (A.A.V.). ~~(4-2-08)~~( )

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

~~404.~~ **Section 1002.3 Change of Direction.** Trap arms may not exceed one hundred eighty (180) degrees of horizontal turn without the use of a cleanout. ~~(3-15-02)~~( )

~~415.~~ **Section 1007.0 Trap Seal Protection.** Delete section 1007.~~01~~ and replace with the following: Floor drains or similar traps directly connected to the drainage system and subject to infrequent use shall be protected with a trap seal primer or other approved trap seal protection device, except where not deemed necessary for safety or sanitation by the Authority Having Jurisdiction. Trap seal primers shall be accessible for maintenance. ~~(3-25-13)~~( )

~~426.~~ **Section 1016.1 ~~Where Required~~ Discharge.** Add the following to the end of section 1016.1: Floor drains installed in residential garages shall be permitted to use the interceptor as the fixture trap. ~~(3-25-13)~~( )

~~437.~~ ~~1601.0 Gray Water Systems~~ **Section 1502.1 General.** Add to this section the following paragraph: ~~(G)~~ Plumbing for a gray water system from any fixture up to, but not to include the exterior irrigation system tank shall be inspected by the Authority Having Jurisdiction. The Idaho Department of Environmental Quality (IDEQ) shall have jurisdiction to inspect and approve the installation of the exterior irrigation system tank and all piping therefrom to the point of disposal in accordance with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." Gray water system location and design criteria requirements related to irrigation and leaching shall be determined in accordance with the requirements as established by the IDEQ. ~~(3-25-13)~~( )

## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.02.07 – RULES GOVERNING CIVIL PENALTIES**

**DOCKET NO. 07-0207-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2605, 54-2606 and 54-2607, 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 are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2016 Idaho Administrative Bulletin, [Vol. 16-9, pages 47-48](#).

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

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

DATED this 26th day of October 2016.

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, 54-2606 and 54-2607, 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, 2016.

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



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

Currently, plumbing contractors are exempt from being subject to a civil penalty for failing to pay for or obtain a plumbing permit prior to making a plumbing installation, as well as exempt from being subject to a civil penalty for failing to make corrections of plumbing installations when notified by the Division. As a result, short of licensure discipline, there is no recourse available to the Division if a contractor chooses not to comply with the permitting and inspection requirements in statute or rule. This rulemaking puts contractors on equal footing with plumbing specialty contractors and homeowners who are already subject to civil penalties for the same violations.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature. This rulemaking was discussed at several Plumbing Board meetings over the course of the last year, and no opposition to it was made. The rulemaking includes plumbing contractors among those who may receive a civil penalty for certain violations of the plumbing statutes and 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 Steve Keys at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2016.

DATED this 29th Day of July, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0207-1601**

**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. (3-29-12)

**04. 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)

**05. Fees, Permits and Inspections.** Any person, ~~other than a person who holds a valid Idaho state plumbing contractor's certificate of competency,~~ failing to obtain a required permit, 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)~~( )

**06. 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)~~( )

**07. 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)

**08. 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**

### **07.03.01 – RULES OF BUILDING SAFETY**

#### **DOCKET NO. 07-0301-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

This pending rulemaking is being adopted in order to adopt and amend the 2015 International Building Code (IBC), 2015 International Existing Building Code (IEBC), and the commercial provisions of the 2015 International Energy Conservation Code which serves as the basis for the Idaho Energy Conservation Code.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 81-89](#).

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

This rulemaking is not expected to impact the General Fund, but is expected to increase short-term cost to code jurisdictions for code materials and training of inspectors. Amendments to the new commercial building and energy codes will result in some decreases in cost to building contractors and owners.

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

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
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 39-4107 and 39-4109, 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, 2016.

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

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

Adoption of the 2015 editions of the International Building Code, the International Existing Building Code, and the commercial provisions of the International Energy Conservation Code was the result of negotiated rulemaking involving the building industry, building officials, design professionals, energy specialists, and other interested stakeholders. Significant changes to the commercial building codes have been made since the last edition was published relating to health and safety concerns and technological advancements. Many of the changes streamline or simplify the application of the code. Several changes reduce requirements or expand options. These codes correlate with the latest published product and installation industry standards. Notably, while the 2015 commercial building and energy codes have been adopted, the Board determined through the negotiated rulemaking process to maintain the standards of the residential building and energy codes at the existing 2012 code level.

This rulemaking would result in the incorporation by reference of the following codes for Idaho that are herein incorporated by reference: the 2015 International Building Code (IBC), 2015 International Existing Building Code (IEBC), and the commercial provisions of the 2015 International Energy Conservation Code which serves as the basis for the Idaho Energy Conservation Code. Further amendments to the 2015 IBC include adding lodging houses with five or fewer guest rooms to the R-3 residential occupancy, retaining existing amendments requiring drinking fountains in occupancies with an occupant load of more than 30 persons, and service sinks in business and mercantile occupancies with an occupancy load of more than 30 persons except for restaurants. Finally, it adds an exception to the commercial energy code for certain air filtration and treatment systems where requiring economizers to draw outside cool air would not be feasible.

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

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

This rulemaking is not expected to impact the General Fund, but is expected to increase short-term cost to code jurisdictions for code materials and training of inspectors. Amendments to the new commercial building and energy codes will result in some decreases in cost to building contractors and owners.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 2, 2016 Idaho Administrative Bulletin, [Vol. 16-3, pages 13-14](#).

**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:

This rulemaking adopts the 2015 International Building Code (IBC), 2015 International Existing Building Code (IEBC), and the commercial provisions of the 2015 International Energy Conservation Code which serve as the basis for the Idaho Energy Conservation Code. Further amendments to the 2015 IBC include adding lodging houses with

five or fewer guest rooms to the R-3 residential occupancy, retaining existing amendments requiring drinking fountains in occupancies with an occupant load of more than 30 persons, and service sinks in business and mercantile occupancies with an occupancy load of more than 30 persons except for restaurants. Finally, it adds an exception to the commercial energy code for certain air filtration and treatment systems where requiring economizers to draw outside cool air would not be feasible.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0301-1601**

**004. ADOPTION AND INCORPORATION BY REFERENCE.**

Under the provisions of Section 39-4109, Idaho Code, the codes enumerated in this Section are hereby adopted and incorporated by reference into IDAPA 07.03.01, “Rules of Building Safety,” Division of Building Safety. Pursuant to Section 39-4109, Idaho Code, the effective date of any edition of the codes adopted in this Section, or any amendments identified thereto, shall be January 1 of the succeeding year following legislative approval of the rulemaking establishing the edition or amendment. Copies of these documents may be reviewed at the office of the Division of Building Safety. The referenced codes may be obtained from International Code Council, 5360 Workman Mill Road, Whittier, California 90601-2298 or the International Code Council at <http://www.iccsafe.org>. (3-20-14)

**01. International Building Code. 201~~2~~<sup>5</sup> Edition with the following amendments: ~~(4-4-13)~~( )**

**a.** Delete section 305.2.3 and replace with the following: Twelve (12) or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having twelve (12) or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code. (3-20-14)

**b.** Delete section 308.6.4 and replace with the following: Persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having twelve (12) or fewer children receiving day care or having five (5) or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code. (3-20-14)

**c.** Delete section 310.5 and replace with the following: Residential Group R-3. Residential **Group R-3** occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4, E or I, including: ~~(3-20-14)~~( )

- i. Buildings that do not contain more than two (2) dwelling units; (3-20-14)
- ii. Boarding houses (nontransient) with sixteen (16) or fewer occupants; (3-20-14)
- iii. Boarding houses (transient) with ten (10) or fewer occupants; (3-20-14)
- iv. Care facilities that provide accommodations for five (5) or fewer persons receiving care; (3-20-14)

- v. Congregate living facilities (nontransient) with sixteen (16) or fewer occupants; (3-20-14)
- vi. Congregate living facilities (transient) with ten (10) or fewer occupants; or (3-20-14)
- vii. Dwelling units providing day care for twelve (12) or fewer children. (3-20-14)
- ~~viii. Lodging houses with five (5) or fewer guest rooms. ( )~~
- d. Delete section 310.5.1 and replace with the following: Care facilities within a dwelling. Care facilities for twelve (12) or fewer children receiving day care or for five (5) or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the International Residential Code. (3-20-14)
- ~~e. Amend IBC section 907.2.3—Group E as follows: (3-25-16)~~
- ~~i. Delete exception No. 1 contained under IBC section 907.2.3—Group E, and replace with the following: A manual fire alarm system is not required in Group E occupancies with an occupant load of fifty (50) or less. (3-25-16)~~
- ~~ii. Add the following as exception No. 2 under IBC section 907.2.3—Group E: Emergency voice/alarm communication systems meeting the requirements of Section 907.5.2.2, and installed in accordance with Section 907.6 shall not be required in Group E occupancies with occupant loads of one hundred (100) or less, provided that activation of the manual fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5. (3-25-16)~~
- ~~iii. Re-number exception No. 2 as exception No. 3 under IBC section 907.2.3—Group E. (3-25-16)~~
- ~~iv. Delete exception No. 3 and replace with the following as exception No 4: Manual fire alarm boxes shall not be required in Group E occupancies where all of the following apply: (3-25-16)~~
  - ~~(1) 4.1 The building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1. (3-25-16)~~
  - ~~(2) 4.2 The emergency voice/alarm communication system will activate on sprinkler waterflow. (3-25-16)~~
  - ~~(3) 4.3 Manual activation is provided from a normally occupied location. (3-25-16)~~
- ~~fe. Delete Add footnote (f) contained under in the header row of the table column labeled “Drinking Fountains” of Table 2902.1 Minimum Number of Required Plumbing Fixtures, and replace with add footnote (f) under Table 2902.1 to state the following: Drinking fountains are not required for an occupant load of thirty (30) or fewer. (4-4-13)( )~~
- ~~gf. Delete footnote (ge) contained under Table 2902.1 Minimum Number of Required Plumbing Fixtures and replace with the following: For business occupancies, excluding restaurants, and mercantile occupancies with an occupant load of thirty (30) or fewer, service sinks shall not be required. (3-20-14)( )~~
- 02. International Residential Code.** 2012 Edition with the following amendments: (3-20-14)
  - a. Delete exception No. 1 contained under IRC section R101.2 - Scope. (3-20-14)
  - b. Delete exception No. 2 contained under IRC section R101.2 - Scope, and replace with the following: Owner-occupied lodging houses with five (5) or fewer guestrooms shall be permitted to be constructed in accordance with the International Residential Code for One- and Two-family Dwellings. (4-11-15)
  - c. Delete item No. 7 contained under the “Building” subsection of IRC section R105.2 - Work exempt from permit, and replace with the following: Prefabricated swimming pools that are not greater than four (4) feet (one thousand, two hundred nineteen (1219) mm) deep. (4-7-11)

**d.** Add the following item No. 11 at the end of the “Building” subsection of IRC section R105.2 - Work exempt from permit: Flag poles. (3-20-14)

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

**f.** IRC Table R302.1(1) Exterior Walls -- delete Table R302.1(1) and replace with the following:

**TABLE R302.1(1)**  
**EXTERIOR WALLS**

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Walls	Fire-resistance rated	1 hour-tested in accordance with ASTM E 119 or UL263 with exposure from both sides	< 3 feet
	Not fire-resistance rated	0 hours	≥ 3 feet
Projections	Fire-resistance rated	1 hour on the underside	≥ 2 feet to < 3 feet
	Not fire-resistance rated	0 hours	≥ 3 feet
Openings in Walls	Not allowed	N/A	< 3 feet
	25% maximum of wall area	0 hours	≥ 3 feet to < 5 feet
	Unlimited	0 hours	5 feet
Penetrations	All	Comply with Section R302.4	< 3 feet
		None required	≥ 3 feet

For SI: 1 foot = 304.8 mm.

N/A = Not Applicable

(4-11-15)

**g.** Delete the exception contained under IRC section R302.2 -- Townhouses, and replace with the following two (2) exceptions: (3-25-16)

**i.** When provided with an automatic fire sprinkler system per section R313.1, a common one (1)-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts, or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides, and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4. (3-25-16)

**ii.** Two (2) one (1)-hour fire-resistance-rated wall assemblies (as specified in Section R302.1) or a common two (2)-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 are permitted for townhouses. If two (2) one (1)-hour fire-resistance-rated walls are used, plumbing and electrical installations within the wall cavity shall conform to fire-resistance penetration requirements in accordance with section R302.4 through R302.4.2 for each of the two (2) one (1)-hour rated walls penetrated. The two (2)-hour fire-resistance-rated common wall shall not contain plumbing or mechanical equipment, ducts or vents within its wall cavity. The wall shall be rated for fire exposure from both sides, and shall extend to and be tight against the exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4. (3-25-16)

**h.** Delete IRC section R303.4 and replace with the following: R303.4 Mechanical Ventilation. Dwelling units shall be provided with whole-house mechanical ventilation in accordance with Section M1507.3

Exception: Where the air infiltration rate of a dwelling unit is equal to 5 air changes per hour or greater when tested with a blower door at a pressure of 0.2 inch w.c. (50 pa) in accordance with Section N1102.4.1.2. (4-11-15)

**i.** Delete the exception contained under IRC section R313.1 -- Townhouse automatic fire sprinkler systems, and replace with the following: Exception: Automatic residential fire sprinkler systems shall not be required in townhouses where either two (2) one (1)-hour fire-resistance-rated walls or a common two (2)-hour fire-resistance rated wall, as specified in exception 2 of section R302.2 is installed between dwelling units or when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed. (3-25-16)

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

**k.** Add the following to IRC section R315.3 - Where required in existing dwellings: Exceptions: 1. Work involving the exterior surfaces of dwellings, such as, but not limited to, replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck or electrical permits, are exempt from the requirements of this section; and 2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems are exempt from the requirements of this section. (3-20-14)

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

**m.** Delete IRC section R322.2.2 subparagraph 2.2, and replace with the following: The total net area of all openings shall be at least one (1) square inch (645 mm<sup>2</sup>) for each square foot (0.093 m<sup>2</sup>) of enclosed area, or the opening shall be designed and the construction documents shall include a statement that the design and installation of the openings will provide for equalization of hydrostatic flood forces on exterior walls by allowing the automatic entry and exit of floodwaters. (3-20-14)

**n.** Delete IRC section R501.3 and its exceptions. (3-20-14)

**o.** Delete IRC section R602.10 and replace with the following: Wall bracing. Buildings shall be braced in accordance with this section or, when applicable section R602.12, or the most current edition of APA System Report SR-102 as an alternate method. Where a building, or portion thereof, does not comply with one (1) or more of the bracing requirements in this section, those portions shall be designated and constructed in accordance with section R301.1. (3-20-14)

**p.** Chapter 11 [RE] Energy Efficiency - The following sections and tables of chapter 11 shall be amended in accordance with the requirements contained below in Subsection 004.04 of these rules which correspond to the appropriate section: (3-20-14)

- i. Table N1102.1.1 (Table R402.1.1) - Insulation and Fenestration Requirements by Component; (3-20-14)
- ii. Table N1102.1.3 (Table R402.1.3 - Equivalent U-Factors; (3-20-14)
- iii. Table N1102.2.6 (Table R402.2.6) - Steel-Frame Ceiling, Wall and Floor Insulation (R-Value); (3-20-14)
- iv. Section N1102.4.1 (R402.4.1) Building Thermal Envelope; (3-20-14)
- v. Section N1102.4.1.1 (R402.4.1.1) - Insulation; (3-20-14)
- vi. Table N1102.4.1.1 (Table R402.4.1.1) - Air Barrier and Insulation Installation; (3-20-14)
- vii. Section N1102.4.1.2 (R402.4.1.2) Testing Option; (3-20-14)

- viii. Add Section N1102.4.1.3 (R402.4.1.3) - Visual Inspection Option; (3-20-14)
- ix. Add Section N1102.6 (R402.6) - Residential Log Home Thermal Envelope; (3-20-14)
- x. Add Table N1102.6 (Table R402.6) - Log Home Prescriptive Thermal Envelope Requirements by Component; and (3-20-14)
- xi. Section N1104.1 (R404.1) - Lighting Equipment. (3-20-14)
- 03. International Existing Building Code. 201~~2~~<sup>5</sup> Edition.** (~~4-1-13~~)( )
- 04. International Energy Conservation Code. 201~~2~~<sup>5</sup> Edition with the following amendments:** (~~3-20-14~~)( )
  - a.** Delete the Residential Provisions of the 2015 International Energy Conservation Code (IECC) set forth in chapters 1 [RE] through 6 [RE], including Appendix RA (pages R-1 through R-57), and replace with the Residential Provisions of the 2012 IECC set forth therein in chapters 1 [RE] through 5 [RE] (pages R-1 through R-47) and as such provisions may be further amended herein these rules. ( )
  - b.** Add the following as new subsection C101.5.3: Industrial, electronic, and manufacturing equipment. Buildings or portions thereof that are heated or cooled exclusively to maintain the required operating temperature of industrial, electronic, or manufacturing equipment shall be exempt from the provisions of this code. Such buildings or portions thereof shall be separated from connected conditioned space by building thermal envelope assemblies complying with this code. (3-25-16)
  - c.** Add the following exception No. (10) under section C403.3 Economizers (Prescriptive): Unusual outdoor air contaminate conditions – Systems where special outside air filtration and treatment for the reduction and treatment of unusual outdoor contaminants, makes an air economizer infeasible. ( )
  - d.** Delete the values contained in Table R402.1.1 (Table N1102.1.1) for climate zone “5 and Marine 4” and climate zone “6” and replace with the following: (3-20-14)

TABLE R402.1.1 INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT										
Climate Zone	Fenestration U- Factor	Skylight U-factor	Glazed Fenestration SHGC	Ceiling R-Value	Wood Frame Wall R-Value	Mass Wall R-Value	Floor R-Value	Basement Wall R-Value	Slab R-Value	Crawlspace Wall R-Value
5 and Marine 4	0.35	0.60	NR	38	20 or 13+5 <sup>h</sup>	13/17	30 <sup>g</sup>	10/13	10, 2 ft	10/13
6	0.35	0.60	NR	49	20 or 13+5 <sup>h</sup>	15/19	30 <sup>g</sup>	15/19	10, 4 ft	10/13

(3-20-14)

- e.** Add the following footnote to the title of Table R402.1.1 - Insulation and Fenestration Requirements by Component: <sup>k</sup>. For residential log home building thermal envelope construction requirements see section R402.6. (3-25-16)
- f.** Delete the values contained in Table R402.1.3 (Table N1102.1.3) for climate zone “5 and Marine 4” and climate zone “6” and replace with the following:



<b>TABLE R402.1.3 EQUIVALENT U-FACTORS</b>								
<b>Climate Zone</b>	<b>Fenestration U-factor</b>	<b>Skylight U-factor</b>	<b>Ceiling R-Value</b>	<b>Wood Frame Wall R-Value</b>	<b>Mass Wall R-Value</b>	<b>Floor R-Value</b>	<b>Basement Wall R-Value</b>	<b>Crawlspace Wall R-Value</b>
5 and Marine 4	0.35	0.60	0.030	0.057	0.082	0.033	0.059	0.065
6	0.35	0.60	0.026	0.057	0.060	0.033	0.050	0.065

(3-20-14)

**eg.** Delete Table R402.2.6 (Table N1102.2.6) and replace with the following:

<b>TABLE R402.2.6 STEEL-FRAME CEILING, WALL AND FLOOR INSULATION (R-VALUE)</b>	
<b>Wood Frame R-value Requirement</b>	<b>Cold-formed Steel Equivalent R-value<sup>a</sup></b>
<b>Steel Truss Ceilings<sup>b</sup></b>	
R-30	R-38 or R-30 + 3 or R-26 + 5
R-38	R-49 or R-38 + 3
R-49	R-38 + 5
<b>Steel Joist Ceilings<sup>b</sup></b>	
R-30	R-38 in 2 x 4 or 2 x 6 or 2 x 8 R-49 in any framing
R-38	R-49 in 2 x 4 or 2 x 6 or 2 x 8 or 2 x 10
<b>Steel-Framed Wall</b>	
R-13	R-13 + 5 or R-15 + 4 or R-21 + 3 or R-0 + 10
R-19	R-13 + 9 or R-19 + 8 or R-25 + 7
R-21	R-13 + 10 or R-19 + 9 or R-25 + 8
<b>Steel Joist Floor</b>	
R-13	R-19 in 2 x 6 R-19 + 6 in 2 x 8 or 2 x 10
R-19	R-19 + 6 in 2 x 6 R-19 + 12 in 2 x 8 or 2 x 10
a. Cavity insulation R-value is listed first, followed by continuous insulation R-value. b. Insulation exceeding the height of the framing shall cover the framing.	

(3-25-16)

**fl.** Delete section R402.4.1 (N1102.4.1) and replace with the following: Building thermal envelope. The building thermal envelope shall comply with sections R402.1.1 and either section R402.4.1.2 or R402.4.1.3. The sealing methods between dissimilar materials shall allow for differential expansion and contraction. (3-25-16)

**g.i.** Delete section R402.4.1.1 (N1102.4.1.1) and replace with the following: Installation. The components of the building thermal envelope as listed in Table R402.4.1.1 shall be installed in accordance with the manufacturer's instructions and the criteria listed in Table R402.4.1.1, as applicable to the method of construction. (3-25-16)

**h.i.** Delete the criteria requirement for the "Fireplace" component of Table R402.4.1.1 (Table N1102.4.1.1) - Air Barrier and Insulation Installation, and replace with the following: An air barrier shall be installed on fireplace walls. (3-20-14)

**ik.** Delete section R402.4.1.2 (N1102.4.1.2) and replace with the following: Testing option, Building envelope tightness and insulation installation shall be considered acceptable when tested air leakage is less than seven (7) air changes per hour (ACH) when tested with a blower door at a pressure of 33.5 psf (50 Pa). Testing shall occur after rough in and after installation of penetrations of the building envelope, including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances. During testing: (3-25-16)

- i. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed; (3-20-14)
- ii. Dampers shall be closed, but not sealed, including exhaust, intake, makeup air, backdraft and flue dampers; (3-20-14)
- iii. Interior doors shall be open; (3-20-14)
- iv. Exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed; (3-20-14)
- v. Heating and cooling system(s) shall be turned off; (3-20-14)
- vi. HVAC ducts shall not be sealed; and (3-20-14)
- vii. Supply and return registers shall not be sealed. (3-20-14)

**jl.** Add the following as section R402.4.1.3 (N1102.4.1.3): Visual inspection option, Building envelope tightness and insulation installation shall be considered acceptable when the items listed in Table R402.4.1.1, applicable to the method of construction, are field verified. Where required by code official an approved party independent from the installer of the insulation shall inspect the air barrier and insulation. (3-25-16)

**km.** Add the following section: R402.6 (N1102.6) Residential Log Home Thermal Envelope. Residential log home construction shall comply with sections R401 (General), R402.4 (Air Leakage), R402.5 (Maximum Fenestration U-Factor and SHGC), R403.1 (Controls), R403.2.2 (Sealing), R403.2.3 (Building Cavities), sections R403.3 through R403.9 (referred to as the mandatory provisions), Section R404 (Electrical Power and Lighting Systems), and either i., ii., or iii. as follows: (3-25-16)

- i. Sections R402.2 through R402.3, R403.2.1, R404.1 and Table R402.6; (3-25-16)
- ii. Section R405 Simulated Performance Alternative (Performance); or (3-25-16)
- iii. REScheck (U.S. Department of Energy Building Codes Program). (4-7-11)

**ln.** Add Table R402.6 (Table N1102.6) Log Home Prescriptive Thermal Envelope Requirements By Component to be used only in accordance with item i. of section R402.6 above to appear as follows:

**TABLE R402.6**  
**LOG HOME PRESCRIPTIVE THERMAL ENVELOPE REQUIREMENTS BY COMPONENT**

For SI: 1 foot = 304.8 mm.

Climate Zone	Fenestration U-factor <sup>a</sup>	Skylight U-factor	Glazed Fenestration Shgc	Ceiling R-value	Min. Average Log Size In Inches	Floor R-value	Basement Wall R-value <sup>d</sup>	Slab R-value & Depth <sup>b</sup>	Crawl Space Wall R-value <sup>d</sup>
5, 6 - High efficiency equipment path <sup>c</sup>	0.32	0.60	NR	49	5	30	15/19	10, 4 ft.	10/13
5	0.32	0.60	NR	49	8	30	10/13	10, 2 ft.	10/13
6	0.30	0.60	NR	49	8	30	15/19	10, 4 ft.	10/13

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

(3-25-16)

~~0.~~ Delete section R404.1 (N1104.1) and replace with the following: Lighting equipment (Mandatory). A minimum of fifty percent (50%) of the lamps in permanently installed lighting fixtures shall be high-efficacy lamps or a minimum of fifty percent (50%) of the permanently installed lighting fixtures shall contain only high efficacy lamps. (3-20-14)

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

## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.05.01 – RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD**

**DOCKET NO. 07-0501-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-1904 and 54-1907, 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 in order to clarify that a public works contractor licensed in the specialty category of Instrumentation and Controls must also possess the appropriate underlying electrical license and a public works electrical specialty license.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 90-101](#).

**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 at (208) 332-8986.

DATED this 4th day of November, 2016.

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

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
--

**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 54-1904 and 54-1907, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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 installation, alteration, or repair of instrumentation and controls for various mechanical systems typically involves the installation of electrical wires, equipment, and apparatus to convey electrical current. Accordingly, an electrical license, or specialty electrical license, as well as a public works contractor's specialty construction electrical license are required to lawfully perform such installations on public works projects.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature. This rulemaking was brought forward by an affected public works specialty contractor licensed in this category, and discussed at several Public Works Contractors License Board meetings in the past year. The rule simply clarifies the scope of permissible work allowed by the instrumentation and controls specialty license by indicating that any electrical installation work must be done by licensees who possess the appropriate underlying electrical license and a public works electrical specialty license.

**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 at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 23rd day of August, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0501-1601**

**200. TYPE 4-SPECIALTY CONSTRUCTION CATEGORIES.**

A license for Type 4-Specialty Construction shall list one (1) or more specialty construction categories to which the license is restricted. Categories and their definitions are: (4-6-05)

**01. 01107 Engineering.** A specialty contractor whose primary business includes providing engineering and design services such as civil, electrical, mechanical, and structural. (4-6-05)

**02. 01541 Scaffolding and Shoring.** A specialty contractor whose primary business is the installation of any temporary elevated platform and its supporting structure used for supporting workmen or materials or both, and props or posts of timber or other material in compression used for the temporary support of excavations, formwork or unsafe structures; the process of erecting shoring. (4-6-05)

- 03. 01542 Craning and Erection.** A specialty contractor whose primary business includes the art, ability and skill to safely control the workings of a crane in such a manner that building materials, supplies, equipment and structural work can be raised and set in a final position. (4-6-05)
- 04. 01550 Construction Zone Traffic Control.** A specialty contractor whose primary business is the installation or removal of temporary lane closures, flagging or traffic diversions, utilizing pilot cars, portable devices such as cones, delineators, barricades, sign stands, flashing beacons, flashing arrow trailers, and changeable message signs on roadways, public streets and highways or public conveyances. (4-6-05)
- 05. 01570 Temporary Erosion and Sediment Controls.** A specialty contractor whose primary business includes the ability and expertise to install silt fencing or other similar devices to prevent erosion and contain silt. (4-6-05)
- 06. 02110 Excavation, Removal and Handling of Hazardous Material.** A specialty contractor whose primary business includes the excavation and removal of toxic and hazardous site materials. Contractors must be properly licensed and certified if required. (4-6-05)
- 07. 02115 Removal of Underground Storage Tanks.** A specialty contractor whose primary business includes, but is not limited to, the excavation, removal, cleanup, and disposal of underground storage tanks that have contained petrochemical type fuels. This work should include the sampling and testing of surrounding materials and filing of closure documents. (4-6-05)
- 08. 02195 Environmental Remediation, Restoration and Soil Stabilization.** A specialty contractor whose primary business is the remediation and restoration of contaminated environmental sites. (4-6-05)
- 09. 02210 Drilling.** A specialty contractor whose primary business includes practical elementary knowledge of geology and hydrology; the art, ability, knowledge, science and expertise to bore, drill, excavate, case, pack or cement by use of standard practices, including the use of diamond bits, cable tools, percussion, air percussion, rotary, air rotary, reverse circulation rotary methods or jetting. (4-6-05)
- 10. 02220 Demolition.** A specialty contractor whose primary business includes the ability and expertise to demolish all types of buildings or structures and to remove all of such buildings or structures from the premises, and maintain the premises surrounding demolition site safely for passing public. (4-6-05)
- 11. 02230 Site Clearing.** A specialty contractor whose primary business includes the ability and expertise to remove and dispose of all trees, brush, shrubs, logs, windfalls, stumps, roots, debris and other obstacles in preparation for excavation of a construction site or other uses. (4-6-05)
- 12. 02231 Logging.** A specialty contractor whose primary business and expertise includes the clearing, cutting, removal and transportation of logs and trees and the construction of temporary roads and structures for such operations along with any reclamation work associated with such operations. (4-6-05)
- 13. 02232 Tree Removal and Trimming.** A specialty contractor whose primary business includes pruning, removal, or guying of trees, limbs, stumps, and bushes including grinding and removal of such items. (4-6-05)
- 14. 02240 Dewatering and Subsurface Drainage.** A specialty contractor whose primary business is to control the level and flow of subsurface water. (4-6-05)
- 15. 02260 Earth Retention Systems, Mechanical Stabilized Earth Walls and Retaining Walls.** A specialty contractor whose primary business includes the building of earth retention systems, mechanical stabilized earth walls and retaining walls. (4-6-05)
- 16. 02265 Slurry Walls.** A specialty contractor whose primary business is the construction of below ground structural diaphragm walls or containment walls through the combined use of trench excavation, mud slurry and tremie concrete. (4-6-05)

17. **02270 Rockfall Mitigation and High Scaling.** A specialty contractor whose primary business is rockfall mitigation and high scaling. (4-6-05)
18. **02310 Excavation and Grading.** A specialty contractor whose primary business includes such work as digging, moving and placing material forming the surface of the earth in such manner that a cut, fill, excavation and any similar excavating operation can be done with the use of hand and power tools and machines that are used to dig, move and place that material forming the earth's surface. (4-6-05)
19. **02312 Dust Control, Dust Abatement and Dust Oiling.** A specialty contractor whose primary business is dust control, dust abatement and dust oiling. (4-6-05)
20. **02317 Rock Trenching.** A specialty contractor whose primary business is rock trenching. (4-6-05)
21. **02318 Hauling.** A specialty contractor whose primary business includes the ability and expertise to obtain or move specified materials by transportation in a vehicle. (4-6-05)
22. **02319 Blasting.** A specialty contractor whose primary business includes the use of conventional and high explosives for pre-splitting, surface, underground and underwater blasting, drill, trench, or excavate for use of explosives; priming and loading drilled, trenched or excavated areas by pipe tamping, pneumatic loading, injector loading, mud capping, slurry loading, combination of pneumatic and injector loading or hand loading; use of volt, ohms and milliampere meter (VOM) in testing blasting machine output voltage, power line voltage, measuring electric blasting cap or blasting circuit resistance, testing for current leakage, testing for AC-DC stray current and voltage, leading wires for open or short circuits, rack bar blasting machine for running short or galvanometer output voltage; use of blasting caps, electric blasting caps, delay electric blasting caps, primacord and all other detonating devices. (4-6-05)
23. **02325 Dredging.** A specialty contractor whose primary business includes the excavation or removal of earth, rock, silt, or sediment from bodies of water including but not limited to streams, lakes, rivers or bays by means of specialized equipment. (4-6-05)
24. **02404 Horizontal and Directional Earth Boring, Trenching and Tunneling.** A specialty contractor whose primary business and expertise includes boring, trenching or tunneling. (4-6-05)
25. **02450 Drilled Piers, Pile Driving, Caisson Drilling, Geopier and Helical Piers.** A specialty contractor whose primary business includes drilling piers, pile driving, caisson drilling, Geopier and helical piers. (4-6-05)
26. **02500 Utilities.** A specialty contractor whose primary business includes the construction and installation of pipe lines for the transmission of sewage, gas and water, including minor facilities incidental thereto; installation of electrical poles, towers, arms, transformers, fixtures, conduits, conductors, switch gear, grounding devices, panels, appliances and apparatus installed outside of buildings; including excavating, trenching, grading, back fill, asphalt patching as well as all necessary work and installation of appurtenances in connection therewith. (4-6-05)
27. **02520 Well Drilling.** A specialty contractor whose primary business includes the practical elementary knowledge of geology, hydrology, the occurrence of water in the ground, water levels in wells, the prevention of surface and sub-surface contamination and pollution of the ground water supply; and the art, ability, experience, knowledge, science, and expertise to bore, drill, excavate, case, screen, cement, clean and repair water wells; or to do any or any combination of any or all such boring, drilling, excavating, casing, cementing, cleaning and repairing with hand or power tools or rigs, including the installation and repair of pumps. (4-6-05)
28. **02580 Installation of Communication Towers.** A specialty contractor whose primary business and expertise is the installation of communication towers. (4-6-05)
29. **02660 Membrane Liners for Ponds and Reservoirs.** A specialty contractor whose primary business includes the installation of liners for the purpose of containment of liquids. (4-6-05)

**30. 02720 Crushing.** A specialty contractor whose primary business includes the ability and expertise to reduce rocks and aggregates to a smaller and uniform size and gradation to meet an agreed specification. (4-6-05)

**31. 02740 Asphalt Paving.** A specialty contractor whose primary business includes the installation of aggregate base course, cement treated base, bitumen treated base, asphalt concrete and the application of asphalt surfacing and surface repairs of streets, intersections, driveways, parking lots, tennis courts, running tracks, play areas; including the application or installation of primer coat, asphalt binder course, tack coating, seal coating and chips, slurry seal and chips, flush or flog coats, asphalt curbs, concrete bumper curbs, redwood headers, asphalt surface binder emulsion, asbestos and sand and acrylic color systems. (Synthetic and athletic surfacing are category 02790 Athletic and Recreational Surfaces.) Also includes crack sealing, asphalt maintenance repair and soil pulverization. (4-6-05)

**32. 02761 Traffic Marking and Striping.** A specialty contractor whose primary business includes the art, ability and expertise to apply markings to streets, roadways, or parking surfaces pre-designed for the use of parking or passage of vehicles by the application of directional lines, buttons, markers, and signs made of but not limited to plastic, paint, epoxies and rubber, in such manner as to provide for the channeling and controlling of the traffic flow. Also includes temporary striping. (4-6-05)

**33. 02785 Asphalt Maintenance and Repair, Seal Coating, Crack Sealing and Chip Sealing.** A specialty contractor whose primary business is asphalt maintenance and repair, seal coating, crack sealing and chip sealing. (4-6-05)

**34. 02790 Athletic and Recreational Surfaces.** A specialty contractor whose primary business is the installation of specialty surfaces including but not limited to non-wood athletic floors, tennis courts, running tracks and artificial turf. This would include any subsurface preparation such as leveling, excavation, fill and compaction or grading. The application of surfacing, mixing, spreading or placing of emulsions, binders, sand and acrylic color systems is also included along with the installation of modular, plastic athletic floors such as "Sport Court" type floors. This category does not include any type of structure required for the installation of these surfaces. (4-6-05)

**35. 02810 Sprinkler and Irrigation Systems.** A specialty contractor whose primary business includes the installation of types and kinds of water distribution systems for complete artificial water or irrigation of gardens, lawns, shrubs, vines, bushes, trees and other vegetation, including the trenching, excavating and backfilling in connection therewith. (Low voltage only.) (4-6-05)

**36. 02820 Fencing.** A specialty contractor whose primary business includes the installation and repair of any type of fencing. (4-6-05)

**37. 02840 Guardrails and Safety Barriers.** A specialty contractor whose primary business includes the installation of guardrails and safety barriers (including cattle guards). (4-6-05)

**38. 02850 Bridges and Structures.** A specialty contractor whose primary business includes the installation, alteration and repair of bridges and related structures, including culverts. (4-6-05)

**39. 02855 Bridge Crossings and Box Culverts.** A specialty contractor whose primary business is the installation or construction, or both, of any bridge or crossing structure shorter than twenty (20) feet measured on the centerline of the roadway or trail. (4-6-05)

**40. 02880 Installation of School Playground Equipment.** A specialty contractor whose primary business is the installation of school playground equipment. (4-6-05)

**41. 02890 Traffic Signs and Signals.** A specialty contractor whose primary business includes the art, ability, knowledge, experience, science and expertise to fabricate, install and erect signs, including electrical signs and including the wiring of such signs. A licensed electrician must perform all the electrical work. (4-6-05)

**42. 02900 Landscaping, Seeding and Mulching.** A specialty contractor whose primary business includes the preparation of plots of land for architectural, horticulture and provisions of decorative treatment and arrangement of gardens, lawns, shrubs, vines, bushes, trees and other decorative vegetation; construction of



conservatories, hot and green houses, drainage and sprinkler systems, and ornamental pools, tanks, fountains, walls, fences and walks, arrange, fabricate and place garden furniture, statuary and monuments in connection therewith.  
(4-6-05)

**43. 02910 Slope Stabilization, Hydroseeding, Hydromulching, Native Plant Revegetation for Erosion Control.** A specialty contractor whose primary business is slope stabilization, including necessary tillage and plant bed preparation using hydroseeding, hydromulching and native plant revegetation for erosion control.  
(4-6-05)

**44. 02935 Landscape Maintenance.** A specialty contractor whose primary business and expertise includes the maintenance of existing lawns, gardens, and sprinkler systems. This would include mowing, weeding, fertilization, pest control and minor repair or relocation of sprinkler systems.  
(4-6-05)

**45. 02937 Pest Control, Sterilization and Herbicide Applications.** A specialty contractor whose primary business includes the mixing, transportation and application of fertilizers, pesticides, herbicides, and sterilization chemicals for the control of insects, pests and weeds.  
(4-6-05)

**46. 02955 Pipeline Cleaning, Sealing, Lining and Bursting.** A specialty contractor whose primary business and expertise includes cleaning, sealing, lining and bursting pipelines.  
(4-6-05)

**47. 02965 Cold Milling, Rumble Strip Milling, Asphalt Reclaiming and Pavement Surface Grinding.** A specialty contractor whose primary business includes cold milling, rumble strip milling, asphalt reclaiming and pavement surface grinding.  
(4-6-05)

**48. 02990 Structural Moving.** A specialty contractor whose primary business includes but is not limited to raising, lowering, cribbing, underpinning and moving of buildings or structures. This does not include the alterations, additions, repairs or rehabilitation of the retained portion of the structure.  
(4-6-05)

**49. 03200 Concrete Reinforcing Rebar Installation.** A specialty contractor whose primary business includes the ability and expertise to fabricate, place and tie steel mesh or steel reinforcing bars or rods of any profile, perimeter or cross-section that are or may be used to reinforce concrete.  
(4-6-05)

**50. 03300 Concrete.** A specialty contractor whose primary business includes the ability and expertise to process, proportion, batch and mix aggregates consisting of sand, gravel, crushed rock or other inert materials having clean uncoated grains of strong and durable minerals, cement and water or to do any part or any combination of any thereof, in such a manner that acceptable mass, pavement, flat and other cement and concrete work can be poured, placed, finished and installed, including the placing, forming and setting of screeds for pavement or flat work. Also includes concrete sidewalks, driveways, curbs and gutters.  
(4-6-05)

**51. 03370 Specially Placed Concrete, Concrete Pumping and Shotcreting.** A specialty contractor whose primary business includes the ability and equipment necessary to deliver and install concrete, and similar materials to their final destination in buildings and structures.  
(4-6-05)

**52. 03380 Post-Tensioned Concrete Structures or Structural Members.** A specialty contractor whose primary business is the post-tensioning of structural elements using sleeved tendons of high-strength prestressing steel.  
(4-6-05)

**53. 03500 Gypcrete.** A specialty contractor whose primary business includes the ability and expertise to mix and apply gypsum concrete.  
(4-6-05)

**54. 03600 Concrete Grouting.** A specialty contractor whose primary business includes the ability and the equipment necessary to place concrete grouts. Concrete grouts are thin, fluid, shrink resistant, mortar-like materials used for filling joints and cavities and setting and anchoring items in masonry and concrete.  
(4-6-05)

**55. 03650 Pressure Grouting and Slab Jacking.** A specialty contractor whose primary business includes pressure foundation grouting and jacking and the injection of concrete or mortar into foundations for stabilization.  
(4-6-05)

**56. 03900 Concrete Demolition, Concrete Sawing and Cutting, Core Drilling, Joint Sealing and Hydrocutting.** A specialty contractor whose primary business includes concrete cutting, drilling, sawing, cracking, breaking, chipping or removal of concrete. This category also includes the caulking or sealing of joints or cracks caused by such operations. (4-6-05)

**57. 04000 Masonry.** A specialty contractor whose primary business includes the installation with or without the use of mortar or adhesives of brick, concrete block, adobe units, gypsum partition tile, pumice block or other lightweight and facsimile units and products common to the masonry industry. (4-6-05)

**58. 04900 Chemical Cleaning and Masonry Restoration.** A specialty contractor whose primary business includes the cleaning or restoration of masonry through the use of chemicals, pressure washing, sand blasting or other methods. (4-6-05)

**59. 05090 Welding.** A specialty contractor whose primary business causes metal to become permanently attached, joined and fabricated by the use of gases or electrical energy, developing sufficient heat to create molten metal, fusing the elements together. (4-6-05)

**60. 05100 Steel Fabrication, Erection and Installation.** A specialty contractor whose primary business includes the ability and expertise to fabricate, place and tie steel reinforcing bars, erect structural steel shapes and plates, of any profile, perimeter or cross-section, that are or may be used to reinforce concrete or as structural members for buildings and structures, including riveting, welding and rigging only in connection therewith, in such a manner that steel reinforcing and structural work can be fabricated and erected. (4-6-05)

**61. 05700 Ornamental Metals.** A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to assemble, case, cut, shape, stamp, forage, fabricate and install sheet, rolled and cast, brass, bronze, copper, cast iron, wrought iron, monel metal, stainless steel, and any other metal or any combination thereof, as have been or are now used in the building and construction industry for the architectural treatment and ornamental decoration of buildings and structures, in such a manner that, under an agreed specification, acceptable ornamental metal work can be executed, fabricated and installed; but shall not include the work of a sheet metal contractor. (4-6-05)

**62. 05830 Bridge Expansion Joints and Repair.** A specialty contractor whose primary business and expertise is the repair of bridge expansion joints. (4-6-05)

**63. 06100 Carpentry, Framing and Remodeling.** A specialty contractor whose primary business includes the placing and erection of floor systems, walls, sheeting, siding, trusses, roof decking of either wood or light gauge metal framing. This contractor also installs finish items such as running trim, sashes, doors, casing, cabinets, cases and other pre-manufactured finished items. (4-6-05)

**64. 06130 Log and Heavy Timber Construction.** A specialty contractor whose primary business includes the ability and expertise to build and erect log or heavy timber structures. (4-6-05)

**65. 06139 Docks - Log and Wood Structures.** A specialty contractor whose primary business includes the ability and expertise to construct log and wood structured docks. (4-6-05)

**66. 06200 Finish Carpentry and Millwork.** A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to cut, surface, join, stick, glue and frame wood and wood products, in such a manner that, under an agreed specification, acceptable cabinet, case, sash, door, trim, nonbearing partition, and such other mill products as are by custom and usage accepted in the building and construction industry as millwork and fixtures, can be executed; including the placing, erecting, fabricating and finishing in buildings, structures and elsewhere of such millwork and fixtures or to do any part or any combination of any thereof. (4-6-05)

**67. 07100 Waterproofing and Dampproofing.** A specialty contractor whose primary business includes the ability and expertise to apply waterproofing membranes, coatings of rubber, latex, asphaltum, pitch, tar or other materials or any combination of these materials, to surfaces to prevent, hold, keep and stop water, air or

steam from penetrating and passing such materials, thereby keeping moisture from gaining access to material or space beyond such waterproofing. (4-6-05)

**68. 07200 Thermal Insulation.** A specialty contractor whose primary business includes the installation of any insulating media in buildings and structures for the purpose of temperature control. (4-6-05)

**69. 07240 Stucco and Exterior Insulation Finish Systems (EIFS).** A specialty contractor whose primary business includes the ability and expertise to install Stucco and EIFS. (4-6-05)

**70. 07400 Roofing and Siding.** A specialty contractor whose primary business includes the ability and expertise to examine surfaces and to bring such surfaces to a condition where asphaltum, pitch, tar, felt, flax, shakes, shingles, roof tile, slate and any other material or materials or any combination thereof, that use and custom has established as usable for, or which material or materials are now used as, such waterproof, weatherproof or watertight seal for such membranes, roof and surfaces; but shall not include a contractor whose sole contracting business is the installation of devices or stripping for the internal control of external weather conditions. (4-6-05)

**71. 07450 Siding and Decking.** A specialty contractor whose primary business includes the application or installation of exterior siding, decking or gutters including wood, wood products, vinyl, aluminum and metal to new or existing buildings and includes wooden decks and related handrails. (This category does not include the construction or installation of covers or enclosures of any kind.) (4-6-05)

**72. 07700 Sheet Metal Flashings, Roof Specialties and Accessories.** A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to select, cut, shape, fabricate and install sheet metal such as cornices, flashings, gutters, leaders, rainwater down spouts, pans, etc., or to do any part or any combination thereof, in such a manner that sheet metal work can be executed, fabricated and installed. (4-6-05)

**73. 07800 Sprayed on Fireproofing.** A specialty contractor whose primary business includes the mixing, transportation, and installation of fire proofing materials for buildings and structures. (4-6-05)

**74. 07920 Caulking and Joint Sealants.** A specialty contractor whose primary business includes the ability and expertise for installation of elastomeric and rigid joint sealants, caulking compounds, and related accessories. (4-6-05)

**75. 08100 Doors, Gates, Specialty Doors and Activating Devices.** A specialty contractor whose primary business is the installation, modification or repair of residential, commercial or industrial doors and door hardware. This includes but is not necessarily limited to wood, metal clad or hollow metal, glass, automatic, revolving, folding and sliding doors, power activated gates, or movable sun shades/shutters. Card activated equipment and other access control devices and any low voltage electronic or manually operated door hardware devices are also a part of this category. (4-6-05)

**76. 08500 Windows, Glass and Glazing.** A specialty contractor whose primary business includes the art, ability, experience, knowledge and expertise to select, cut, assemble and install all makes and kinds of glass and glass work, and execute the glazing of frames, panels, sash and doors, in such a manner that under an agreed specification, acceptable glass work and glazing can be executed, fabricated and installed, and may include the fabrication or installation in any building or structure of frames, glazed-in panels, sash or doors, upon or within which such frames, glazed-in panels, sash or doors, such glass work or glazing has been or can be executed or installed. (4-6-05)

**77. 09110 Steel Stud Framing.** A specialty contractor whose primary business includes the ability and expertise to build or assemble steel stud framing systems. (4-6-05)

**78. 09200 Lath and Plaster.** A specialty contractor whose primary business includes the ability and expertise to prepare mixtures of sand, gypsum, plaster, quick-lime or hydrated lime and water or sand and cement and water or a combination of such other materials as create a permanent surface coating; including coloring for same and to apply such mixtures by use of a plaster's trowel, brush or spray gun to any surface which offers a mechanical key for the support of such mixture or to which such mixture will adhere by suction; and to apply wood or metal lath or

any other materials which provide a key or suction base for the support of plaster coatings; including the light gauge metal shapes for the support of metal or other fire proof lath. Includes metal stud framing. (4-6-05)

**79. 09250 Drywall.** A specialty contractor whose primary business includes the ability and expertise to install unfinished and prefinished gypsum board on wood and metal framing and on solid substrates; gypsum and cementitious backing board for other finishes; accessories and trim; and joint taping and finishing. (4-6-05)

**80. 09300 Tile and Terrazzo.** A specialty contractor whose primary business includes the ability and expertise to examine surfaces and bring such surfaces to a condition where acceptable work can be executed and fabricated thereon by the setting of chips or marble, stone, tile or other material in a pattern with the use of cement, and to grind or polish the same. (4-6-05)

**81. 09500 Acoustical Treatment.** A specialty contractor whose primary business includes the installation, application, alteration and repair of all types of acoustical systems, to include acoustical ceilings, wall panels, sound control blocks and curtains, hangers, clips, inserts, nails, staples, related hardware and adhesive, lightweight framing systems and related accessories (electrical excluded), installation and repair of gypsum wall board, painting, accessories, taping and texturing. (4-6-05)

**82. 09600 Flooring.** A specialty contractor whose primary business includes the ability and expertise to examine surfaces, specify and execute the preliminary and preparatory work necessary for the installation of flooring, wherever installed, including wood floors and flooring (including the selection, cutting, laying, finishing, repairing, scraping, sanding, filling, staining, shellacking and waxing) and all flooring of any nature either developed as or established through custom and usage as flooring. (4-6-05)

**83. 09680 Floor Covering and Carpeting.** A specialty contractor whose primary business includes the installation, replacement and repair of floor covering materials, including laminates and including preparation of surface to be covered, using tools and accessories and industry accepted procedures of the craft. (4-6-05)

**84. 09900 Painting and Decorating.** A specialty contractor whose primary business includes the ability and expertise to examine surfaces and execute the preliminary and preparatory work necessary to bring such surfaces to a condition where acceptable work can be executed thereon with the use of paints, varnishes, shellacs, stains, waxes, paper, oilcloth, fabrics, plastics and any other vehicles, mediums and materials that may be mixed, used and applied to the surface of buildings, and the appurtenances thereto, of every description in their natural condition or constructed of any material or materials whatsoever that can be painted or hung as are by custom and usage accepted in the building and construction industry as painting and decorating. (4-6-05)

**85. 09950 Sand Blasting.** A specialty contractor whose primary business includes the ability and expertise to sand blast surfaces through the use of equipment designed to clean, grind, cut or decorate surfaces with a blast of sand or other abrasive applied to such surfaces with steam or compressed air. (4-6-05)

**86. 09960 Specialty Coatings.** A specialty contractor whose primary business includes the surface preparation and installation of specialty coatings. (4-6-05)

**87. 10150 Institutional Equipment.** A specialty contractor whose primary business includes the installation, maintenance and repair of booths, shelves, laboratory equipment, food service equipment, toilet partitions, and such other equipment and materials as are by custom and usage accepted in the construction industry as institutional equipment. (4-6-05)

**88. 10270 Raised Access Flooring.** A specialty contractor whose primary business includes the installation of wood or metal-framed elevated computer-flooring systems. This does not include the structural floor on which the computer floor is supported or mezzanines. (4-6-05)

**89. 10445 Non-Electrical Signs.** A specialty contractor whose primary business includes the installation of all types of non-electrical signs, including but not limited to traffic delineators, mile post markers, post or pole supported signs, signs attached to structures, painted wall signs, and modifications to existing signs. (4-6-05)

**90. 11001 Specialty Machinery and Equipment Installation and Servicing.** A specialty contractor

whose primary business is the installation, removal, modification or repair of pumps, water and waste water equipment, conveyors, cranes, dock levelers, various hoisting and material handling equipment, trash compactors and weighing scales installation and servicing. This does not include the construction of buildings or roof structures for this equipment. (4-6-05)

**91. 11140 Petroleum and Vehicle Service Equipment, Installation and Repair.** A specialty contractor whose primary business includes the installation and repair of underground fuel storage tanks used for dispensing gasoline, diesel, oil or kerosene fuels. This includes installation of all incidental tank-related piping, leak line detectors, vapor recovery lines, vapor probes, low voltage electrical work, associated calibration, testing and adjustment of leak detection and vapor recovery equipment, and in-station diagnostics. This contractor may also install auto hoisting equipment, grease racks, compressors, air hoses and other equipment related to service stations. (4-6-05)

**92. 11200 Water/Wastewater and Chemical Treatment.** A specialty contractor whose primary business is the supply, installation and operational startup of equipment and chemicals for chemical treatment of water, wastewater or other liquid systems. (4-6-05)

**93. 11485 Climbing Wall Structures and Products.** A specialty contractor whose primary business includes the ability and expertise to design, fabricate and install climbing wall structures and equipment. This does not include concrete foundations or buildings in which the climbing walls may be supported or housed. (4-6-05)

**94. 12011 Prefabricated Equipment and Furnishings.** A specialty contractor whose primary business includes the installation of prefabricated products or equipment including but not limited to the following: theater stage equipment, school classroom equipment, bleachers or seats, store fixtures, display cases, toilet or shower room partitions or accessories, closet systems, dust collecting systems, appliances, bus stop shelters, telephone booths, sound or clean rooms, refrigerated boxes, office furniture, all types of pre-finished, pre-wired components, detention equipment and other such equipment and materials as are by custom and usage accepted in the construction industry as prefabricated equipment. (4-6-05)

**95. 12490 Window, Wall Coverings, Drapes and Blinds.** A specialty contractor whose primary business includes the installation of decorative, architectural or functional window glass treatments or covering products or treatments for temperature control or as a screening device. (4-6-05)

**96. 13110 Cathodic Protection.** A specialty contractor whose primary business is the prevention of corrosion by using special cathodes and anodes to circumvent corrosive damage by electric current. (4-6-05)

**97. 13121 Pre-Manufactured Components and Modular Structures.** A specialty contractor whose primary business includes the moving, setup, alteration or repair of pre-manufactured components, houses or similar modular structures. (4-6-05)

**98. 13125 Pre-Engineered Building Kits.** A specialty contractor whose primary business includes the assembly of pre-engineered building kits or structures obtained from a single source. This category is limited to assembly only of pre-engineered metal buildings, pole buildings, sunrooms, geodesic structures, aluminum domes, air supported structures, manufactured built greenhouses or similar structures. This does not include any other categories such as concrete foundations, carpentry, plumbing, heating or cooling, or electrical work. (4-6-05)

**99. 13150 Swimming Pools and Spas.** A specialty contractor whose primary business includes the ability to construct swimming pools, spas or hot tubs including excavation and backfill of material, installation of concrete, Gunite, tile, pavers or other special materials used in pool construction. This category shall also include the installation of heating and filtration equipment, using those trades or skills necessary for installing the equipment, which may require other licenses including electrical and plumbing. (4-6-05)

**100. 13165 Aquatic Recreational Equipment.** A specialty contractor whose primary business includes the ability and expertise to design, fabricate and erect water slides and water park equipment and structures. This does not include any other categories such as concrete foundations, carpentry, plumbing, heating, cooling or electrical work. (4-6-05)

**101. 13201 Circular Prestressed Concrete Storage Tanks (Liquid and Bulk).** A specialty contractor whose primary business is the construction of circular prestressed concrete structures post-tensioned with circumferential tendons or wrapped circular prestressing. (4-6-05)

**102. 13280 Hazardous Material Remediation.** A specialty contractor whose primary business includes the ability and expertise to safely encapsulate, remove, handle or dispose of hazardous materials within buildings, including but not limited to asbestos, lead and chemicals. Contractors must be properly licensed and certified. (4-6-05)

**103. 13290 Radon Mitigation.** A specialty contractor whose primary business and expertise includes the detection and mitigation of Radon gas. (4-6-05)

**104. 13800 Instrumentation and Controls.** A specialty contractor whose primary business includes the installation, alteration or repair of instrumentation and control systems used to integrate equipment, sensors, monitors, controls and mechanical operators for industrial processes, building equipment, mechanical devices and related equipment. The installation of any wires or equipment to carry electrical current or the installation of electrical apparatus operated by such current requires licensure as an electrical contractor or electrical specialty contractor pursuant to Title 54, Chapter 10, Idaho Code, in addition to the public works contractor's specialty construction license for the electrical category under Subsection 200.116 of these rules or the electrical specialty contractor category under Subsection 200.118 of these rules, as appropriate for the work being performed. (4-6-05)( )

**105. 13850 Alarm Systems.** A specialty contractor whose primary business includes the installation, alteration and repair of communication and alarm systems, including the mechanical apparatus, devices, piping and equipment appurtenant thereto (except electrical). (4-6-05)

**106. 13930 Fire Suppression Systems (Wet and Dry-Pipe Sprinklers).** A specialty contractor whose primary business includes the ability and expertise to lay out, fabricate and install approved types of Wet-Pipe and Dry-Pipe fire suppression systems, charged with water, including all mechanical apparatus, devices, piping and equipment appurtenant thereto. Licensure with State Fire Marshal is required. (4-6-05)

**107. 13970 Fire Extinguisher and Fire Suppression Systems.** A specialty contractor whose primary business is the installation of pre-engineered or pre-manufactured fixed chemical extinguishing systems primarily used for protecting kitchen-cooking equipment and electrical devices. Contractor also furnishes, installs and maintains portable fire extinguishers. (4-6-05)

**108. 14200 Elevators, Lifts and Hoists.** A specialty contractor whose primary business includes the ability to safely and efficiently install, service and repair all elevators, lifts, hoists, including the fabrication, erection and installation of sheave beams, sheave motors, cable and wire rope, guides, cabs, counterweights, doors, sidewalk elevators, automatic and manual controls, signal systems and other devices, apparatus and equipment appurtenant to the installation. (4-6-05)

**109. 15100 Pipe Fitter and Process Piping.** A specialty contractor whose primary business is the installation of piping for fluids and gases or materials. This category does not include domestic water, sewage, fire protection and utilities as they are covered under other categories. (4-6-05)

**110. 15400 Plumbing.** A specialty contractor whose primary business includes the ability to create and maintain sanitary conditions in buildings, by providing a permanent means for a supply of safe, pure and wholesome water, ample in volume and of suitable temperatures for drinking, cooking, bathing, washing, cleaning, and to cleanse all waste receptacles and like means for the reception, speedy and complete removal from the premises of all fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, including a safe and adequate supply of gases for lighting, heating, and industrial purposes. (Licensure with State Plumbing Bureau is required). (4-6-05)

**111. 15510 Boiler and Steam Fitting.** A specialty contractor who installs, services and repairs boilers and associated steam distribution systems. This category is limited to work not requiring a heating, ventilating, and air conditioning (HVAC) license issued by the Division of Building Safety. (4-2-08)

**112. 15550 Chimney Repair.** A specialty contractor whose primary business includes the cleaning or repair of multi-type chimneys, flues or emission control devices used to conduct smoke and gases of combustion from above a fire to the outside area. (4-6-05)

**113. 15600 Refrigeration.** A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to construct, erect, install, maintain, service and repair devices, machinery and units for the control of air temperatures below fifty (50) degrees Fahrenheit in refrigerators, refrigerator rooms, and insulated refrigerated spaces and the construction, erection, fabrication and installation of such refrigerators, refrigerator rooms, and insulated refrigerator spaces, temperature insulation, air conditioning units, ducts, blowers, registers, humidity and thermostatic controls of any part or any combination thereof, in such a manner that, under an agreed specification acceptable refrigeration plants and units can be executed, fabricated, installed, maintained, serviced and repaired, but shall not include those contractors who install gas fuel or electric power services for such refrigerator plants or other units. (4-6-05)

**114. 15700 Heating, Ventilation, and Air Conditioning (HVAC).** A specialty contractor whose primary business includes the installation, alteration and repair of heating, ventilating, and air conditioning (HVAC) systems. Licensure by the Division of Building Safety as an HVAC contractor is required. (4-2-08)

**115. 15950 Testing and Balancing of Systems.** A specialty contractor whose primary business includes the installation of devices and performs any work related to providing for a specified flow of air or water in all types of heating, cooling or piping systems. (4-6-05)

**116. 16000 Electrical.** A contractor engaging in, conducting, or carrying on the business of installing wires or equipment to carry electric current or installing electrical apparatus to be operated by such current. A contractor licensed in this category may perform all work covered in categories defined in Subsection 200.118 of these rules. A contractor in this category must be an electrical contractor, licensed pursuant to Section 54-1007(1), Idaho Code. (3-30-07)

**117. 16700 Communication.** A specialty contractor whose primary business includes the installation, alteration or repair of communication systems (voice, data, television, microwave, and other communication systems). (4-6-05)

**118. 16800 Electrical Specialty Contractor.** A contractor engaging in, conducting, or carrying on the business of installing, altering, or repairing special classes of electrical wiring, apparatus, or equipment. A contractor in this category must be an electrical specialty contractor, licensed pursuant to Section 54-1007(1), Idaho Code, and may perform only that work included within the specialty license. Electrical specialty categories include, but are not limited to: (3-30-07)

- a. **Elevator, Dumbwaiter, Escalator or Moving-walk Electrical;** (3-30-07)
- b. **Sign Electrical;** (3-30-07)
- c. **Manufacturing or Assembling Equipment;** (3-30-07)
- d. **Limited Energy Electrical License (low voltage);** (3-30-07)
- e. **Irrigation Sprinkler Electrical;** (3-30-07)
- f. **Well Driller and Water Pump Installer Electrical; and** (3-30-07)
- g. **Refrigeration, Heating and Air Conditioning Electrical Installer.** (3-30-07)

**119. 18100 Golf Course Construction.** A specialty contractor whose primary business includes the construction, modification, and maintenance of golf courses. This includes clearing, excavation, grading, landscaping, sprinkler systems and associated work. This does not include the construction of buildings or structures such as clubhouses, maintenance or storage sheds. (4-6-05)

**120. 18200 Underwater Installation and Diving.** A specialty contractor whose primary business is marine construction under and above water. (4-6-05)

**121. 18300 Develop Gas and Oil Wells.** A specialty contractor whose primary business includes the ability and expertise to perform oil well drilling and other oil field related specialty work. This does not include water well drilling. (4-6-05)

**122. 18400 Nonstructural Restoration After Fire or Flood.** A specialty contractor whose primary business includes cleaning and nonstructural restoration after fire, flood or natural disasters. (4-6-05)

**123. 18600 Building Cleaning and Maintenance.** A specialty contractor whose primary business includes the cleaning and maintenance of a structure designed for the shelter, enclosure and support of persons, chattels, personal and movable property of any kind. (4-6-05)

**124. 18700 Snow Removal.** A specialty contractor whose primary business includes the plowing, removal or disposal of snow from roads, streets, parking lots and other areas of the public rights-of-way. (4-6-05)

**125. 18800 Roadway Cleaning, Sweeping and Mowing.** A specialty contractor whose primary business includes the clearing of trash and debris by manual or automated means from public thoroughfares. This category also includes cutting or mowing of grasses, plants, or weeds from public rights-of-way. (4-6-05)



## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.07.01 – RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS, DIVISION OF BUILDING SAFETY**

**DOCKET NO. 07-0701-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-5004 and 54-5005, 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 in order to provide a new definition of the term “light duty cooking appliance” and similarly to provide a new definition of the term “medium duty cooking appliance,” and to provide that the Division may have written interpretations of the rules available for review.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 102-104](#).

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-8986  
Fax: (877) 810-2840

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
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**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 54-5004 and 54-5005, 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, 2016.

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

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

Currently, electric and gas conveyor pizza ovens are defined as a “Medium-Duty Cooking Appliance” which requires the installation of a Type I hood. These pizza ovens do not produce enough smoke and grease to justify a Type I hood. Accordingly, by removing pizza ovens from the definition of “Medium-Duty Cooking Appliance” and redefining them as a “Light-Duty Cooking Appliance,” only a Type II hood would be required to be installed. This is less expensive than a Type I hood and the installation requirements are less restrictive. Additionally, some manufacturers are already selling the ovens with Type II hoods as a single unit. These would not be allowed under the current code. Finally, the Division would like the ability to produce written interpretations of the rules in the event that it is advisable to do so in order to provide clarity or direction to those making HVAC installations. Such written interpretations would be available for public inspection and copying.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 1, 2016 Idaho Administrative Bulletin, [Vol. 16-6, pages 18-19](#).

**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 formerly adopted and incorporated by reference International Mechanical Code, 2012 Edition, is being amended. Currently, electric and gas conveyor pizza ovens are defined as a “Medium-Duty Cooking Appliance” which requires the installation of a Type I hood. These pizza ovens do not produce enough smoke and grease to justify a Type I hood. Accordingly, by moving pizza ovens out of the definition of “Medium-Duty Cooking Appliance” into the definition of “Light-Duty Cooking Appliance” they would only require a Type II hood to be installed, which is less expensive and less restrictive than a Type I hood. Additionally, some manufacturers are already selling the ovens with Type II hoods as a single unit, which would not be allowed under the current code.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 23rd day of August, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0701-1601**

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201, Idaho Code, this agency ~~has no~~ may have written statements that pertain to the interpretations of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at the Idaho Division of Building Safety offices. ~~(3-16-04)~~ ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL MECHANICAL CODE, 2012 EDITION.**

**01. International Mechanical Code.** The 2012 Edition, including appendix “A,” (herein IMC) is adopted and incorporated by reference with the following amendments: (3-20-14)

**a.** Where differences occur between the IMC 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 Idaho State Plumbing Code (ISPC) as adopted and amended by the Idaho State Plumbing Board. (3-20-14)

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

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

**e.** Section 202 Definitions. Delete the definitions provided in the code for the terms identified herein this paragraph and replace with the following: ( )

**i.** Light-Duty Cooking Appliance. Light-duty cooking appliances include gas and electric ovens (including standard, bake, roasting, revolving, retherm, convection, combination convection/steamer, countertop conveyORIZED baking/finishing, deck, pastry, and electric and gas conveyor pizza ovens), electric and gas steam jacketed kettles, electric and gas pasta cookers, electric and gas compartment steamers (both pressure and atmospheric) and electric and gas cheesemelters. ( )

**ii.** Medium-Duty Cooking Appliance. Medium-duty cooking appliances include electric discrete element ranges (with or without oven), electric and gas hot-top ranges, electric and gas griddles, electric and gas double sided griddles, electric and gas fryers (including open deep fat fryers, donut fryers, kettle fryers and pressure fryers), electric and gas tilting skillets (braising pans) and electric and gas rotisseries. ( )

**ef.** Section 401.1 Scope. Add the following: Exception: The principles specified in ASHREA 62-2010 may be used as an alternative to this chapter to demonstrate compliance with required ventilation air for occupants. (4-7-11)

**fg.** Section 504.6.1 Material and size. Add the following exception: Dryer duct may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

**gh.** Table 603.4 Duct Construction Minimum Sheet Metal Thickness for Single Dwelling Units. Add the following exception to the Table: Round duct, enclosed rectangular ducts and fittings less than fourteen (14) inches may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

**02. Availability of the International Mechanical Code.** The 2012 Edition is available at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150, Meridian, Idaho 83642, 1250 Ironwood Dr., Ste. 220, Coeur d’Alene, Idaho 83814, and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. (3-20-14)

## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.01 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - GENERAL PROVISIONS**

**DOCKET NO. 07-0801-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to update and clarify the rules regarding minimum safety standards and practices for logging in Idaho.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 108-114](#).

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-8986  
Fax: (877) 810-2840

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
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**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Many of the provisions contained therein the rules are outdated, no longer applicable, or confusing to the logging industry. Accordingly, many of the amendments contained in the rulemaking are either administrative in nature to clarify rule provisions, provide updated references and citations to applicable standards or regulations, or replace outdated or unclear illustrations related to common logging practices. Through the negotiated rulemaking process, the logging industry requested most of the proposed amendments set forth in the rulemaking.

This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the Division related to logging safety matters, as well as update key definitions related to logging safety practices. The rulemaking also identifies the Division's role in administering the logging rules, as well as clarifying the scope of the Division's authority in interpreting and applying the logging rules. Finally, the rulemaking clarifies and updates the general requirements of both the employer's and employee's responsibility to ensure safe logging operations.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

#### **LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0801-1601**

#### **000. LEGAL AUTHORITY.**

Pursuant to the provisions of Section 67-2601A, Idaho Code, the Division of Building Safety has the authority to

promulgate and adopt ~~reasonable~~ rules for affecting the purposes ~~of the Workers' Compensation Act~~ therein.  
(7-1-97)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

~~There are no provisions for administrative appeal of these rules.~~ The procedure for appeals in logging safety matters is prescribed by IDAPA 07.08.16, "Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program," and Title 67, Chapter 52, Idaho Code.  
(7-1-97)( )

**004. ~~(RESERVED)~~ INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. ( )

**005. ~~INCLUSIVE GENDER.~~**

~~For all sections and subsections of these rules, the terms and references used in the masculine include the feminine and vice versa, as appropriate.~~  
(7-1-97)

**006. ~~SEVERABILITY.~~**

~~The sections and subsections of these rules are severable. If any rule, or part thereof, or the application of such rule, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion.~~  
(7-1-97)

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Division of Building Safety, Logging Safety Program, is at the Division office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Logging Safety Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and at 2055 Garrett Way, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810-2840. The Department website is <http://dbs.idaho.gov>. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**007. DEFINITIONS.**

Terms used in these standards shall be interpreted in the most commonly accepted sense, excepting only those specifically defined. In addition to the terms defined in this section, refer to IDAPA 07.08.18, "Commonly Used Logging Terms" for additional definitions of logging terms.  
(7-1-97)( )

**01. Administrator.** The Administrator of the Division of Building Safety. (7-1-97)( )

**02. Approved.** The term approved shall mean approved by the Division of Building Safety. (7-1-97)

**03. Division.** The Division of Building Safety. (7-1-97)

~~054.~~ **Equipment.** The term as used shall mean and include all machines, machinery, tools, devices, safeguard, and protective facilities used in connection with the logging operations ~~and maintenance of an establishment~~ regardless of ownership.  
(7-1-97)( )

~~405.~~ **Exposed to Contact.** Shall mean the location of a hazardous object is so accessible that a workman may, in the course of his employment, come into contact with the object. (7-1-97)

**06. Guarded.** Guarded shall mean, covered, shielded or railed so as to remove the ~~liability~~ possibility of dangerous contact or approach by employees or objects. It shall further mean construction of guards to ensure protection from flying objects where applicable.  
(7-1-97)( )



**07. Hazard.** Hazard as used in these standards shall mean any condition or circumstance which may cause injury to an employee. (7-1-97)

~~08.~~ **It is Recommended, or Should.** When these terms are used they shall indicate provisions which are not mandatory. (7-1-97)

~~09.~~ **Log or Logs.** When the word log or logs is used, it includes poles, piling, pulpwood, skids, etc. (7-1-97)

~~10.~~ **Safety Factor or Factor of Safety.** This term as used is the ratio of the ultimate breaking strength of a member or piece of material to the actual working stress or to the maximum permissible (safe load) stress. ~~For Example:~~ When a safety factor of six (6) is required, the structure, lines, hoists, or other equipment referred to shall be such as to provide a strength sufficient to support a load equal to six (6) times the total weight or stress to be imposed on it. (7-1-97)( )

~~11.~~ **Shall, ~~Must~~, Will.** Is compulsory or mandatory. (7-1-97)( )

~~12.~~ **Standard Safeguard.** Shall mean a device designed and constructed with the object of removing the hazard of an accident incidental to the machine, appliance, tool, building or equipment to which it is attached. (7-1-97)( )

~~13.~~ **Substantial.** Shall mean constructed of such strength, of such material, and of such workmanship, that the object referred to will withstand normal wear, shock and usage. (7-1-97)

#### **008. INTERPRETATION AND APPLICATION OF ~~THIS~~ THESE RULES.**

**01. Scope.** ~~This rule is a~~ These rules are part of the state of Idaho industrial accident prevention program and ~~has~~ve the full force and effect of law. (7-1-97)( )

**02. Jurisdiction.** In accordance with the laws of the state of Idaho, every employer and every employee working in the state of Idaho shall ~~conform~~ comply with the rules ~~and regulations of this rule contained herein.~~ (7-1-97)( )

**03. Enforcement.** The enforcement of all rules ~~and regulations~~ of this ~~rule~~ chapter and the right of inspection and examination, at any time, shall rest with the Division. (7-1-97)( )

**04. Issues Not Covered.** Where specific standards in ~~this~~ these rules fail to provide a rule or standard applicable to the operation in question, and other state of Idaho codes or standards are applicable, those codes or standards shall apply. (7-1-97)( )

**05. Interpretations.** Should any controversy develop as to the intent or application of any standard or rule as set forth in ~~this~~ these rules, or the interpretation of any standard or rule set forth in ~~this~~ these rules, such controversy shall be called to the direct attention of the ~~Administrator~~ Division, ~~who will~~ which shall render a decision as the applicability of such rule or standard. Any appeal from this decision shall be directed to the ~~Division~~ Administrator. (7-1-97)( )

**06. Additional Standards.** It is recognized that a definite, positive safety standard cannot anticipate all contingencies. The Division, after due notice and opportunity to be heard, may require additional standards and practices to insure adequate safety at any place of any employment, and, on its own motion or upon application of any employer, employee, group, or organization, may modify any provision of this rule. (7-1-97)

**07. Exceptions.** In exceptional cases where the rigid application or compliance with a requirement can only be accomplished to the detriment and serious disadvantage of an operation, method, or process, exception to the requirement will be considered upon written application to the Division. After thorough investigation, the Division may grant an exception ~~or may apply or devise another applicable rule,~~ if human life and physical well being will not be endangered by such exception. (7-1-97)( )

**08. Existing Buildings, Structures, and Equipment.** Nothing contained in this rule for ~~L~~logging ~~safety~~ shall prevent the use of existing buildings, structures, and equipment during their lifetime when maintained in good safe condition, and properly safeguarded, ~~and or require~~ conformance to with the applicable safety standards required by Idaho Safety Codes effective prior to the effective date of this rule, ~~and~~ provided that replacements and alterations shall conform with all provisions of ~~this Code~~ these rules. (7-1-97)( )

**009. EMPLOYER'S RESPONSIBILITY.**

**01. General Requirements.** (7-1-97)

**a.** Every employer subject to these rules shall furnish employment and maintain places of employment ~~which that~~ are safe according to the standards as set forth herein. (7-1-97)( )

**b.** Every employer shall adopt and use practices, means, methods, operations and processes ~~which that~~ are adequate to render such employment and place of employment safe. (7-1-97)( )

**i.** Employers shall place highly visible "LOGGING AHEAD" or similar-type warning signs at the entrances of active logging jobs. Employers shall also place "TRUCKS AHEAD," "TRUCKS ENTERING," "TREE FALLING," and "CABLES OVERHEAD" whenever applicable (3-29-10)( )

**ii.** Every employer shall furnish to its crew a Company Emergency Rescue Plan. (3-29-10)( )

**c.** Every employer should insure that ~~Material~~ Safety Data Sheets (~~MSDS~~) are reasonably accessible for every hazardous material. (3-29-10)( )

**d.** Every employer shall post and maintain in a conspicuous place or places in and about his place or places of business a written notice stating the fact that he has complied with the worker's compensation law as to securing the payment of compensation to his employees and their dependents in accordance with the provisions of Idaho law. Such notice shall contain the name and address of the surety, as applicable, with which the employer has secured payment of compensation. Such notice shall also be readily available on the site where logging operations are occurring, and available for inspection by Division officials upon request. ( )

**de.** Every employer shall do ~~every all~~ other things ~~necessary within the framework of this Rule~~ as required by these rules to protect the life and safety of employees. (7-1-97)( )

**ef.** No employer shall require any employee to go or be in any place of employment ~~which that~~ does not meet the minimum safety requirement of ~~this Rule~~ these rules, except for the purpose of meeting such requirements. (7-1-97)( )

**fg.** No employer shall fail or neglect: (7-1-97)( )

**i.** To make available and use safety devices and safeguards as are indicated. (7-1-97)

**ii.** To adopt and use methods and processes adequate to render the employment and place of employment safe. (7-1-97)

**iii.** To do ~~every all~~ other things ~~necessary within the framework of this Rule~~ as required by these rules to protect the life and safety of employees. (7-1-97)( )

**gh.** No employer, owner or lessee of any real property shall construct or cause to be constructed any place of employment ~~which that~~ does not meet the minimum safety requirements of ~~this Rule~~ these rules. (7-1-97)( )

**hi.** No person, employer, employee, other than an authorized person, shall do any of the following: (7-1-97)( )



i. Remove, displace, damage, destroy or carry off any safeguard, first aid material, notice or warning, furnished for use in any employment or place of employment, or interfere in any way with the use thereof by any other person. (7-1-97)

ii. Interfere with the use of any method or process adopted for the protection of any employee, including himself, in such employment or place of employment. (7-1-97)

iii. No person shall fail or neglect to do ~~everything necessary within the requirements of this Rule~~ all other things as required by these rules to protect the life and safety of employees. (7-1-97)( )

iv. The use of intoxicants or drugs while on duty is prohibited. Persons reporting for duty while under the influence of or ~~affected~~ impaired by liquor or other legal or illegal drugs or substances shall not work until completely recovered. (7-1-97)( )

~~h.~~ i. A definite procedure for checking the welfare of all workers during working hours shall be instituted and all workmen so advised. The employer shall assume responsibility of work assignments so that no worker shall be required to work in a position or location so isolated or hazardous that he is not within visual or audible signal contact with another person who can render assistance in case of emergency. In any operation where cutting, yarding, loading, or a combination of these ~~duties~~ activities are carried on there shall be a minimum crew of two (2) persons who shall work as a team, and shall be in visual or audible signal contact with one another. This does not apply to operators ~~or of~~ motorized equipment, watchmen, or certain other jobs which, by their nature are singular workmen assignments. There shall be some method of checking ~~in the men in~~ at the end of the shift. Each immediate supervisor shall be responsible for his crew being accounted for. This standard also includes operators of movable equipment. (7-1-97)( )

~~j.~~ k. Every employer shall keep a record of all cases of injuries his employees receive at their work. This record shall be kept in such manner as to enable representatives of the Division to determine by examining the record, the injury rate of the employee force for the period covered by the report. (7-1-97)

~~l.~~ l. Every employer shall investigate ~~or cause to be investigated~~ every accident resulting in a disabling injury that his employees suffer in connection with their employment. ~~He~~ Employers shall promptly take any required action ~~thus found to be advisable~~ correct the situation. Employees shall assist in the investigation by giving any information and facts they have concerning the accident. (7-1-97)( )

## **02. Management Responsibility.** (7-1-97)

a. ~~Top m~~Management ~~must~~ shall take an active and interested part in the development and guidance of the operation's safety program, including fire safety. (7-1-97)( )

b. Management ~~must~~ shall apply a basic workable safety plan on the same priority as it does to any other work facet of the operation where elimination of all injuries is to be achieved in all phases of the operation. It is the duty of ~~top~~ management to assume full and definite responsibility. To attain these safety objectives, management ~~must~~ shall have the full cooperation of employers and the Division. (7-1-97)( )

c. Every employer shall furnish employment which shall be safe for the employees therein and shall furnish such devices and safeguards and shall adopt and use such practices, means, methods, operation and processes as are adequate to render such employment and places of employment safe to protect the life and safety of employees. The employer shall make available necessary personal protective safety equipment. (7-1-97)

d. Regular safety inspection of all rigging, logging, machinery, rolling stock, bridges, and other equipment shall be made as often as the character of the equipment requires. Defective equipment or unsafe conditions found shall be replaced, repaired or remedied. (7-1-97)

e. All places of employment shall be inspected by a qualified person or persons as often as the type of operation or the character of the equipment requires. Defective equipment or unsafe conditions found by these inspections shall be replaced or repaired or remedied promptly. (7-1-97)

**010. EMPLOYEE'S RESPONSIBILITY.**

**01. General Requirements.** (7-1-97)

a. Employees shall not indulge in horseplay, scuffling, practical jokes or any activity ~~which~~ that creates or constitutes a hazard while on the employer's property or at any time when being transported from or to work in facilities furnished by the employer. (7-1-97)( )

b. Employees who are assigned to, or engaged in the operation of any machinery or equipment, shall ~~see~~ ensure that all guards, hoods, safety devices, etc., that are provided by the employer are in proper place and properly adjusted. (7-1-97)( )

**02. Employee Accidents.** Each employee shall make it his individual responsibility to keep himself, his coworkers, and his machine or equipment free from accidents to the best of his ability. (7-1-97)

**03. Study Requirements.** So that each worker may be better qualified to cooperate with his fellow workmen in preventing accidents, he shall study and observe these and any other safety standards governing his work. (7-1-97)

**04. Employee Responsibilities.** ~~The~~ Additional responsibilities of an employee insofar as industrial safety is concerned shall be as follows: (7-1-97)( )

a. The employee shall report immediately, preferably in writing, to his foreman or safety committee member in his department of the plant, all known unsafe conditions and practices. (7-1-97)

b. The employee shall ascertain from the foreman where medical help may be obtained if it is needed. (7-1-97)

c. The employee shall not participate in practical jokes or horseplay. (7-1-97)

d. The employee shall make a prompt report of every accident regardless of severity to the foreman, first aid attendant, or person in charge, ~~of every accident regardless of severity.~~ (Such reports are required and are necessary ~~for his protection~~ in order that there may be a record of his injuries.) (7-1-97)( )

e. The employee shall at all times apply the principles of accident prevention in his daily work and shall use proper safety devices and protective equipment. No employee shall remove, displace, damage, destroy, or carry off any safety device or safeguard furnished and provided for use in any employment, or interfere in any way with the use thereof by any other person, or interfere with the use of any method or process adopted for the protection of any employee in such employment, or fail or neglect to do every other thing reasonably necessary to protect the life and safety of himself and fellow employees, and by observing safe practice rules shall set a good example for his fellow workmen. (7-1-97)

f. The employee shall not report to the job ~~under the influence of~~ impaired by intoxicants or legal or illegal drugs and shall not use intoxicants or such drugs while on the job. The employer shall prohibit any employee from working on or being in the vicinity of any job while under the influence of or ~~affected~~ impaired by intoxicants or drugs. Employers shall be responsible for the actions of any employee known to be in an intoxicated or impaired condition while on the job. ~~(Workers are reminded that intoxication on the job may result in forfeiture of compensation for injury to say nothing of the hazard created to fellow workers.)~~ (7-1-97)( )

~~g. The employee shall not be permitted to work while under the influence of hallucinatory drugs or chemicals or other drugs covered by the Federal Narcotics Act, unless such drugs or chemicals are prescribed by a licensed Medical Doctor, provided the employee does not create a hazard to himself or his fellow workers.~~ (7-1-97)

~~h.~~ g. The employee shall wear, use and properly care for personal protective safety equipment issued to him. These items shall be returned to the employer upon termination of employment. (7-1-97)( )

~~i.~~ h. Workers exposed to head hazards shall wear approved head protection. (7-1-97)

- ~~j.i.~~ Proper eye protection shall be worn while ~~doing~~ performing work where a known eye hazard exists. (7-1-97)( )
- ~~k.i.~~ The employee should consider the benefits of accident prevention to himself and to his job. ~~(Safety-consciousness is the ability to anticipate accidents and a desire to prevent them.)~~ (7-1-97)( )
- ~~l.k.~~ The employee should make an effort to understand his job. ~~(An efficient worker understands the job, and studies everything pertaining to it.)~~ (7-1-97)( )
- ~~m.l.~~ The employee should anticipate every way in which a person might be injured on the job, and conduct the work to avoid accidents. (7-1-97)
- ~~n.m.~~ The employee should be on the alert constantly for any unsafe condition or practice. ~~(An employee's own knowledge and interest in the work makes the best possible safety inspector.)~~ (7-1-97)( )
- ~~o.n.~~ The employee shall learn first aid ~~to be applied on the job, in the home, or anywhere else.~~ (3-29-10)( )
- ~~p.o.~~ The employee should keep physically fit, and obtain sufficient rest. (7-1-97)
- ~~q.p.~~ The employee should be certain, ~~after receiving instructions,~~ that ~~they~~ all instructions received are understood completely before starting the work. (7-1-97)( )
- ~~r.q.~~ The employee should actively participate in safety programs. (7-1-97)
- ~~s.r.~~ The employee should study the safety educational material posted on the bulletin boards and distributed by the employer or safety committee. (7-1-97)
- ~~t.s.~~ The employee should advise inexperienced fellow-employees of safe ways to ~~do~~ perform their work and warn them of dangers to be guarded against. (7-1-97)( )
- ~~u.t.~~ It is the employer's responsibility to ~~see that~~ ensure compliance with the foregoing provisions ~~are~~ complied with. (7-1-97)( )

**011. -- 999. (RESERVED)**

## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.02 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - HEALTH, SAFETY, AND SANITATION**

**DOCKET NO. 07-0802-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to update and clarify the rules concerning the Idaho minimum safety standards and practice for logging related to health, safety and sanitation.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 115-123](#).

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
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 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Many of the provisions contained therein the rules are outdated, no longer applicable, or confusing to the logging industry. Accordingly, many of the amendments contained in the rulemaking are either administrative in nature to clarify rule provisions, provide updated references and citations to applicable standards or regulations, or replace outdated or unclear provisions related to common logging practices. Through the negotiated rulemaking process, the logging industry requested most of the proposed amendments set forth in the rulemaking.

This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the Division related to logging safety matters. The rulemaking identifies practices related to the provision of first aid and the proper contents of first aid kits. The rulemaking also amends provisions related to safety and fire equipment and the use of personal protective equipment.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

### **LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0802-1601**

#### **000. LEGAL AUTHORITY.**

Pursuant to the provisions of Section 67-2601A, Idaho Code, the Division of Building Safety has the authority to promulgate and adopt *reasonable* rules for affecting the purposes *of the Workers' Compensation Act* ~~therein.~~ *(7-1-97)( )*

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

~~There are no provisions for administrative appeal of these rules.~~ The procedure for appeals in logging safety matters is prescribed by IDAPA 07.08.16, "Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program," and Title 67, Chapter 52, Idaho Code. (7-1-97)( )

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. ( )

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Division of Building Safety, Logging Safety Program, is at the Division office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Logging Safety Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and at 2055 Garrett Way, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810-2840. The Department website is <http://dbs.idaho.gov>. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**007. -- 008. (RESERVED)**

**009. DEFINITIONS.**

For definitions, refer to IDAPA 07.08.01, "Idaho Minimum Safety Standards and Practices for Logging – General Provisions," Section 007, and IDAPA 07.08.15, "Idaho Minimum Safety Standards and Practices for Logging – Commonly Used Logging Terms." (7-1-97)( )

**010. FIRST AID.**

**01. Transportation. (7-1-97)**

a. Suitable means of transportation shall be established and maintained at the site of all operations to be used in the event any employee is seriously injured. (7-1-97)

b. Transportation shall be of a nature to render reasonable comfort to an injured employee. (7-1-97)

c. Each crew bus, or similar vehicle, shall be equipped with at least one (1) ~~ten-unit~~ first aid kit with the required contents as indicated in Subsection 010.06 of these rules. (7-1-97)( )

**02. Communication. (7-1-97)**

a. Every employer shall arrange suitable telephone or radio communication at the nearest reasonable point, and shall ~~work out a definite~~ establish an emergency action plan ~~of action~~ to be taken in the event of serious injury to any employee. (7-1-97)( )

b. Instructions covering ~~this~~ the emergency action plan ~~of action~~ shall be made available to all work crews. (7-1-97)( )

c. When ~~practical~~ practicable, a poster shall be ~~fastened and maintained either~~ displayed on, or ~~in~~ near the cover of each first aid cabinet ~~and at or near all~~ phones, plainly stating. The poster shall display the phone numbers of applicable emergency services. The use of the ~~Boise~~ Idaho State EMS Communication Center is recommended. The number is 1-800-632-8000 or 208-846-7610. (7-1-97)( )

d. Every employer shall obtain their specific job location (longitude and latitude preferred) and furnish such to crew for emergency evacuation. ~~(3-29-10)~~( )

**03. Attendance for Seriously Injured.** (7-1-97)

a. Seriously injured employees shall, at all times, be attended by the most qualified available person to care for the injured employees. (7-1-97)

b. Seriously injured employees shall be carefully handled and removed to a hospital, or given medical attention as soon as possible. (7-1-97)

c. Caution shall be used in removing a helpless or unconscious person from the scene of an accident to prevent further injury. (7-1-97)

**04. First Aid Training.** All woods workers shall be required to complete an approved course in first-aid and have a current card. (3-29-10)

**05. Stretcher or Spine Board.** A ~~stretcher or~~ spine board (designed for ~~and~~ or adaptable to the work location and terrain) and two blankets ~~kept maintained~~ in sanitary and serviceable condition shall be available where such conditions ~~are a factor in~~ require the use of such to provide for the proper transportation ~~of~~ and first aid to, an injured workman. ~~(7-1-97)~~( )

**06. First Aid Kits.** (7-1-97)

a. The employer shall provide first aid kits at each work site where trees are being felled, at each active landing, and in each employee transport vehicle. (3-29-10)

b. The following list sets forth the minimally acceptable number and type of first-aid supplies for required first-aid kits. The contents of the first-aid kits ~~should~~ shall be adequate for small work sites, consisting of approximately two (2) to three (3) employees. When larger operations or multiple operations are being conducted at the same location, additional first-aid kits ~~should~~ shall be provided at the work site or additional quantities of supplies ~~should~~ shall be included in the first-aid kits:

TABLE 010.06 <del>SUGGESTED</del> <u>REQUIRED</u> CONTENTS	
1.	Gauze pads (at least 4 x 4 inches)
2.	Two (2) large gauze pads (at least 8 x 10 inches)
3.	Box adhesive bandages (band-aids)
4.	One (1) package gauze roller bandage (at least two (2) inches wide)
5.	Two (2) triangular bandages
6.	Wound cleaning agent such as sealed moistened towelettes
7.	Scissors
8.	At least one (1) blanket
9.	Tweezers
10.	Adhesive tape
11.	Latex gloves
12.	Resuscitation equipment such as resuscitation bag, airway, or pocket mask
13.	Two (2) elastic wraps



TABLE 010.06 <del>SUGGESTED</del> REQUIRED CONTENTS	
14.	Splint
15.	Directions for requesting emergency assistance

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

c. Special kits, or the equivalent, shall be provided and approved for special hazards peculiar to any given work location. (7-1-97)

d. ~~These~~ All kits, ~~as applicable~~, shall be readily available and kept supplied. ~~(7-1-97)~~( )

e. First aid kits shall be in metal, or other sanitary containers. Such containers shall be designed and constructed so as to be impervious to conditions of weather, dust, dirt, or other foreign matter. (7-1-97)

#### **011. SAFETY EQUIPMENT AND PERSONAL PROTECTIVE EQUIPMENT.**

##### **01. General Requirements.** (7-1-97)

a. Special protective equipment or apparel required for safe employment, other than clothing or equipment customarily supplied by employees, shall be furnished by the employer where necessary for the safety of employees. (7-1-97)

b. Employees are required to utilize all prescribed safety equipment and special protective equipment or apparel, and they shall exercise due care in maintaining it in safe, efficient and sanitary conditions. (7-1-97)

c. Defective safety equipment shall not be used. Where the need for their use is indicated, protective covering, ointments, gloves or other effective protection shall be provided for and used by persons exposed to materials ~~which~~ that are irritating to the skin. ~~(7-1-97)~~( )

##### **02. Inspection, Maintenance and Sanitizing.** (7-1-97)

a. Each employer shall maintain a regular system of inspection and maintenance of personal protective equipment furnished to workers. (7-1-97)

b. Air line equipment shall have a necessary regulator and shall be inspected before each use. ~~(7-1-97)~~( )

c. Workers shall check their equipment at the beginning of each shift. (7-1-97)

##### **03. Eye Protection.** (7-1-97)

a. Where workers are subject to eye hazards (flying particles, dusts, hazardous liquids, gases, mists or vapors, or injurious light rays) they shall be furnished with and shall wear eye protection suitable for the hazards involved. Such eye protection shall conform to the American National Standard Institute standards for Head, Eyes and Respiratory protection. (7-1-97)

b. Face shields may be used in lieu of other forms of eye protection where the nature of the operation is such that they will furnish equivalent protection. (7-1-97)

c. Clean water in ample quantities shall be immediately available where materials are handled that are caustic or corrosive to the eyes. (7-1-97)

##### **04. Foot and Leg Protection.** (7-1-97)

a. Employees shall wear footwear suitable for the work conditions. (7-1-97)



b. Employees shall wear sharp caulk-soled boots or other footwear which will afford maximum protection from slipping. (7-1-97)

c. Special types or designs of shoes, or foot guards, ~~may~~ shall be required to be worn where conditions exist that make their use necessary for the safety of the workers. (7-1-97)( )

d. Leggings or high boots of leather, rubber or other suitable material ~~should~~ shall be worn by climbers, persons exposed to hot substances, or caustic solutions, etc., or where poisonous snakes may be encountered. (7-1-97)( )

e. Employees whose duties require them to operate a chain saw shall wear ballistic nylon or equivalent protection covering each leg from upper thigh to boot top, except when working as a climber or working from a bucket truck. (3-29-10)

**05. Hand Protection.** (7-1-97)

a. Hand protection suitable for the required usage ~~should~~ shall be worn wherever the nature of the work requires extra protection for the hands. (7-1-97)( )

b. Gloves shall not be worn where their use would create a hazard. (7-1-97)

**06. Head Protection.** (7-1-97)

a. Persons required to work where falling or flying objects, overhead structures, exposed electrical conductors, equipment or material create a hazard shall wear approved safety hard hats or caps at all times while exposed to such hazards. (7-1-97)

b. Employees working in locations which present a ~~hair~~ catching or fire hazard to hair shall wear caps or other head ~~covering~~ protection which that completely covers the hair. (7-1-97)( )

**07. Life Jackets, Vests and Life Rings.**

~~NOTE:~~ Where ~~buoyant protective~~ personal buoyancy equipment is provided, it shall be of a design and shall be worn in a manner that will ~~tend to~~ maintain the wearer's face above water. It shall be capable of floating a sixteen (16) pound weight for three (3) hours in fresh water. Such equipment shall not be dependent upon manual or mechanical manipulation or chemical action to secure the buoyant effect. (7-1-97)( )

a. Employees shall be provided with, and shall wear, approved buoyant protective equipment at all times while working on or over water, as follows: (7-1-97)

i. On floating pontoons, rafts and floating stages. (7-1-97)

ii. On open decks of floating plants (such as dredges, pile-drivers, cranes, pond saws, and similar types of equipment) which are not equipped with bulwarks, guardrails or life lines. (7-1-97)

iii. During the construction, alteration or repair of structures extending over or adjacent to water, except when guardrails, safety nets, or safety belts and life lines are provided and used. (7-1-97)

iv. Working alone at night where there are potential drowning hazards regardless of other safeguards provided. (7-1-97)

v. On floating logs, boom sticks or unguarded walkways. (7-1-97)

b. Life rings with sufficient line attached to meet conditions shall be located at convenient points along exposed sides of work areas adjacent to water. Such rings, if used at night where a person might be beyond illuminated areas, ~~should~~ shall be provided with a means of rendering them visible.

NOTE: Consult U.S. Coast Guard requirements for operations in navigable waters. (7-1-97)( )

**08. Life Lines -- Safety Belts.** (7-1-97)

**a.** Each life line and safety belt shall be of sufficient strength to support, without breaking, a weight of two thousand five hundred (2,500) pounds. (7-1-97)

**b.** All life lines and safety belts shall be periodically inspected by the supervisor in charge. Employees shall inspect their belts and lines daily. Any defective belts or life lines shall be discarded or repaired before use. (7-1-97)

**c.** Life lines shall be safely secured to strong stable supports and maintained with minimum slack. (7-1-97)

**09. Work Clothing.** (7-1-97)

**a.** Clothing shall be worn which is appropriate to work performed and conditions encountered. (7-1-97)

**b.** Loose sleeves, cuffs or other loose or ragged clothing shall not be worn near moving machinery. (7-1-97)

**c.** Clothing saturated or impregnated with flammable liquids, corrosive substances, irritants or oxidizing agents shall be removed immediately and not worn again until properly cleaned. (7-1-97)

**d.** When it is necessary for workers to wear aprons or similar clothing near moving machines or hazardous materials, such clothing shall be so arranged that it can be instantly removed. (7-1-97)

**e.** Clothing with exposed metal buttons, metal visors or other conductive materials shall not be worn around exposed electrical conductors. (7-1-97)

**10. Respiratory Equipment.** (7-1-97)

**a.** When filter or cartridge-type respirators are required to be used regularly, each employee shall have one such respirator for his own exclusive use. (7-1-97)

**b.** Employers and employees shall familiarize themselves with the use, sanitary care and limitations of such respiratory equipment as they may have occasion to use. (7-1-97)

**c.** Whenever practical, harmful dusts, fumes, mists, vapors and gases shall be suppressed by water, oil or other means which will minimize harmful exposure and permit employees to work without the use of respiratory equipment. (7-1-97)

**d.** Whenever compressed air from an oil-lubricated compressor is used to supply respiratory equipment, a filter shall be inserted in the supply line to remove any oil, sediment or condensation that it may contain. Such filter shall be maintained in efficient working condition. (7-1-97)

**e.** When self-contained respiratory equipment is used in hazardous locations, a standby unit shall be maintained for rescue purposes. (7-1-97)

**11. Hearing Protection.** Where workers are subject to hazardous noise levels, they shall be furnished with and shall wear hearing protection suitable for the level of hazard involved. (7-1-97)

**12. Additional Information and Requirements.** Additional information and requirements for the use of safety equipment and personal protective equipment may be found in the Safety and Health Standards ~~for Places of Public Employment~~, established in IDAPA 07.09.01, "Safety and Health Rules for Places of Public Employment." (7-1-97)( )

**012. FIRE PREVENTION, PROTECTION AND SUPPRESSION.**

**01. General Requirements. (7-1-97)**

a. Additional Standards pertinent to the storage, distribution, and use of liquefied petroleum gases and other flammables or combustibles may be obtained by reference to regulations of ~~the~~ Idaho ~~Department of Law Enforcement~~ State Fire Marshal and the National Fire Protective Association pamphlets. (7-1-97)( )

b. Fire fighting equipment, suitable for the hazards involved, shall be provided for the protection of workmen. Such equipment shall be readily accessible, and shall be plainly labeled as to its character and method of operation. Locations of such equipment shall be conspicuously posted. (7-1-97)

c. All equipment and apparatus for fire protection and fire fighting shall be regularly inspected and be maintained in good and serviceable condition at all times. A record of the date of the latest inspection shall be kept with each portable fire extinguisher. This includes all automatic sprinkler systems and hose lines. (7-1-97)

d. Fire extinguishers, whether portable or automatic, shall comply with appropriate current standards as published by the National Fire Protection Association. Portable fire extinguishers shall also be subject to an annual maintenance inspection by the Division. They must also be visually inspected by the employer each month, and such inspections documented. (7-1-97)( )

e. Electrical lights, apparatus, and wiring used in locations where flammable or explosive gases, vapors, mists, or dusts are present shall be of the type accepted by the State adopted Electrical Code for the State of Idaho. (7-1-97)( )

f. Smoking while refueling equipment is prohibited. (7-1-97)

g. All fuel storage tanks, service tanks, etc., shall be bonded for ground for fueling purposes. (7-1-97)

h. When lights are used in enclosed rooms, vaults, manholes, tanks or other containers which may contain flammable or explosive vapors, mists, gases, or dusts, such lights shall be of the approved vapor proof types. (7-1-97)

i. No torch, flame, arc, spark, or other source of ignition shall be applied to any tank or container that has contained or does contain flammable or explosive vapors or materials until such container has been made to be inerted or otherwise purged of flammable or explosive vapors or materials, except that "hot tapping" on tanks may be done providing that: (7-1-97)( )

i. There shall be at least four (4) feet of liquid above the point of the "hot tap"; and (7-1-97)

ii. ~~That~~ The work shall be carried out under the direction of a supervisor experienced in this type of work. (7-1-97)( )

NOTE: A test for flammability or explosiveness of the interior of such vessels shall be made using a device which will determine the concentration of flammable vapors for this purpose. Unless the percentage of flammable vapors is found to be less than twenty percent (20%) of its lower explosive limit, no source of ignition shall be permitted. (7-1-97)

j. Frequent testing for determining the concentration of flammable and explosive vapors shall be made, and if the concentration is found to exceed twenty percent (20%) of its lower explosive limit, sources of ignition shall be extinguished or removed immediately. Fire extinguishing equipment adequate to cope with possible hazards shall be maintained close at hand. (7-1-97)

k. Smoking, the use of open flames, tools which are not approved for such areas, and other sources of ignition are prohibited in locations where flammable or explosive gases, vapors, mists, or dusts are present. Warning signs shall be conspicuously posted in such areas. (7-1-97)

l. Where salamanders and other fuel-burning heating devices are used, they shall be provided with adequate means for preventing the emission of sparks or other sources of ignition. ~~They~~ Such devices shall be insulated or placed a sufficient distance from combustible structures and materials to prevent causing fires. Adequate ventilation shall be provided. (7-1-97)( )

m. When welding or cutting is done special precautionary measures ~~should~~ shall be exercised before, during and after the job is finished to eliminate any possibility of ~~serious~~ immediate or delayed fires. (7-1-97)( )

**02. Flammable Liquids.** (7-1-97)

a. For the purpose of this ~~S~~section of the Rule, "Flammable Liquids" shall mean any liquid having a flash point below one hundred forty (140) degrees Fahrenheit and having a vapor pressure not exceeding forty (40) pounds per square inch (absolute) at one hundred (100) degrees Fahrenheit. (7-1-97)( )

b. All flammable liquids shall be stored in approved containers suitable for their particular contents, and such approved containers shall be stored in areas removed from any direct source of ignition. (7-1-97)

c. Flammable liquids shall be kept in approved covered containers when not in actual use. (7-1-97)

d. The name of the flammable liquid contained therein shall be placed on all stock containers, and whenever such liquids are taken from the stock containers and put into other approved containers for use ~~in the plant~~, it shall be the responsibility of the employer to ~~see~~ ensure that these containers (except small containers of flammable liquids which are scheduled for immediate use and disposal) also bear the name of the flammable liquid contained therein. (7-1-97)( )

e. Flammable liquids shall not be used indoors to clean or wash floors, walls, any part of ~~the a~~ building structure, furniture, equipment, machines or machine parts, unless sufficient ventilation is provided to bring and maintain the concentration of explosive vapors in the atmosphere below twenty percent (20%) of its lower explosive limit.

NOTE: The use of flammable liquids may create toxic contaminants in the atmosphere above permissible threshold limit values. (7-1-97)( )

**03. Transferring Flammable Liquids and Powdered Materials.** In transferring flammable liquids or finely divided flammable or explosive materials from one ~~(+) metal~~ container to another, the containers shall be in firm contact with each other or be continuously bonded throughout the transfer so as to prevent the accumulation of static charges. Where portable tanks, mixers, or processing vessels are used for flammable liquids or flammable or explosive compounds, they shall be bonded and grounded while being filled or emptied. (7-1-97)( )

**04. Transportation of Flammable Liquids.** (7-1-97)

a. When transporting gasoline or other flammable liquids ~~in six and one half (6 1/2) gallon quantities or more~~, approved containers shall be used. (7-1-97)( )

b. If tank truck service is not available or used, gasoline and other flammable liquids ~~in quantities exceeding six and one half (6 1/2) gallons~~ shall be transported in approved containers. Bungs shall be tight and containers shall be secured to prevent movement. (7-1-97)( )

c. It may be permissible to transport gasoline or other flammable liquids on passenger vehicles if in approved, closed safety containers of not more than six and one-half (6 1/2) gallon capacity, provided such containers are carried in a suitable and safe location outside the passenger compartment. (7-1-97)

**013. DESIGNATED LOGGING CAMPS.**

A camp used in a logging operation shall comply with the following requirements: (7-1-97)

**01. Trees and Snags.** Trees and snags ~~which~~ that may constitute a hazard to persons in the camp area shall be felled. (7-1-97)( )

**02. Sanitation.** The Idaho Department of Environmental Quality rules for sanitation must be observed as to water, toilets, washrooms, refuse, etc. (7-1-97)

**014. -- 999. (RESERVED)**

## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.03 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - EXPLOSIVES AND BLASTING**

#### **DOCKET NO. 07-0803-1601 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to repeal rules concerning the Idaho minimum safety standards and practice for logging related to explosives and blasting.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, page 124](#). This chapter is repealed in its entirety.

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-8986  
Fax: (877) 810-2840

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
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**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. The provisions contained therein the rules related to explosives and blasting are outdated, and no longer applicable to the logging industry as the overwhelming majority of loggers do not engage in the practice, but instead contract such work out to professionals who are properly trained and qualified to do so. Through the negotiated rulemaking process, the logging industry requested most of the proposed amendments set forth in the rulemaking.

This rulemaking would repeal IDAPA 07.08.03 from the logging safety rules related to the use, handling, transportation, and storage of explosive and blasting agents and practices related thereto.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

### **LSO Rules Analysis Memo**

### **IDAPA 07.08.03 IS BEING REPEALED IN ITS ENTIRETY**

## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.04 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - GARAGES, MACHINE SHOPS, AND RELATED WORK AREAS**

**DOCKET NO. 07-0804-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to update and clarify the rules concerning the Idaho minimum safety standards and practice for logging related to garages, machine shops and related work areas.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 125-127](#).

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-8986  
Fax: (877) 810-2840

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
--

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.



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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Several of the provisions required minor editorial revisions to ensure clarity. Through the negotiated rulemaking process, the logging industry expressed support for the proposed amendments set forth in the rulemaking.

This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the Division related to logging safety matters. This rulemaking also makes several minor edits to clarify several provisions related to the use of garages and machine shops in support of logging operations.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

#### **LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0804-1601**

#### **000. LEGAL AUTHORITY.**

Pursuant to the provisions of Section 67-2601A, Idaho Code, the Division of Building Safety has the authority to promulgate and adopt ~~reasonable~~ rules for affecting the purposes ~~of the Workers' Compensation Act~~ ~~therein~~.  
(7-1-97)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

~~There are no provisions for administrative appeal of these rules.~~ The procedure for appeals in logging safety matters is prescribed by IDAPA 07.08.16, "Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program," and Title 67, Chapter 52, Idaho Code. (7-1-97)( )

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. ( )

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Division of Building Safety, Logging Safety Program, is at the Division office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Logging Safety Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and at 2055 Garrett Way, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810-2840. The Department website is <http://dbs.idaho.gov>. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**0047. -- 008. (RESERVED)**

**009. DEFINITIONS.**

For definitions refer to IDAPA 07.08.01, "Idaho Minimum Safety Standards and Practices for Logging -- General Provisions," Section 007, and IDAPA 07.08.15, "Idaho Minimum Safety Standards and Practices for Logging – Commonly Used Logging Terms." (7-1-97)( )

**010. GARAGES AND MACHINE SHOPS AND RELATED AREAS.**

**01. General Requirements. (7-1-97)**

a. Machine shops and other structures where workers are employed shall be constructed, ventilated, lighted and maintained in a safe working condition. (7-1-97)

b. Engines, pulleys, belts, gears, sprockets, collars and other moving parts of machinery shall be properly guarded. (7-1-97)

c. Grinding wheels shall have proper and adequate eye guards or hoods. Face shields shall be worn by employees while grinding. (7-1-97)

d. Machines shall be in good repair and good housekeeping shall be maintained. (7-1-97)

e. Proper goggles or hoods shall be made available and used in grinding and cutting, acetylene welding, electric arc and other types of welding. (7-1-97)

f. Tools shall be kept in good condition and care shall be taken in the handling, and storing of all tools and materials so as to minimize chances for injury. (7-1-97)( )

g. An approved screen shall be provided, and used, to protect other workers from welding flashes. (7-1-97)

## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.05 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - SIGNALS AND SIGNAL SYSTEMS**

**DOCKET NO. 07-0805-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to update and clarify the rules concerning the Idaho minimum safety standards and practice for logging related to signals and signal systems.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 128-132](#).

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
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 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Several of the provisions required minor editorial revisions to ensure clarity. Through the negotiated rulemaking process, the logging industry expressed support for the proposed amendments set forth in the rulemaking.

This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the Division related to logging safety matters. This rulemaking also makes revisions to and clarifies several of the requirements related to signaling and radio signal systems as used in logging operations.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

#### **LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0805-1601**

#### **000. LEGAL AUTHORITY.**

Pursuant to the provisions of Section 67-2601A, Idaho Code, the Division of Building Safety has the authority to promulgate and adopt ~~reasonable~~ rules for affecting the purposes ~~of the Workers' Compensation Act~~ [therein](#).  
(7-1-97)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

~~There are no provisions for administrative appeal of these rules.~~ The procedure for appeals in logging safety matters is prescribed by IDAPA 07.08.16, "Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program," and Title 67, Chapter 52, Idaho Code. (7-1-97)( )

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. ( )

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Division of Building Safety, Logging Safety Program, is at the Division office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Logging Safety Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and at 2055 Garrett Way, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810-2840. The Department website is <http://dbs.idaho.gov>. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**0047. -- 008. (RESERVED)**

**009. DEFINITIONS.**

For definitions refer to IDAPA 07.08.01, "Idaho Minimum Safety Standards and Practices for Logging -- General Provisions," Section 007, and IDAPA 07.08.15, "Idaho Minimum Safety Standards and Practices for Logging -- Commonly Used Logging Terms." (7-1-97)( )

**010. GENERAL REQUIREMENTS.**

**01. Rigging. (7-1-97)**

a. Rigging shall be moved by established signals and procedures only. (7-1-97)

b. Signals shall be thoroughly understood by the crew. (7-1-97)

**02. Daily Test Required.** Each electric or radio signal system shall be tested daily before operations begin. (7-1-97)

**03. Personnel in Clear Before Moving Logs or Turns. (7-1-97)**

a. Operators of yarding equipment shall not move logs or turns until all personnel are in the clear and a signal has been given. (7-1-97)

b. Operators of yarding equipment shall be alert to signals at all times. (7-1-97)

**011. SIGNALING.**

**01. One Worker to Give Signals. (7-1-97)**

a. ~~The~~ Worker sending drag shall be the only one to give signals. (3-29-10)( )

b. Any person is authorized to give a stop signal when a worker is in danger or other emergency conditions are apparent. (7-1-97)( )

**02. Signal Must Be Clear and Distinct. (7-1-97)**

- a. Machine operators shall not move any line unless the signal received is clear and distinct. (7-1-97)
- b. If in doubt the operator shall repeat the signal as understood and wait for confirmation. (7-1-97)
- 03. Hand Signal Use Restricted.** (7-1-97)
  - a. Hand signals are permitted only when in plain sight of the operator. (7-1-97)
  - b. Hand signals may be used at any time as an emergency stop signal. (7-1-97)
- 04. Persons in Clear Before Signal Given.** All persons shall be in the clear before a signal is given to move logs or turns. (7-1-97)
- 05. Throwing Material Prohibited.** Throwing of any type of material as a signal is prohibited. (7-1-97)
- 06. Use of Jerk Wire Prohibited.** The use of a jerk wire whistle system for any type of yarding operations is prohibited. ~~(7-1-97)~~( )
- 07. Audible Signaling to Be Installed and Used.** A whistle, horn or other audible signaling device, clearly audible to all persons in the affected area, shall be installed and used on all machines operating as yarders. (3-29-10)
- 08. Audible Signaling Device at the Machine to Be Activated.** When radio or other means of signal transmission is used, an audible signal must be activated at the machine. (7-1-97)

**012. ELECTRIC SIGNAL SYSTEMS.**

- 01. Weatherproof Wire and Attachments to Be Used.** Where an electrical signal system is used, all wire and attachments shall be of the weather proof type. (7-1-97)
- 02. Electric Signal Systems to Be Properly Installed and Adjusted.** Electric signal systems shall be properly installed and adjusted ~~again~~ as necessary. They shall be protected against accidental signaling, and shall be maintained in good operating condition at all times. ~~(7-1-97)~~( )
- 03. All Connections to Be Weatherproof.** All connections in insulated signal wire shall be weatherproof. (7-1-97)

**013. RADIO SIGNALING SYSTEMS.**

- 01. Use of Conventional Space Transmission of Radio Signals.** When conventional space transmission of radio signals is used under and in accordance with an authorization granted by the Federal Communications Commissions to initiate any whistle, horn, bell or other audible signaling device, or such transmission of radio signals is used to activate or control any equipment, the following specific rules contained in this section will apply.

NOTE: This rule shall apply only to devices operating on radio frequencies authorized pursuant to the rules and regulations of the Federal Communications Commission. ~~(7-1-97)~~( )

- 02. Description on Outside of Case.** (7-1-97)
  - a. Each radio transmitter and receiver shall have its tone frequency(s) in hertz (CPS), the manufacturer's serial number, and the assigned radio frequency clearly and permanently indicated on the outside of the case. (7-1-97)
  - b. When the duration of ~~the a~~ a tone frequency(~~s~~) performs a function, the pulse-tone duration shall also be permanently indicated on the outside of the case. ~~(7-1-97)~~( )

c. On the FCC restricted frequencies one hundred fifty-four point fifty-seven (154.57) MHZ and one hundred fifty-four point sixty (154.60) MHZ, a maximum of two (2) watts of power will be allowed. (7-1-97)

**03. Activating Pulse-Tone Limitations.** The activating pulse-tone of any multi-tone transmitter shall be of not more than forty (40) milliseconds duration. (7-1-97)

**04. Adjustment, Repair or Alteration.** All adjustments, repairs or alterations of radio-signaling devices shall be done only by or under the immediate supervision and responsibility of a person holding a first or second class commercial radio operator's license, either radio-telephone or radio-telegraph, issued by the Federal Communications Commission. (7-1-97)

**05. Testing of Tone-Signal Controlled Devices.** (7-1-97)

a. Tone-signal controlled devices shall be tested each day before work begins. If any part of the equipment fails to function properly, the system shall not be used until the source of trouble is detected and corrected. (7-1-97)

b. Audible signals used for test purposes shall not include signals used for movement of lines or material.

NOTE: Equipment or machines controlled by radio-signaling devices ~~should~~ shall be designed and built to "fail safe" or stop, in case of failure of the radio-signaling device. (7-1-97)( )

**06. Interference, Overlap, Fade-Out or Blackout.** When interference, overlap, fade-out or blackout of radio signals is encountered, the use of the tone-signal controlled device shall be immediately discontinued. The use of such tone-signal controlled device shall not be resumed until the source of trouble has been detected and corrected. (7-1-97)

**07. Number of Transmitters Required.** (7-1-97)

a. Two (2) radio transmitters shall be in the vicinity of the rigging crew at all times when transmitters are being used by persons who are around the live rigging. (7-1-97)

b. Only one (1) radio transmitter ~~will~~ shall be required, if in possession of a signalman who has no other duties and remains in an area where he is not subjected to hazards created by moving logs or rigging. (7-1-97)( )

**08. Voice Communication.** (7-1-97)

a. Voice Communication shall be used for explanation purposes only. (7-1-97)

b. Actual activation of equipment shall be done by audible horn, bell or whistle and not by voice. (7-1-97)

c. The signal must be audible throughout the entire yarding and machine area. (7-1-97)

**014. -- 999. (RESERVED)**



## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.06 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - TRUCK ROAD STANDARDS**

**DOCKET NO. 07-0806-1601**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to update and clarify the rules concerning the Idaho minimum safety standards and practice for logging related to truck road standards.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 133-135](#).

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

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

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
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 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.



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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Several of the provisions required minor editorial revisions to ensure clarity. Through the negotiated rulemaking process, the logging industry expressed support for the proposed amendments set forth in the rulemaking.

This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the Division related to logging safety matters. This rulemaking also makes revisions to and clarifies several of the requirements related to the safe construction of logging roads, and the safe operation of equipment thereupon.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0806-1601**

**000. LEGAL AUTHORITY.**

Pursuant to the provisions of Section 67-2601A, Idaho Code, the Division of Building Safety has the authority to promulgate and adopt *reasonable* rules for effecting the purposes *of the Workers' Compensation Act* ~~therein.~~ *(7-1-97)( )*

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

~~There are no provisions for administrative appeal of these rules.~~ The procedure for appeals in logging safety matters is prescribed by IDAPA 07.08.16, "Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program," and Title 67, Chapter 52, Idaho Code. (7-1-97)( )

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. ( )

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Division of Building Safety, Logging Safety Program, is at the Division office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Logging Safety Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and at 2055 Garrett Way, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810-2840. The Department website is <http://dbs.idaho.gov>. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**0047. -- 008. (RESERVED)**

**009. DEFINITIONS.**

For definitions refer to IDAPA 07.08.01, "Idaho Minimum Safety Standards and Practices for Logging – General Provisions," Section 007, and IDAPA 07.08.15, "Idaho Minimum Safety Standards and Practices for Logging – Commonly Used Logging Terms." (7-1-97)( )

**010. TRUCK ROAD STANDARDS.**

**01. Building Roads. (7-1-97)**

a. When building roads, all construction shall be carried on in accordance with good logging engineering practices and shall be constructed and maintained in a manner to insure reasonably safe operation. (7-1-97)

b. ~~The~~ Due consideration shall be given to the following factors: (7-1-97)( )

i. ~~The~~ Type of material used for roadbed and surfacing. (7-1-97)( )

ii. ~~The~~ Type of hauling equipment which will travel road. (7-1-97)( )

iii. ~~The~~ Size of loads to be hauled. (7-1-97)( )

iv. ~~The~~ Pitch and length of grades. (7-1-97)( )

v. ~~The~~ Degree of curvature and visibility on turns. (7-1-97)( )

vi. ~~The~~ Volume of traffic. (7-1-97)( )

c. Truck roads shall not be too steep for safe operation of logging, or work trucks which operate over them, and should not exceed twenty percent (20%) grade unless an auxiliary means of truck lowering is provided. (7-1-97)

d. Sufficient turnouts shall be provided and a safe side clearance maintained along all truck roads. (7-1-97)

e. Brush and other materials that obstruct the view at intersections or on sharp curves shall be eliminated and all possible precautions taken. (7-1-97)

f. Culverts and bridge structures shall be adequate to support the maximum imposed loads without exceeding the maximum safe working unit stresses. Such structures shall be maintained in good condition and shall be inspected ~~yearly~~ annually by a qualified ~~man~~ individual. (7-1-97)( )

g. Dangerous trees, snags and brush, which may create a hazard, shall be cleared a safe distance on both sides of the right-of-way. (7-1-97)( )

**02. Main Truck Roads.** (7-1-97)

a. Main truck roads shall be of sufficient width and evenness to insure the safe operation of equipment. (7-1-97)

b. Truck roads with blind curves where visibility is less than three hundred (300) feet shall be of sufficient width for two (2) trucks to pass ~~or~~ controlled by some type of signal system ~~shall be maintained~~, or speed shall be limited to fifteen (15) miles per hour. (7-1-97)( )

c. Conditions such as broken planking, deep holes, large rocks, logs, etc., which prevent the safe operation of equipment shall be immediately corrected. (7-1-97)

d. Wheel guard rails on bridges shall be not less than eight (8) inches above deck and shall be substantially fastened to withstand impact of shearing wheels. Such guard rails shall extend the full length of the bridge. (7-1-97)( )

**03. Operation of Equipment.** ~~Pile Drivers, power driven shovels~~ Excavators, tractors, bulldozers, and other equipment shall be operated in a safe and careful manner. All precautions shall be taken to insure the safety of all employees. (7-1-97)( )

**011. -- 999. (RESERVED)**

## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.07 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - TRANSPORTATION OF EMPLOYEES**

**DOCKET NO. 07-0807-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to update and clarify the rules concerning the Idaho minimum safety standards and practice for logging related to transportation of employees.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 136-138](#).

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
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 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Several of the provisions required minor editorial revisions to ensure clarity. Through the negotiated rulemaking process, the logging industry expressed support for the proposed amendments set forth in the rulemaking.

This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the Division related to logging safety matters. This rulemaking also makes revisions to and clarifies several of the requirements related to the safe transportation of employees during logging operations, including emergency situations.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0807-1601**

**000. LEGAL AUTHORITY.**

Pursuant to the provisions of Section 67-2601A, Idaho Code, the Division of Building Safety has the authority to promulgate and adopt *reasonable* rules for affecting the purposes *of the Workers' Compensation Act* ~~therein.~~ *(7-1-97)( )*

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

~~There are no provisions for administrative appeal of these rules.~~ The procedure for appeals in logging safety matters is prescribed by IDAPA 07.08.16, "Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program," and Title 67, Chapter 52, Idaho Code. (7-1-97)( )

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. ( )

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Division of Building Safety, Logging Safety Program, is at the Division office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Logging Safety Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and at 2055 Garrett Way, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810-2840. The Department website is <http://dbs.idaho.gov>. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**0047. -- 008. (RESERVED)**

**009. DEFINITIONS.**

For definitions refer to IDAPA 07.08.01, "Idaho Minimum Safety Standards and Practices for Logging -- General Provisions," Section 007, and IDAPA 07.08.15, "Idaho Minimum Safety Standards and Practices for Logging -- Commonly Used Logging Terms." (7-1-97)( )

**010. TRANSPORTATION OF EMPLOYEES.**

**01. General Requirements. (7-1-97)**

a. Anchored seats and seat belts shall be provided for each person riding in any vehicle. (7-1-97)

b. Vehicles used for the transportation of employees shall be constructed, or accommodated, for that purpose, and shall be equipped with adequate seats with back rests properly secured in place, ~~and~~ Vehicles shall be protected on their sides and ends to prevent falling from the vehicle. (7-1-97)( )

c. Vehicles, as described above, shall be equipped with adequate steps, stirrups, or other similar devices, so placed and arranged that the employees can safely mount or dismount the vehicle. (7-1-97)

d. ~~On~~ Vehicles designed to transport nine (9) or more passengers, shall be equipped with an emergency exit not less than six and one-half (6 1/2) feet in area, with the smaller dimension being not less than eighteen (18) inches. Such exit shall be placed at or near the back of the vehicle ~~or near the back~~ on the side opposite the regular entrance. The route to and egress from the exit must be unobstructed. (7-1-97)( )

e. Every emergency exit shall be conspicuously marked "Emergency Exit," and be so fastened that it can be readily opened by a passenger in the case of emergency. (7-1-97)

f. Emergency doors shall be not less than twenty-four (24) inches in width. (7-1-97)

g. Every vehicle used for the transportation of employees shall be equipped with an Underwriters Laboratories, Inc. approved fire extinguisher, or its equivalent, with at least a four (4) BC rating. (7-1-97)

h. ~~Regular~~ All drivers of vehicles used for the transportation of employees shall have an appropriate operator's license for the state of Idaho. (7-1-97)( )

- i. ~~Before operating any vehicle, a~~ Drivers shall ~~check it, and~~ inspect vehicles before operating them.  
~~If a vehicle~~ is found to be ~~in any way~~ unsafe, it shall be reported to a proper authority and shall not be operated until it has been made safe. (7-1-97)( )
- j. Brakes, steering mechanism and lights shall be tested immediately before starting any trip. (7-1-97)
- k. No flammable materials, or toxic substances shall be transported in passenger compartments of vehicles while carrying personnel. (7-1-97)
- l. ~~Should it become necessary, and only under emergency conditions, to t~~Transporting more individuals than the seating capacity ~~in of~~ the vehicle; is permitted only under emergency conditions. Should it become necessary in an emergency, all employees not having seats must ride within the vehicle. (7-1-97)( )
- m. Under no circumstances shall employees ride on fenders or running boards. (7-1-97)
- n. An employee must never ride in, or on, any vehicle with his legs hanging over the end or sides. (7-1-97)
- o. If tools are transported at the same time that employees are being transported, the tools shall be enclosed in boxes or racks and properly secured to the vehicle. (7-1-97)
- p. No one shall board, or leave, moving equipment except in the case of an emergency (except trainmen or others whose duties require such). (7-1-97)( )
- q. Equipment shall be operated in a safe manner and in compliance with traffic regulations. Safe speeds shall be maintained at all times. (7-1-97)
- r. No explosives shall be transported on, or in, vehicles used primarily for carrying personnel while such vehicles are being used for carrying personnel. (7-1-97)
- s. The driver shall do everything reasonably possible to keep ~~the crew~~ vehicles s under control at all times, and shall not operate ~~in vehicles at~~ excessive of a speeds s ~~at which the driver can stop the vehicle in one-half (1/2) the distance between the vehicle and the range of unobstructed vision.~~ The driver shall take into consideration the condition of the roadway, weather factors, curves, grades and grade crossings, the mechanical condition of the vehicle and equipment and other pertinent items. The driver shall clear rocks from between dual tires before driving on multi-lane roads. A daily inspection shall be made of trucks and trailers with particular attention to steering apparatus, brakes, boosters, brake hoses and connections, reaches and couplings. Any defects found shall be corrected before the equipment is used. (7-1-97)( )

**011. -- 999. (RESERVED)**



## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.08 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - FALLING AND BUCKING**

**DOCKET NO. 07-0808-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to update and clarify the rules concerning the Idaho minimum safety standards and practice for logging related to falling and bucking.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 139-145](#).

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
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 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.



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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Several of the provisions contained therein the rules are outdated, no longer applicable, or confusing to the logging industry. Accordingly, many of the amendments contained in the rulemaking are either administrative in nature to clarify and edit rule provisions, provide updated references and citations, or replace outdated or unclear provisions related to common logging practices. Through the negotiated rulemaking process, the logging industry requested most of the proposed amendments set forth in the rulemaking.

This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the Division related to logging safety matters. It also provides several amendments to clarify and update provisions related to the safe cutting and falling of trees, and the use of mechanical delimiters and felling equipment. Finally, several provisions which illustrate and identify the proper cutting techniques of some common cutting methods are updated.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0808-1601**

**000. LEGAL AUTHORITY.**

Pursuant to the provisions of Section 67-2061A, Idaho Code, the Division of Building Safety has the authority to promulgate and adopt ~~reasonable~~ rules for affecting the purposes ~~of the Workers' Compensation Act~~ [therein](#).

(7-1-97)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

~~There are no provisions for administrative appeal of these rules.~~ The procedure for appeals in logging safety matters is prescribed by IDAPA 07.08.16, "Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program," and Title 67, Chapter 52, Idaho Code. (7-1-97)( )

**004. INCORPORATION BY REFERENCE.**

~~There are no documents that have been incorporated by reference into these rules.~~ ( )

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

~~The principal place of business of the Division of Building Safety, Logging Safety Program, is at the Division office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Logging Safety Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and at 2055 Garrett Way, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810-2840. The Department website is <http://dbs.idaho.gov>.~~ ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**00~~4~~7. -- 008. (RESERVED)**

**009. DEFINITIONS.**

For definitions refer to IDAPA 07.08.01, "Idaho Minimum Safety Standards and Practices for Logging -- General Provisions," Section 007, and IDAPA 07.08.15, "Idaho Minimum Safety Standards and Practices for Logging – Commonly Used Logging Terms." (7-1-97)( )

**010. FALLING AND BUCKING.**

**01. General Requirements. (7-1-97)**

**a.** There shall be an established method of checking-in ~~the~~ workers ~~in~~ from the woods. Each supervisor shall be responsible for their crew being accounted for at the end of each shift. (7-1-97)( )

**b.** ~~Cutters not in sight of another employee shall have radio communications with crew members on that job site.~~ ( )

**c.** Common sense and good judgment must govern the safety of cutters as effected by weather conditions. At no time shall they work if wind is strong enough to prevent the falling of trees in the desired direction, or when vision is impaired by weather conditions or darkness. (7-1-97)

**d.** All cutters shall have a current first aid ~~card~~ certification. Employers shall provide an opportunity for cutters to take a standard first aid course. (3-29-10)( )

**e.** Tools of cutters such as axes, sledges, wedges, saws, etc., must be maintained in safe condition. Battered sledges, and wedges shall not be used. When power saws are used, wedges shall be made of soft material, such as wood or plastic. (7-1-97)

**f.** Cutters shall not be placed on hillsides immediately below each other or below other operations where there is possible danger. (7-1-97)

- fg.** Trees shall not be felled if a falling tree endangers any worker, line, or any unit in operation. (7-1-97)
- gh.** Before starting to fall or buck any tree or snag, the cutter must survey the area for possible hazards and proceed according to safe practices. Snags, which are unsafe to cut, shall be blown down with explosives, or felled by other methods. (7-1-97)
- hi.** Dangerous or hazardous snags shall be felled prior to or in the course of cutting a strip. No danger tree shall be felled by one (1) cutter where and when the assistance of a fellow employee is necessary to minimize the danger or hazards involved. In the case that any danger tree or snag cannot be safely felled and must remain standing or unattended, such tree or snag shall be clearly identified and suitably marked, including all surrounding impact area, and the employee's supervisor shall be notified as soon as possible. (7-1-97)
- ji.** In falling timber, adjacent brush and ~~for~~ snow shall be cleared away from and around the tree to be felled to provide sufficient room to use saws and axes and provide an adequate escape path. (7-1-97)( )
- jk.** Cutters shall not fall into another strip; leaners on the line shall be traded. Trees shall be felled into the open whenever conditions permit. (7-1-97)
- kl.** Undercuts and side cuts shall be large enough to safely guide the trees and eliminate the possibility of splitting and ~~for~~ barber chairing. Particular care shall be taken to hold enough wood to prevent the tree from prematurely slipping or twisting from the stump. Undercuts shall be cleaned out to the full depth of the saw cut. Especially large undercuts are necessary in heavy leaners. When required to safely fell a tree, mechanical or other means shall be employed to accomplish this objective. Pre-cutting of trees for the purpose of production logging is prohibited.
- NOTE: Trees with no perceptible lean having an undercut to a depth of one quarter (1/4) of the diameter of the tree with an undercut height equal to one fifth (1/5) of the diameter of the tree will be assumed to be in reasonable compliance with ~~the~~ this rule. (7-1-97)( )
- lm.** Back-cuts shall be above the level of the upper horizontal cut of the undercut. (3-29-10)
- nn.** While wedging, fallers shall watch for limbs or other material which might be jarred loose. Cutting of holding wood in lieu of using wedges is prohibited. (7-1-97)
- no.** When falling or bucking a tree is completed the power saw motor should be stopped. ~~The~~ Power saw motor ~~should~~ shall be stopped while the operator is traveling to the next tree. (7-1-97)( )
- op.** Cutters shall not work on the downhill side of the log being bucked unless absolutely unavoidable and only when the log is blocked or otherwise secured to prevent rolling when cut is completed. (7-1-97)
- pq.** Cutters must give timely warning to all persons within range of any log which may have a tendency to roll or slide after being cut off. (7-1-97)
- qr.** Logs shall be completely bucked-through whenever possible. If it becomes hazardous to complete a cut, then the log shall be marked and identified by a predetermined method. Rigging crews shall be instructed to recognize such marks and when possible cutters shall warn rigging crew of locations where such unfinished cuts remain. (7-1-97)( )
- rs.** A competent person properly experienced in this type of work shall be placed in charge of falling and bucking operations. Inexperienced workers shall not be allowed to fall timber or buck logs unless under the direction of ~~an~~ experienced workers. (7-1-97)( )
- st.** Power saws shall be kept in good repair at all times. All exhaust parts on power chain saws shall be constructed and maintained so the operator is exposed to a minimum amount of fumes and noise. (7-1-97)
- t.** ~~Chain saws shall have sprockets and drive end of the bar adequately guarded. Idler ends, when~~

~~used as two-man saw, shall also be guarded.~~

~~(7-1-97)~~

~~u. Combustion engine driven power saws shall be equipped with a clutch. Saws with faulty clutches shall not be used.~~

~~(7-1-97)~~

**u.** Combustion engine driven power saws shall be equipped with an automatic throttle which will return the motor to idling speed upon release of the throttle. (7-1-97)

**v.** Power saw motors shall be stopped while being fueled. (7-1-97)

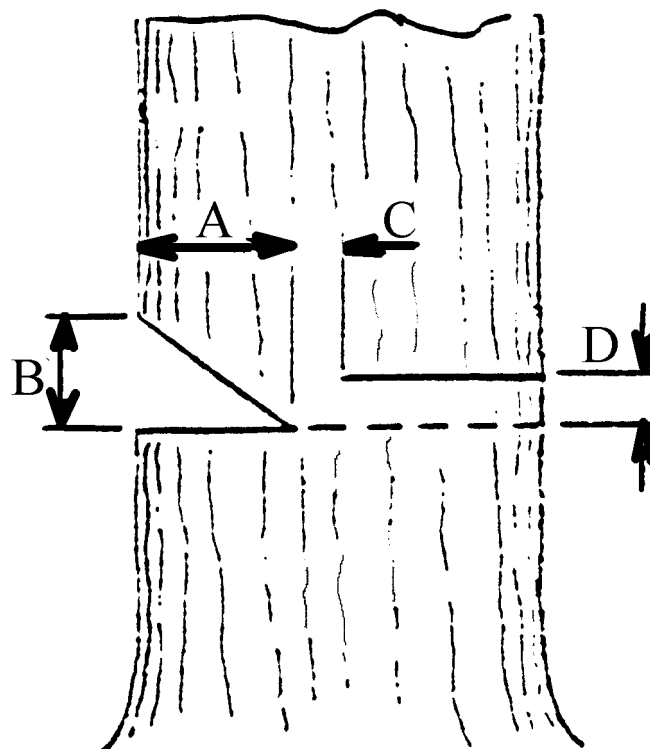
**w.** All personnel shall wear approved head protection, proper clothing and footwear. (7-1-97)

**x.** Employees, whose normal duties require them to operate a chain saw, shall wear ballistic nylon or equivalent protection covering each leg from upper thigh to boot top except when working as a climber or working from a bucket truck. (7-1-97)

## 011. ILLUSTRATION OF UNDERCUTS.

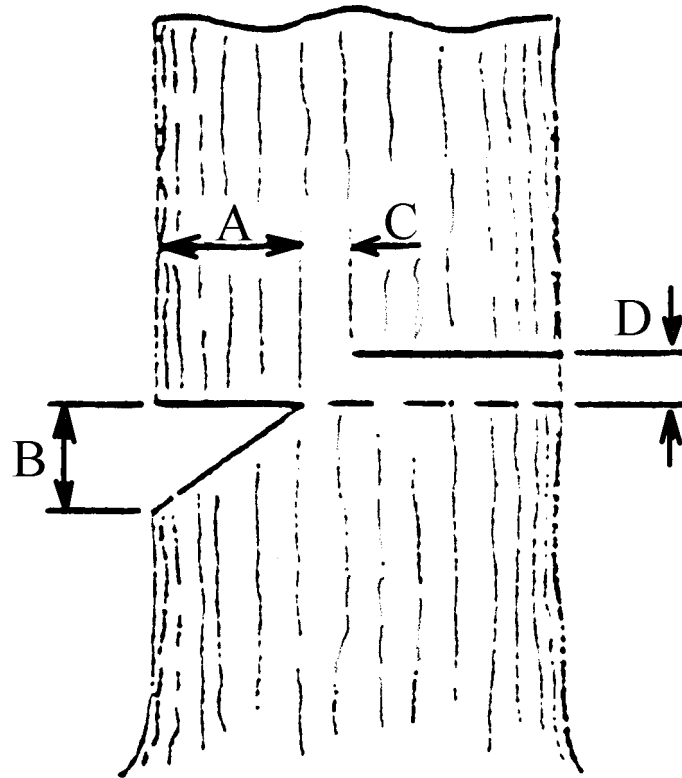
01. Illustration of Undercuts. (7-1-97)

FIGURE 011.01-A - CONVENTIONAL UNDERCUT



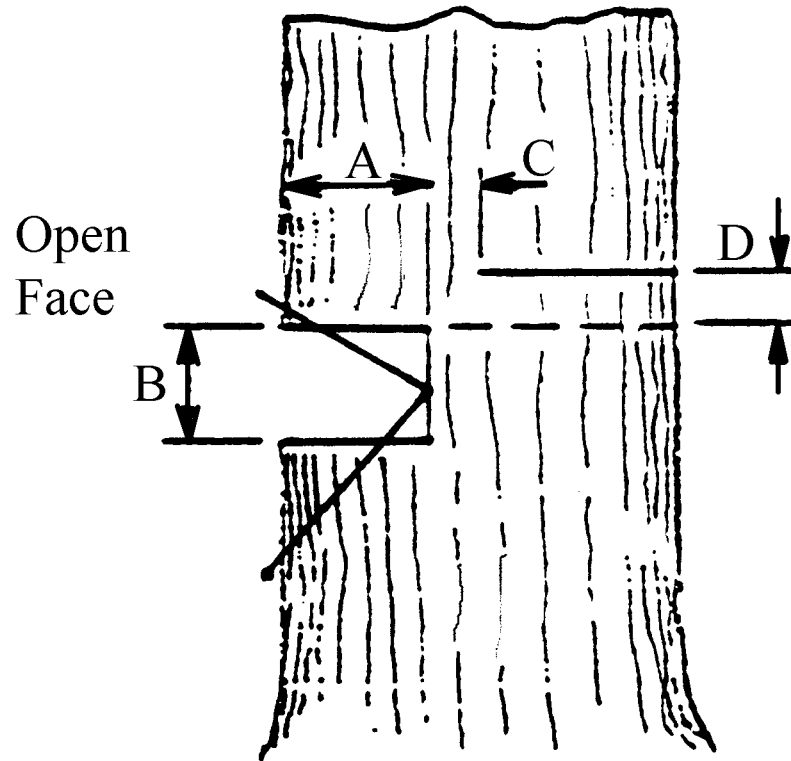
a. Conventional Undercut ~~(Figure 011.01-A)~~ Can, May be made with parallel saw cut and a diagonal cut. Backcut (D) shall be above undercut. ~~(3-29-10)( )~~

FIGURE 011.01-B - HUMBOLT UNDERCUT



b. Humbolt Undercut (~~Figure 011.01-B~~). A cut in which ~~both~~ cuts made with the saw (~~Figure 011.01-B~~) leaves a square end log (See Figure 011.01-B). The cut is the same as a conventional cut (See Figure 011.01-A) except that waste is on the stump. Backcut (D) shall be above undercut. (~~3-29-10~~) ( )

FIGURE 011.01-C - OPEN FACE UNDERCUT



c. Open Face Undercut (~~Figure 011.01-C~~). A cut in which ~~T~~two (2) angle cuts ~~are made~~ with the saw (See Figure 011.01-C) -- ~~It is~~ ~~used~~ when it is necessary that the face does not close until the tree is near the ground. ~~(3-29-10)~~(7-1-97)

## 012. MECHANICAL DELIMBERS AND FELLER BUNCHERS.

### 01. General Requirements. (7-1-97)

a. Before start-up or moving equipment, check ~~the surrounding~~ area for fellow employees or equipment. ~~(7-1-97)~~(7-1-97)

b. If any protective device is missing, it is to be replaced as soon as possible. If it affects a safe operation, the machine is to be shut down. (7-1-97)

c. When ~~a~~ machine is working, extreme caution ~~should~~ ~~shall~~ be used when approaching. ~~The~~ ~~Operator~~ ~~should~~ ~~shall~~ be notified by radio or visual contact. ~~(7-1-97)~~(7-1-97)

d. All raised equipment shall be lowered to the ground or to a safe position and the park brake set before leaving the machine. (7-1-97)

## 013. -- 999. (RESERVED)

## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.09 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - RIGGING, LINES, BLOCKS, AND SHACKLES**

**DOCKET NO. 07-0809-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to update and clarify the rules concerning the Idaho minimum safety standards and practice for logging related to rigging, lines, blocks and shackles.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 146-154](#).

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-8986  
Fax: (877) 810-2840

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
--

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Several of the provisions contained therein the rules are outdated, no longer applicable, or confusing to the logging industry; accordingly, many of the amendments contained in the rulemaking are either administrative in nature to clarify and edit rule provisions, provide updated references and citations, or replace outdated or unclear provisions and illustrations related to common logging practices. Through the negotiated rulemaking process, the logging industry requested most of the proposed amendments set forth in the rulemaking.

This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the Division related to logging safety matters. It also provides several amendments to clarify and update provisions related to the use of guylines, and guyline anchors, as well as wire ropes and lines. Additionally, a table providing for wire rope specifications was updated and moved to a more appropriate location in a different chapter of the logging rules. Finally, throughout the chapter existing illustrations (figures) were replaced with updated and/or clearer figures to assist loggers in more easily identifying common logging equipment or practices.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

**LSO Rules Analysis Memo**

<p><b>THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0809-1601</b></p>
--



**000. LEGAL AUTHORITY.**

Pursuant to the provisions of Section 67-2601A, Idaho Code, the Division of Building Safety has the authority to promulgate and adopt ~~reasonable~~ rules for affecting the purposes ~~of the Workers' Compensation Act~~ therein.  
(7-1-97)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

~~There are no provisions for administrative appeal of these rules.~~ The procedure for appeals in logging safety matters is prescribed by IDAPA 07.08.16, "Idaho Minimum Safety Standards and Practices for Logging -- Recommended Safety Program," and Title 67, Chapter 52, Idaho Code.  
(7-1-97)( )

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. ( )

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

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( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**0047. -- 008. (RESERVED)**

**009. DEFINITIONS.**

For definitions refer to IDAPA 07.08.01, "Idaho Minimum Safety Standards and Practices for Logging -- General Provisions," Section 007, and IDAPA 07.08.15, "Idaho Minimum Safety Standards and Practices for Logging -- Commonly Used Logging Terms."  
(7-1-97)( )

**010. RIGGING.**

**01. General.** The determining factor in rigging-up shall be the amount of rated stump pull which a machine can deliver on each line. (7-1-97)

**02. Equipment Classification.** (7-1-97)

a. Equipment shall be classed according to the manufacturer's rating. (7-1-97)( )

b. Where lower gear ratios or other devices are installed to increase the power of equipment, the size of the rigging shall be increased proportionately so that it will safely withstand the increased strains to conform to Subsection 010.04. of ~~this chapter~~ these rules. (7-1-97)( )

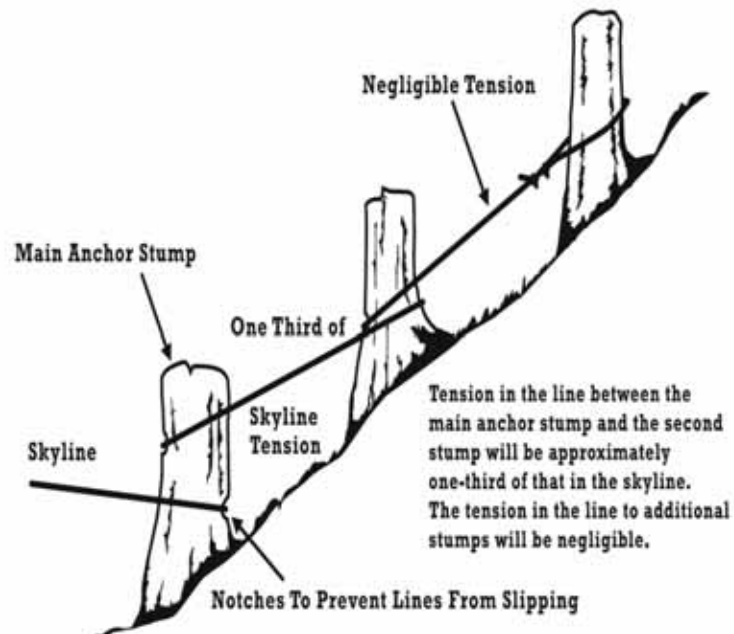
**03. Safe Loading.** Rigging, and all parts thereof, shall be of a design and application to safely withstand all expected or potential loading to which it will be subjected. (7-1-97)

**04. Allowable Loading or Stress.** (7-1-97)

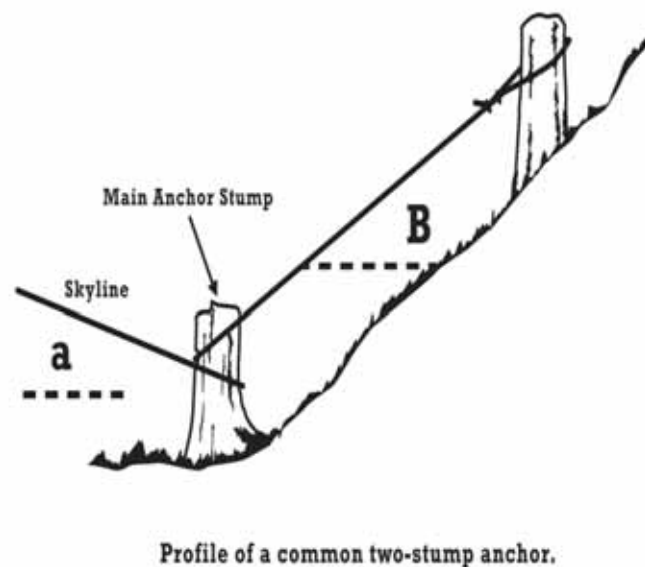
a. In no case shall the allowable loading or stress be imposed on one half (1/2) of the rated breaking strength of any parts of the rigging. (7-1-97)( )

- b. This shall not be construed as applying to chokers. (7-1-97)
05. **Chokers.** Chokers shall be at least one eighth (1/8) inch smaller than the mainline. (7-1-97)
06. **Placing, Condition, and Operation of Rigging.** The placing, condition and operation of rigging shall be such as to ensure safety to those who will be working in the vicinity. (7-1-97)
07. **Arrangement and Operation.** Rigging shall be arranged and operated so that rigging or loads will not pound, rub, or saw against lines, straps, blocks, or other equipment. (7-1-97)
08. **Line Hazards.** (7-1-97)
- a. Running lines and changed settings shall be made in a way to avoid bight of line hazards. (7-1-97)
- b. Signals to operator shall be made before moving lines. (7-1-97)
09. **Reefing.** Reefing or similar practices to increase line pull shall be prohibited. (7-1-97)
10. **Inspection of Rigging.** (7-1-97)
- a. A thorough inspection, by the operator or qualified person, of all blocks, straps, guylines, and other rigging shall be made before they are placed in position for use. (7-1-97)
- b. This inspection shall include an examination for damaged, cracked or worn parts, loose nuts and bolts, lubrication, condition of straps and guylines. (7-1-97)
- c. The repairs or replacements necessary for safe operation shall be made before rigging is used. (7-1-97)
011. **GUYLINES.**
01. **General Requirements.** (7-1-97)
- a. Guylines shall be of plow steel or equivalent, and in good condition. ~~(7-1-97)~~( )
- b. Guylines shall be provided in sufficient number, condition and location to develop stability and strength equivalent to the breaking strength of any component part of the rigging or equipment. (7-1-97)
- c. Guylines shall be fastened by means of shackles or hooks and slides. The use of loops or molles for attaching guylines is prohibited. The use of wedge buttons on guylines is prohibited. ~~(7-1-97)~~( )
- d. The “U” part of a shackle shall be around the guyline and the pin passed through the eye of the guyline. Pins shall be secured with molles, cotter-keys, or the equivalent. (7-1-97)
- e. Guylines shall be kept tightened while equipment or rigging they support is in use. (7-1-97)
02. **Anchoring Guylines.** (7-1-97)
- a. Stumps used for fastening guylines and skylines shall be carefully chosen as to position, height and strength. They shall be tied back if necessary. See Figures 011.02-A and 011.02-B.

**FIGURE 011.02-A**



**FIGURE 011.02-B**



(7-1-97)

b. Properly installed deadman anchors are permitted. Guylines ~~anchors~~ shall not be directly attached ~~directly~~ to deadman anchors. Suitable straps or equally effective means shall be used. ~~(7-1-97)( )~~

c. Stumps, trees and guyline anchors shall be inspected from time to time while an operation is in progress and hazardous conditions immediately corrected. ~~(7-1-97)( )~~

d. Standing trees which will reach landing or work areas shall not be used for guyline anchors. (7-1-97)

e. Any guyline anchor tree that can reach the landing or work area shall be felled before using as an anchor. (7-1-97)

**03. Effectiveness of Guys.** (7-1-97)

a. Guys making an angle with the horizontal greater than sixty (60) degrees will be considered less than fifty percent (50%) effective. For the effectiveness of other angles see Table 011.03-A.

TABLE 011.03-A	
Degree	Effectiveness
60 to 45	50% to 75%
45 to 30	75% to 85%
30 to 10	85% to 95%

(7-1-97)

B. b. For the effectiveness of guys according to the number of guys and their spacing, see Table 011.03-

TABLE 011.03-B		
No. of Guys Equally	Guys Most Effective When Pull Is:	Guys Will Support Strain Equal To The Following:
3	Opposite 1 guy	100% of strength of 1 guy
4	Halfway between 2 guys	140% of strength of 1 guy
5	Opposite 1 guy or halfway between 2 guys	160% of strength of 1 guy
6	Opposite 1 guy or halfway between 2 guys	200% of strength of 1 guy
7	Opposite 1 guy or halfway between 2 guys	225% of strength of 1 guy
8	Halfway between 2 guys	260% of strength of 1 guy
9	Opposite 1 guy or halfway between 2 guys	290% of strength of 1 guy
10	Opposite 1 guy or halfway between 2 guys	325% of strength of 1 guy

(7-1-97)( )

**04. Minimum Guyline Requirements.** ~~A~~ ~~4~~ minimum of four (4) top guys are required on any portable spar tree used for yarding, swinging, loading or cold-decking. (7-1-97)( )

**012. LINES, SHACKLES AND BLOCKS.**

**01. General Requirements.** (7-1-97)

**a.** All lines, shackles, blocks, etc., should be maintained in good condition and shall be of sufficient size, diameter and material to withstand one and one half (1 1/2) times the maximum stress imposed. (7-1-97)

**b.** Wire rope or other rigging equipment ~~shall be replaced~~ which shows a fifteen percent (15%) reduction in strength ~~shall be replaced~~. (7-1-97)( )

**02. Splices.** (7-1-97)

**a.** Two (2) lines may be connected by a long splice, or by shackles of patent links of the next size larger than the line where practical. (7-1-97)

**b.** ~~A~~ ~~S~~ safe margin of line must be used for making long splices. See Table 012.02-A.

TABLE 012.02-A		
Rope Diameter	Unraveled	Total Length
3/8"	8'	16'
5/8"	13'	20'
3/4"	15'	30'
7/8"	18'	36'
1"	20'	40'

(7-1-97)( )

**03. Clips.** (7-1-97)

**a.** Clips should be spaced at least six (6) rope diameters apart to ~~get~~ ~~achieve~~ maximum holding power. See Table 012.03-A

TABLE 012.03-A		
Diameter of Rope	Number of Clips	Required Space Between Clips
1-1/2-inch	8	10 inches
1-3/8-inch	7	9 inches
1-1/4-inch	6	8 inches
1-1/8-inch	5	7 inches
1- inch	5	6 inches

TABLE 012.03-A		
Diameter of Rope	Number of Clips	Required Space Between Clips
7/8-inch	5	5-1/4 inches
3/4-inch	5	5-1/2 inches
3/8 to 5/8-inch	4	3 inches

(7-1-97)( )

b. Clips should always be attached with the base or saddle of the clip against the longer or “live” end of the rope. See Figure 012.03-A. This is the only ~~right way~~ approved method.

**FIGURE 012.03-A**



(7-1-97)( )

c. Do not reverse the clips or stagger them. See Figure 012.03-B. Otherwise the “U” bolt will cut into the live rope when the load is applied.

**FIGURE 012.03-B**



(7-1-97)

d. After the rope has been used and is under tension, the clips should again be tightened to take up any looseness caused by the tension reducing the rope diameter. Remember that even when properly applied a clip fastening has only about ninety percent (90%) of the strength of the rope and far less than that when rigged improperly. (3-29-10)

**04. Blocks.** All blocks must be of steel construction or of material of equal or greater strength and so hung that they will not strike or interfere with other blocks or rigging. (7-1-97)

**05. Pins.** All pins in blocks shall be properly secured by keys of the largest size the pin hole will accommodate (7-1-97)

**06. Shackles.** (7-1-97)

a. Spread in jaws of shackles shall not exceed by more than one (1) inch the size of yoke or swivel of the block to which it is connected. (7-1-97)

b. All shackles must be made of forged steel or material of equivalent strength and one (1) size larger than the line it connects. (7-1-97)

**07. Cable Cutting.** Cable cutters, soft hammers, or a cutting torch shall be available and shall be used for cutting cables. (7-1-97)( )

**08. Damaged or Worn Wire Rope.** Worn or damaged ~~W~~ wire rope ~~worn or damaged beyond the point of creating a~~ safety hazard shall be taken out of service or properly repaired before further use. (7-1-97)( )

~~**09. Wire Rope Certification.**~~ (7-1-97)

~~a. All wire rope offered for sales shall be certified as to its breaking strength by the manufacturer or vendor in accordance with the U. S. Bureau of Standards specifications. See Table 012.09-A~~

<b>TABLE 012.09-A -- TYPICAL WIRE ROPE SPECIFICATIONS, (6X19, OR 6X25 IWRC*)</b>					
<b>Cable Dimensions</b>		<b>Improved Plow Steel</b>		<b>Extra-Improved Plow Steel</b>	
<b>Diameter (inches)</b>	<b>Weight per foot (pounds)</b>	<b>Safe working load** (pounds)</b>	<b>Breaking strength (pounds)</b>	<b>Safe working load (pounds)</b>	<b>Breaking strength (pounds)</b>
1/4	0.116	1,960	5,880	2,270	6,800
5/16	0.18	3,050	9,160	3,510	10,540
3/8	.26	4,370	13,120	5,000	15,100
7/16	.35	5,930	17,780	6,800	20,400
1/2	.46	7,700	23,000	89,800	26,600
9/16	.59	9,700	29,000	11,200	33,600
5/8	.72	12,000	36,000	13,700	41,200
3/4	1.04	17,100	53,200	19,600	58,800
7/8	1.42	23,100	69,200	26,500	79,600
1	1.85	30,000	90,000	34,500	103,500

<del>TABLE 012.09-A TYPICAL WIRE ROPE SPECIFICATIONS, (6X19, OR 6X25 IWRC*)</del>					
<del>Cable Dimensions</del>		<del>Improved Plow Steel</del>		<del>Extra-Improved Plow Steel</del>	
<del>Diameter- (inches)</del>	<del>Weight per foot (pounds)</del>	<del>Safe working- load** (pounds)</del>	<del>Breaking- strength- (pounds)</del>	<del>Safe working- load (pounds)</del>	<del>Breaking- strength- (pounds)</del>
<del>1-1/8</del>	<del>2.34</del>	<del>37,700</del>	<del>113,200</del>	<del>43,300</del>	<del>130,000</del>
<del>1-1/4</del>	<del>2.89</del>	<del>46,300</del>	<del>139,000</del>	<del>53,300</del>	<del>159,800</del>
<del>1-3/8</del>	<del>3.5</del>	<del>55,700</del>	<del>167,000</del>	<del>64,000</del>	<del>192,000</del>
<del>1-1/2</del>	<del>4.16</del>	<del>65,900</del>	<del>197,800</del>	<del>76,000</del>	<del>228,000</del>
<del>1-5/8</del>	<del>4.88</del>	<del>76,000</del>	<del>230,000</del>	<del>88,000</del>	<del>264,000</del>
<del>1-7/8</del>	<del>6.50</del>	<del>101,300</del>	<del>304,000</del>	<del>116,000</del>	<del>348,000</del>
<del>2</del>	<del>7.39</del>	<del>114,739</del>	<del>344,000</del>	<del>132,000</del>	<del>396,000</del>
<del>2-1/8</del>	<del>8.25</del>	<del>128,700</del>	<del>386,000</del>	<del>147,300</del>	<del>442,000</del>
<del>2-1/4</del>	<del>9.36</del>	<del>143,300</del>	<del>430,000</del>	<del>164,700</del>	<del>494,000</del>
<del>2-1/2</del>	<del>11.6</del>	<del>175,300</del>	<del>526,000</del>	<del>201,300</del>	<del>604,000</del>
<del>2-3/4</del>	<del>14.0</del>	<del>209,300</del>	<del>628,000</del>	<del>204,700</del>	<del>722,000</del>

~~Specifications may vary with different line materials and swedge lines.~~

~~(7-1-97)~~

~~013. TYPICAL RIGGING SYSTEMS.~~

~~01. See Figures 013.01-A through 013.01-N.~~

~~(7-1-97)~~

**[THE FOLLOWING ILLUSTRATIONS ARE BEING DELETED FROM RULE]**

FIGURE 013.01-A; FIGURE 013.01-B; FIGURE 013.01-C; FIGURE 013.01-D; FIGURE 013.01-E; FIGURE 013.01-F (LIVE SLYLINE with carriage stop); FIGURE 013.01-G (SLACKLINE); FIGURE 013.01-H; FIGURE 013.01-I; FIGURE 013.01-J; FIGURE 013.01-K; FIGURE 013.01-L; FIGURE 013.01-M; FIGURE 013.01-N1; FIGURE 013.01-N2

~~0143.~~ -- 999. (RESERVED)



## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.10 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING -- CANOPY AND CANOPY CONSTRUCTION FOR LOGGING EQUIPMENT**

**DOCKET NO. 07-0810-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to update and clarify the rules concerning the Idaho minimum safety standards and practice for logging related to canopy and canopy construction for logging equipment.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 155-158](#).

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
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 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Several of the provisions required minor editorial revisions to ensure clarity. Through the negotiated rulemaking process, the logging industry expressed support for the proposed amendments set forth in the rulemaking.

This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the Division related to logging safety matters. The rulemaking also makes minor editorial revisions related to the safe operation of logging tractors and similar logging equipment.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

#### **LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0810-1601**

#### **000. LEGAL AUTHORITY.**

Pursuant to the provisions of Section 67-2601A, Idaho Code, the Division of Building Safety has the authority to promulgate and adopt ~~reasonable~~ rules for affecting the purposes ~~of the Workers' Compensation Act~~ therein.  
(7-1-97)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

~~There are no provisions for administrative appeal of these rules.~~ The procedure for appeals in logging safety matters is prescribed by IDAPA 07.08.16, "Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program," and Title 67, Chapter 52, Idaho Code. (7-1-97)( )

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. ( )

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Division of Building Safety, Logging Safety Program, is at the Division office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Logging Safety Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and at 2055 Garrett Way, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810-2840. The Department website is <http://dbs.idaho.gov>. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**0047. -- 008. (RESERVED)**

**009. DEFINITIONS.**

For definitions refer to IDAPA 07.08.01, "Idaho Minimum Safety Standards and Practices for Logging -- General Provisions," Section 007, and IDAPA 07.08.15, "Idaho Minimum Safety Standards and Practices for Logging -- Commonly Used Logging Terms." (7-1-97)( )

**010. GENERAL REQUIREMENTS.**

**01. Driver Protection Guard. (7-1-97)**

a. A substantial metal guard for the protection of the driver shall be installed on every piece of equipment, where exposed to overhead hazards. (7-1-97)

b. This guard shall be strongly constructed to afford adequate protection for the driver against overhead hazards. (7-1-97)

c. ~~# This guard~~ shall be of sufficient width and height so that it will not impair the movements of the driver or prevent his immediate escape from the equipment in emergencies. (7-1-97)( )

d. ~~# This guard~~ shall be of open construction to allow the driver all the visibility possible. (7-1-97)( )

**02. Canopy Framework. (7-1-97)**

a. The canopy framework shall consist of at least two (2) arches, either transverse or longitudinal. (7-1-97)

b. If transverse, one (1) arch shall be installed at the rear of the equipment and the other at the center of the equipment. They shall be joined together by three (3) longitudinal braces, one (1) at the top and one (1) at each side of the arches. (7-1-97)

c. There shall be a shear or deflecting guard extending from the leading edge of the forward arch to the front part of the frame of the tractor or similar equipment. (7-1-97)

d. If longitudinal arches are used, they shall be extended from the rear of the tractor or equipment to

the front frame of the tractor or equipment and each arch shall have an intermediate support located approximately at the dash so that ingress or egress will not be impeded. (7-1-97)

e. Regardless of the type of construction used, the fabrication and method of connecting to the tractor or equipment shall be of such design as to develop a strength equivalent to that of the upright members. (7-1-97)

**03. Canopy Structure.** The canopy structural framework shall be fabricated of pipe of the following size, or materials of equivalent strength, depending upon the gross weight of the tractor or similar equipment as equipped. Under twenty-eight thousand (28,000) lbs., two (2) inch double extra strong pipe (XXS); twenty-eight thousand (28,000) to fifty-eight thousand (58,000) lbs., three (3) inch double extra strong pipe (XXS); over fifty-eight thousand (58,000) lbs., four (4) inch double extra strong pipe (XXS). (7-1-97)

**04. Gusset Plates or Braces.** Gusset plates or braces shall be installed on the canopy framework so that the framework will withstand a horizontal pressure equal to twenty-five percent (25%) of the gross weight of the tractor or similar equipment, as equipped, when such pressure is applied to any vertical member at a point not more than six (6) inches below the roof of the canopy. (7-1-97)

**05. Clearance Above the Deck.** The clearance above the deck of the tractor or similar equipment at points of egress shall be not less than fifty-two (52) inches and the clearance above the driver's seat shall be of such height as will allow sufficient clearance above the driver's head. (7-1-97)

**06. Overhead Covering.** The overhead covering on the canopy structure shall be of not less than three-sixteenth (3/16) inch steel plate except that the forward eighteen (18) inches may be made of one quarter (1/4) inch woven wire having not more than one (1) inch mesh. (7-1-97)

**07. Rear Covering.** (7-1-97)

a. The opening in the rear of the structure shall be covered with one quarter (1/4) inch woven wire having not less than one and one half (1 1/2) inch or more than two (2) inch wire mesh. This covering shall be affixed to the structural members so that ample clearance will be provided between the screen and the back of the operator. (7-1-97)

b. Structural members shall present smooth, rounded edges and the covering shall be free from projections which would tend to puncture or tear flesh or clothing. (7-1-97)

**08. Pin Connections.** (7-1-97)

a. Pin connections are recommended for joints in the structural frame and especially at connections to the tractor frame or similar equipment frame. (7-1-97)

b. Gusset plates shall be installed at each place where individual pieces of pipe are joined. (7-1-97)

**09. Sideguards.** When practical, sideguards shall be installed to protect the operator from hazards. (7-1-97)

**011. TRACTORS AND SIMILAR LOGGING EQUIPMENT.**

**01. Operating Condition.** The general operating condition of a tractor or equipment shall be sufficiently ~~by good~~ to ensure the safety of the driver and other workmen. (7-1-97) ( )

**02. Guards.** All guards shall be kept in place and in good repair at all times when the tractor or similar equipment is used. (7-1-97)

**03. Repairs or Adjustments.** Repairs or adjustments to clutches, frictions, or other parts of equipment which may cause hazardous movement of equipment shall not be done while engines are running. (7-1-97)

**04. Blades or Similar Equipment.** (7-1-97)

**a.** Blades or similar equipment shall be blocked or otherwise securely supported when making repairs or performing other work around such equipment when they are elevated from the ground. (7-1-97)

**b.** Equipment under repair or adjustment should be tagged out. (7-1-97)

**05. Brakes and Steering.** (7-1-97)

**a.** All equipment shall be equipped with a braking system capable of stopping and holding the maximum load on all grades at all times. (7-1-97)

**b.** Any defect found in the braking system or steering devices of any equipment used in skidding or yarding operations shall not be used until repaired or replaced. ~~(7-1-97)~~ ( )

**06. Starting of Equipment.** Equipment shall be started (cranked) only by the operator or other experienced persons. (7-1-97)

**07. Seatbelts.** (7-1-97)

**a.** Seatbelts shall be installed on all tractors and mobile equipment having roll-over protection or in accordance with a design by a ~~P~~professional ~~E~~ngineer which offers equivalent employee protection. ~~(7-1-97)~~ ( )

**b.** Seatbelts shall be used when operating any machine equipped with Roll Over Protection Structure (ROPS), Falling Object Protection Structure (FOPS), or overhead guards. (3-29-10)

**08. Pin Connections.** (7-1-97)

**a.** Pin connections are recommended for joints in the structural frame and especially at connections to the tractor frame or similar equipment frame. (7-1-97)

**b.** Gusset plates shall be installed at each place where individual pieces of pipe are joined. (7-1-97)

**09. Sideguards.** When practical, sideguards shall be installed to protect the operator from hazards. (7-1-97)

**012. -- 999. (RESERVED)**

## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.11 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING -- SKIDDING AND YARDING**

**DOCKET NO. 07-0811-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to update and clarify the rules concerning the Idaho minimum safety standards and practice for logging related to skidding and yarding.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 159-182](#).

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-8986  
Fax: (877) 810-2840

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
--

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Many of the provisions contained therein the rules are outdated, no longer applicable, or confusing to the logging industry. Accordingly, many of the amendments contained in the rulemaking are either administrative in nature to clarify rule provisions, provide updated references and citations, or replace outdated or unclear provisions and illustrations related to common logging practices. Additionally, several sections related to cable yarding, yarding machinery, wire rope, and tree climbing were added. These areas can be critical components of logging operations; however, they were not adequately addressed by the rules. Through the negotiated rulemaking process, the logging industry requested the proposed amendments set forth in the rulemaking.

This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the Division related to logging safety matters. It also provides several amendments to clarify and update provisions related to skidding and yarding generally. Additionally, the rulemaking adds several sections related to cable yarding, yarding machinery, wire rope, and tree climbing. Yarding section amendments contain measures to ensure safe practices and provisions to ensure safe yarding equipment. Wire rope provisions include descriptions of different types of wire rope characteristics, specifications related to tensile strength, and other safety and precautionary issues related to wire life, wire connections, and inspection and care of lines. Tree climbing provisions were also added related to plans and procedures for climbing trees, safe climbing operational practices, and proper climbing equipment. Additionally, a table providing for wire rope specifications was updated and moved from a different chapter of the logging rules and included herein as a more appropriate location. Finally, throughout the chapter updated and/or clearer illustrations (figures) were added to assist loggers to more easily identify common logging equipment or practices.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

**LSO Rules Analysis Memo**



**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0811-1601**

**000. LEGAL AUTHORITY.**

Pursuant to the provisions of Section 67-2601A, Idaho Code, the Division of Building Safety has the authority to promulgate and adopt ~~reasonable~~ rules for affecting the purposes ~~of the Workers' Compensation Act therein.~~ (7-1-97)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

~~There are no provisions for administrative appeal of these rules.~~ The procedure for appeals in logging safety matters is prescribed by IDAPA 07.08.16, "Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program," and Title 67, Chapter 52, Idaho Code. (7-1-97)( )

**004. INCORPORATION BY REFERENCE.**

~~There are no documents that have been incorporated by reference into these rules.~~ ( )

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

~~The principal place of business of the Division of Building Safety, Logging Safety Program, is at the Division office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Logging Safety Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and at 2055 Garrett Way, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810-2840. The Department website is <http://dbs.idaho.gov>.~~ ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**00~~4~~7. -- 008. (RESERVED)**

**009. DEFINITIONS.**

For definitions refer to IDAPA 07.08.01, "Idaho Minimum Safety Standards and Practices for Logging -- General Provisions," Section 007, and IDAPA 07.08.15, "Idaho Minimum Safety Standards and Practices for Logging -- Commonly Used Logging Terms." (7-1-97)( )

**010. SKIDDING AND YARDING.**

**01. General Requirements. (7-1-97)**

a. All personnel shall wear approved head protection and proper clothing at all times in skidding and yarding. (7-1-97)

b. Getting on or off moving equipment is strictly prohibited. (7-1-97)

c. Equipment operators shall move rigging only upon the signal of an authorized person. (7-1-97)( )

d. Workers shall at all times watch for and protect themselves and their fellow workers from side-winders, rolling logs, up ending logs, snags, and other hazards caused by the movement of equipment, logs and/or lines. (7-1-97)



- e. Chokers should be placed near, but not closer than two (2) feet, from the ends of logs if possible. (7-1-97)
- f. Choker holes shall be dug from the uphill side of a log if there is any danger of its rolling. (7-1-97)
- g. Knots shall not be used to connect separate lengths of chain or cable. (7-1-97)
- h. Chaser (hooker) shall not unhook logs (trees) until rigging has stopped and the equipment operator is aware of his location. ~~(7-1-97)~~ ( )
- i. Riding on drag or logs or any part of equipment used in skidding and yarding except in the area of the driver's seat is prohibited. (7-1-97)
- j. A tool handle, stick, iron bar, or similar object shall be used in guiding lines onto drums. Guiding lines with hands is prohibited. (7-1-97)
- k. Make sure all personnel are in the clear before skidding turn, drag, log, or tree into landing. (7-1-97)
- l. All personnel shall keep out of the bight of line and clear of running lines. (7-1-97)
- m. Logs shall not be swung over personnel. (7-1-97)
- n. Knot bumping should be done before a log is loaded. ~~(7-1-97)~~ ( )

**011. CABLE YARDING.**

- 01. Safety A. Personnel shall not ride hooks, lines, rigging, or logs suspended in the air or being moved. ( )
- 02. Safety B. Personnel shall not hold on to haywire, running lines, drop lines, or chokers as an assist when walking uphill. ( )
- 03. Safety C. Personnel shall not work in the bight of lines under tension. ( )
- 04. Safety D. Personnel shall be "in the clear" before any signal to move any lines is given. ( )

**012. YARDING MACHINERY.**

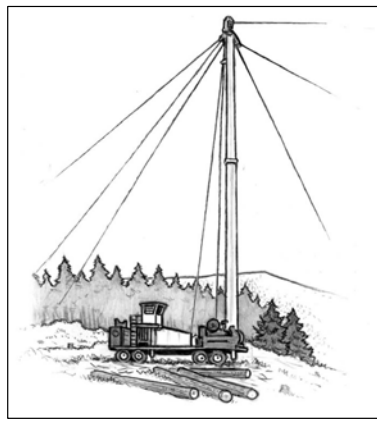
- 01. Equipment Assessment. When personnel arrive at a job site with a set of machinery on hand to perform yarding operations, evaluation of the conditions at the landing shall be made, and reassessment of the capacity of the available equipment shall be performed to determine if it meets the task. The principal options and features for yarders, log loaders, and processors are described in this section. ( )
- 02. Manufacturer's Manual. Yarders of various types are used in logging operations, including ground-based and rigged trees to lift the lines, and mobile steel towers. The manufacturer's manual shall always be consulted for essential features and inspection points on each particular machine. ( )
- 03. Types of Yarding Equipment. Yarding operations may include the use of, but is not limited to the following yarding equipment: ( )
  - a. Straight Tube Telescoping Tower. This equipment uses a hydraulic ram or multiple-sheave cable system to raise the tower. Some telescoping towers allow use at the telescoped height. The tower may be used partially retracted if guyline anchors need to be placed closer to the landing or on steep slopes. ( )
  - i. This equipment may travel by self-propulsion, or be either trailer or track-mounted. It has long

reach capacity with a typical height of ninety (90) to one hundred ten (110) feet. ( )

ii. The advantages of this equipment include the ability to operate heavy payloads, the tower height allows for more line deflection, and some yarders allow yarding one hundred eighty (180) degrees without moving yarder or guylines. ( )

iii. The disadvantages of this equipment are that it is heavy and difficult to move, it requires appropriate roads and it may have to be disassembled to move on public roads, it requires large landing areas, and it needs large guyline anchor capacity.

**FIGURE 012.03-A**



**STRAIGHT TUBE TELESCOPING TOWER**

( )

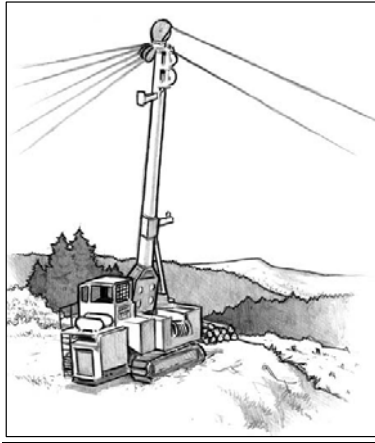
**b. Fixed Leaning Tower.** This equipment is a one (1)-piece tower that may be front-mounted vertical, or leaning. The height of the tower varies with make and model. ( )

i. This equipment may travel by self-propulsion, or be either trailer or track-mounted. It has medium reach capacity with a typical height of forty (40) to eighty (80) feet. ( )

ii. The advantages of this equipment include faster line setup, smaller landing area requirements, it is lighter and easier to move, and has lower guyline anchor requirements. ( )

iii. The disadvantages include a smaller yarding window which necessitates moving the tower and guylines more frequently, and smaller payloads than straight tube towers.

**FIGURE 012.03-B**



**FIXED LEANING TOWER**

( )

**c. Swing Yarder.** This equipment is similar to the fixed leaning tower in nearly all respects; however, the swing yarder is also capable of swinging logs onto the road or landing, and capable of using a running skyline. Track mounts are more stable when moving.

( )

**d. Grapple Yarder.** This equipment uses a swing yarder or yoader system. The grapple is controlled by signals from the rigging slinger, or by the yarder engineer using a video link on the carriage. Swing capability is necessary to allow a wider logging corridor. A grapple system is typically used in conjunction with a machine anchor and elevated support on the back end of the unit, making for quick road changes.

( )

**i.** This equipment may travel by track-mount or rubber-tire mount. It has medium to short reach capacity.

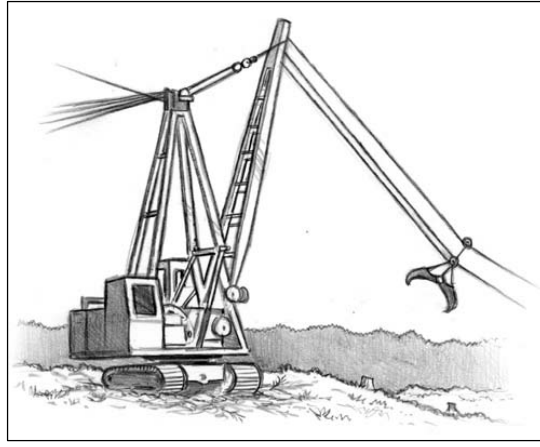
( )

**ii.** The advantages of this equipment include the need for a smaller crew size, typically only a yarder engineer, landing worker, and a hooktender, and it is easier to rig up which is ideal for smaller logging areas.

( )

**iii.** The disadvantages of this equipment are that it requires extensive planning to achieve full production, it must have moderate to good deflection, access to the back of unit is generally necessary, and it possesses limited yarding width.

**FIGURE 012.03-C**



**GRAPPLE YARDER**

( )

**e.** Yoader. This yarder is typically a log loader with two (2) drums mounted at the base of the boom. Both lines run through sheaves mounted on the boom or heel rack. The lines can be set up in a standing, live, or running skyline configuration, or a high-lead configuration.

( )

**i.** This equipment may travel by track-mount or rubber-tire mount. It has medium reach capacity.

( )

**ii.** The advantages of this equipment are that guylines are not necessary, it is easier to move, easy road changes, it is easier to rig up which is ideal for smaller logging areas, and it may be used as a loader.

( )

**iii.** The disadvantages of this equipment are that it requires/results in slower line speeds, it requires blocking up front of the tracks to create stability, and rigging height is limited.

**FIGURE 012.03-D**



**YOADER**

( )

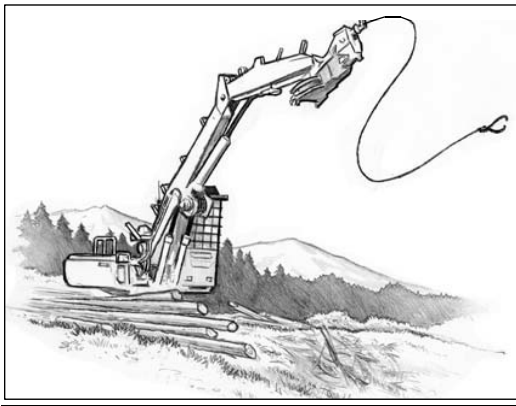
f. Tong-tosser/Jammer System. These are two (2) systems which basically use the same machine as the yoader, with either tongs or chokers on the end of the line to secure the logs. This version typically uses one (1) drum on the machine with a spitter wheel at the end of the boom to pull the line from the drum and push it out to the brush. The yarder engineer usually gets the tongs or chokers swinging and then tosses them to the waiting choker setters. ( )

i. This equipment travels by track-mount. It has short reach capacity. ( )

ii. The advantages of this equipment are that guylines are not necessary, it is easier to move, it is easier to rig up which is ideal for smaller logging areas, and it may be used as a loader. Additionally, it does not require line layouts or anchors. ( )

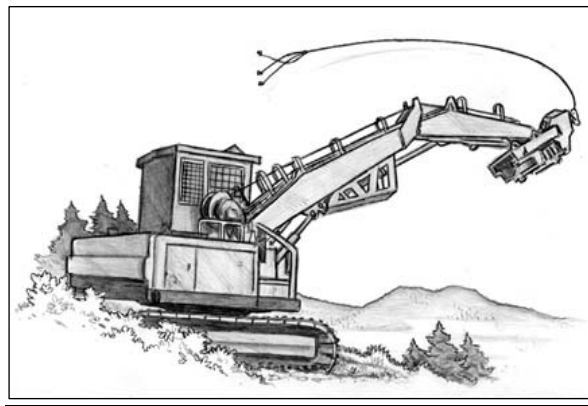
iii. The disadvantages of this equipment are that it results in slower line speeds, it requires blocking up front of the tracks to create stability, rigging height is limited, and there is a greater potential risk to the rigging crew. ( )

**FIGURE 012.03-E**



**TONG-TOSSER WITH GRAPPLE**

**FIGURE 012.03-F**



**JAMMER-SYSTEM WITH CHOKERS**

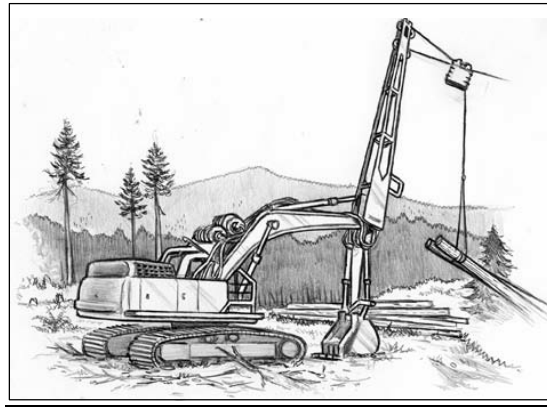
g. Stiff-leg Spar Yarder. One of various configurations for this yarder uses an excavator or log loader fitted with a third boom between the main and jib boom, which is elevated to provide lift. The elevated boom is typically rigged with two (2) or three (3) lines. Works with high lead, standing, running, or slackline configurations. ( )

i. This equipment travels by track-mount. It has medium reach capacity. ( )

ii. The advantages of this equipment are that guylines may not be necessary, it is easier to move, it is easier to rig up which is ideal for smaller logging areas, and it may be used as a loader or excavator. Additionally, it does not require line layouts or anchors. Additionally, jib boom offers greater stability, and the rigging height is greater than yoader or tong-tosser/jammer system. ( )

iii. The disadvantages of this equipment are that it results in slower line speeds, the attached tower boom may need to be removed for other operations, and it generates heavy stress on boom and components. ( )

**FIGURE 012.03-G**



**STIFF-LEG SPAR YARDER**

( )

**013. WIRE ROPE.**

**01. General Characteristics.** Wire rope comes in many grades and dimensions, and every rope has its own characteristics with regard to strength and resistance to crushing and fatigue. A larger rope will outlast a smaller rope of the same materials and construction, used in the same conditions, because wear occurs over a larger surface. Similarly, a stronger rope will outlast a weaker rope, because it performs at a lower percentage of its breaking strength, with reduced stress. ( )

**02. Wire Rope Terms.** Common grades of wire rope include extra improved plow steel (EIPS) and swaged powerflex, among others. The following terms are commonly used for wire rope: ( )

**a. Abrasion Resistance.** Ability of outer wires to resist wear. Abrasion resistance is greater with larger wires. ( )

**b. Core.** The foundation of a wire rope which is made of materials that will provide support for the strands under normal bending and loading conditions. A fiber core (FC) can be natural or synthetic. If the core is steel, it can be a wire strand core (WSC) or an independent wire rope core (IWRC). ( )

**c. Crushing Resistance.** Ability of the rope to resist being deformed. A rope with an independent wire core is more resistant to crushing than one with a fiber core. ( )

**d. Die-form Line.** Made from strands that are first compacted by drawing them through a drawing die to reduce their diameter. The finished rope is then swaged or further compressed. ( )

**e. Fatigue Resistance.** Ability of the rope to withstand repeated bending without failure (the ease of bending a rope in an arc is called its "bendability"). Fatigue resistance is greater with more wires. ( )

**f. Strength.** Referred to as breaking strength, usually measured as a force in pounds or tons. The breaking strength is not the same as the load limit, which is calculated as a fraction of the breaking strength to ensure safety. ( )

**g. Swaged Line.** Manufactured by running a nominal-sized line through a drawing die to flatten the outer crown and thus reduce the rope diameter. This compacted rope allows for increased drum capacity and increased line strength. ( )

**03. Typical Wire Rope Specifications.** The table below lists a few examples of wire-rope breaking strengths. ( )

**TABLE 012.09-A -- Typical Wire Rope Specifications**

<b><u>6x26 Improved Plow Steel</u></b>			<b><u>6x26 Swaged</u></b>		<b><u>Swaged Compact-Strand</u></b>	
<b><u>Diameter (inches)</u></b>	<b><u>Weight (lbs/ft)</u></b>	<b><u>Breaking Strength (tons)</u></b>	<b><u>Weight (lbs/ft)</u></b>	<b><u>Breaking Strength (tons)</u></b>	<b><u>Weight (lbs/ft)</u></b>	<b><u>Breaking Strength (tons)</u></b>
<u>1/2</u>	<u>0.46</u>	<u>11.5</u>	<u>0.6</u>	<u>15.2</u>	<u>0.63</u>	<u>18.6</u>
<u>9/16</u>	<u>0.59</u>	<u>14.5</u>	<u>0.75</u>	<u>19</u>	<u>0.78</u>	<u>23.7</u>
<u>5/8</u>	<u>0.72</u>	<u>17.9</u>	<u>0.93</u>	<u>23.6</u>	<u>1.01</u>	<u>28.5</u>
<u>11/16</u>			<u>1.10</u>	<u>28.8</u>	<u>1.18</u>	<u>35.3</u>
<u>3/4</u>	<u>1.04</u>	<u>25.6</u>	<u>1.37</u>	<u>34.6</u>	<u>1.41</u>	<u>42.2</u>
<u>13/16</u>			<u>1.56</u>	<u>39.6</u>	<u>1.63</u>	<u>49.3</u>
<u>7/8</u>	<u>1.42</u>	<u>34.6</u>	<u>1.83</u>	<u>46.5</u>	<u>1.91</u>	<u>56.0</u>
<u>15/16</u>			<u>1.95</u>	<u>53.3</u>	<u>2.20</u>	<u>66.1</u>
<u>1</u>	<u>1.85</u>	<u>44.9</u>	<u>2.42</u>	<u>60.6</u>	<u>2.53</u>	<u>73.7</u>
<u>1-1/8</u>	<u>2.34</u>	<u>56.5</u>	<u>2.93</u>	<u>75.1</u>	<u>2.97</u>	<u>92.9</u>
<u>1-1/4</u>	<u>2.89</u>	<u>69.3</u>	<u>3.52</u>	<u>92.8</u>	<u>3.83</u>	<u>112.1</u>
<u>1-3/8</u>	<u>3.5</u>	<u>83.5</u>	<u>4.28</u>	<u>108.2</u>	<u>4.62</u>	<u>128.6</u>

**TABLE 013.03-A**

<b><u>6x26 Improved Plow Steel</u></b>			<b><u>6x26 Swaged</u></b>		<b><u>Swaged Compact-Strand</u></b>	
<b><u>Diameter (inches)</u></b>	<b><u>Weight (lbs/ft)</u></b>	<b><u>Breaking Strength (tons)</u></b>	<b><u>Weight (lbs/ft)</u></b>	<b><u>Breaking Strength (tons)</u></b>	<b><u>Weight (lbs/ft)</u></b>	<b><u>Breaking Strength (tons)</u></b>
<u>1/2</u>	<u>0.46</u>	<u>11.5</u>	<u>0.6</u>	<u>15.2</u>	<u>0.63</u>	<u>18.6</u>
<u>9/16</u>	<u>0.59</u>	<u>14.5</u>	<u>0.75</u>	<u>19</u>	<u>0.78</u>	<u>23.7</u>
<u>5/8</u>	<u>0.72</u>	<u>17.9</u>	<u>0.93</u>	<u>23.6</u>	<u>1.01</u>	<u>28.5</u>
<u>11/16</u>			<u>1.10</u>	<u>28.8</u>	<u>1.18</u>	<u>35.3</u>
<u>3/4</u>	<u>1.04</u>	<u>25.6</u>	<u>1.37</u>	<u>34.6</u>	<u>1.41</u>	<u>42.2</u>

<b>TABLE 013.03-A</b>						
<b>6x26 Improved Plow Steel</b>			<b>6x26 Swaged</b>		<b>Swaged Compact-Strand</b>	
<b>Diameter (inches)</b>	<b>Weight (lbs/ft)</b>	<b>Breaking Strength (tons)</b>	<b>Weight (lbs/ft)</b>	<b>Breaking Strength (tons)</b>	<b>Weight (lbs/ft)</b>	<b>Breaking Strength (tons)</b>
<u>13/16</u>			<u>1.56</u>	<u>39.6</u>	<u>1.63</u>	<u>49.3</u>
<u>7/8</u>	<u>1.42</u>	<u>34.6</u>	<u>1.83</u>	<u>46.5</u>	<u>1.91</u>	<u>56.0</u>
<u>15/16</u>			<u>1.95</u>	<u>53.3</u>	<u>2.20</u>	<u>66.1</u>
<u>1</u>	<u>1.85</u>	<u>44.9</u>	<u>2.42</u>	<u>60.6</u>	<u>2.53</u>	<u>73.7</u>
<u>1-1/8</u>	<u>2.34</u>	<u>56.5</u>	<u>2.93</u>	<u>75.1</u>	<u>2.97</u>	<u>92.9</u>
<u>1-1/4</u>	<u>2.89</u>	<u>69.3</u>	<u>3.52</u>	<u>92.8</u>	<u>3.83</u>	<u>112.1</u>
<u>1-3/8</u>	<u>3.5</u>	<u>83.5</u>	<u>4.28</u>	<u>108.2</u>	<u>4.62</u>	<u>128.6</u>

Source: Cable Yarding Systems Handbook, 2006. Worksafe BC. Table lists typical breaking strengths. See manufacturer's specifications for specific lines. ( )

**04. Synthetic Rope.** High-tensile strength synthetic lines are considerably lighter than standard wire rope; however, some lines are dimensionally as strong as standard wire rope. Accordingly, high-tensile strength synthetic lines are permitted to be used in appropriate logging applications, including as substitutes for brush straps, tree straps, tail and intermediate support guylines, guyline extensions, skyline extensions, and haywire. Manufacturers' standards and recommendations for determining usable life or criteria for retirement of such lines shall be followed. Personnel shall examine the lines for broken or abraded strands, discoloration, inconsistent diameter, glossy or glazed areas caused by compression and heat, and other inconsistencies. Rope life is affected by load history, bending, abrasion, and chemical exposure. Most petroleum products do not affect synthetic ropes. ( )

**05. Inspection and Care.** ( )

**a.** Wire rope shall be inspected daily by a qualified individual and repaired or taken out of service when there is evidence of any of the following conditions: ( )

i. Twelve and five tenths percent (12.5%) of the wires are broken within a distance of one (1) lay. ( )

ii. Evidence of chafing, sawing, crushing, kinking, crystallization, bird-caging, corrosion, heat damage, or other damage that has weakened the rope structure. ( )

**b.** Qualified personnel shall closely inspect those points subject to the most wear, including the knob ends of lines, eye splices, and those sections of line that most often run through blocks or carriages. If there is doubt about the integrity of the line, it is far safer to replace a suspect line, or cut out and resplice a defective area, than risk a failure during operation. Evaluation of the load-bearing yarder lines shall be stringent. A qualified person shall also inspect all other lines used on site and remove any that are unsafe. ( )

**06. Additional Precautions.** The following precautions shall also be observed: ( )

**a.** Ensure the working load limit for any line is adequate for the intended use. ( )



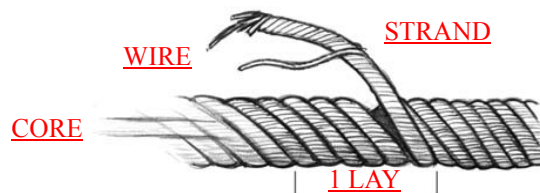
**b.** The manufacturer's specifications with regard to assigned breaking strength shall be followed. Such specifications as determined by engineering test results should factor the grade of the wire, number of strands, number of wires per strand, filler wire construction, lay pattern of the wires, and the diameter of the line. ( )

**07. Safety Factor.** Operators shall follow the manufacturer's specifications in determining load limits. The working load limit is a fraction of a line's breaking strength – a factor of three (3), or one-third (1/3) the breaking strength, is commonly used as a safety factor for running and standing lines, when workers are not exposed to breaking lines or loads passing overhead. A safety factor of three (3) is commonly used to determine the working load limit for a standing or running line. A standard six (6) x twenty-six (26) IWRC wire rope with a diameter of one (1) inch has a breaking strength of approximately forty-five (45) tons – divide by three (3) – equals fifteen (15) tons working load limit. ( )

**08. Wire Labeling.** ( )

**a.** The elements of a typical wire rope are labeled, for example, six (6) x twenty-five (25) FW PRF RL EIPS IWRC. The label indicates a six (6)-strand rope with twenty-five (25) wires per strand (six (6) x twenty-five (25)), filler-wire construction (FW), strands pre-formed in a helical pattern (PRF), laid in a right-hand lay pattern (RL), using an extra-improved plow steel (EIPS) grade of wire, and strands laid around an independent wire rope core (IWRC). See figure 013.08-A for proper labeling of wire rope. ( )

**FIGURE 013.08-A**



**b.** Out of Service Standard Example. A six (6) x twenty-five (25) IWRC wire rope = six (6) strands in one (1) lay with twenty-five (25) wires per strand = one hundred fifty (150) wires. The rope must be taken out of service when twelve and five tenths percent (12.5%), or one-eighth (1/8), of the wires are broken within the distance of one (1) lay = one hundred fifty (150) divided by eight (8) = eighteen and seventy-five one hundredths (18.75), or nineteen (19) broken wires. ( )

**09. Wire Line Life.** Table 013.08-A provides the allowable life of a line in million board feet in accordance with line size and use. Figure 013.09-A illustrates both the correct and incorrect manner in which to measure line size (diameter). ( )

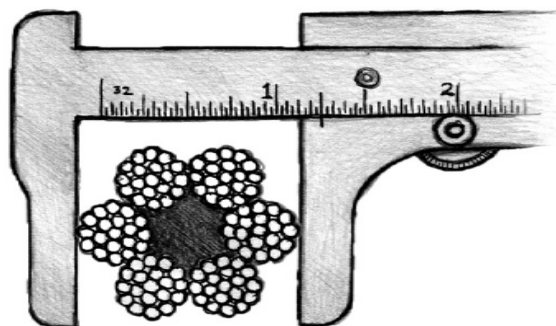
**TABLE 013.08-A**  
**LINE LIFE BY WOOD HAULED**

<b>System</b>	<b>Use</b>	<b>Line Size (inches)</b>	<b>Line Life (million board feet)</b>
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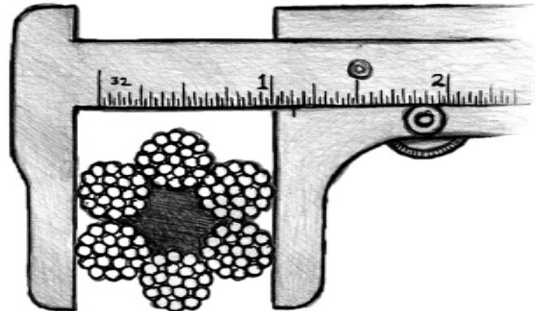
<u>Standing Skyline</u>	<u>Skyline</u>	<u>1-3/4</u>	<u>20-25</u>
		<u>1-1/2</u>	<u>15-25</u>
		<u>1-3/8</u>	<u>8-15</u>
	<u>Mainline</u>	<u>1 to 1-1/8</u>	<u>15-20</u>
		<u>1</u>	<u>10-15</u>
	<u>Haulback</u>	<u>3/4 to 7/8</u>	<u>8-12</u>
<u>Live Skyline</u>	<u>Skyline</u>	<u>1-1/2</u>	<u>10-20</u>
		<u>1-3/8</u>	<u>8-15</u>
		<u>1</u>	<u>6-10</u>
	<u>Mainline</u>	<u>1</u>	<u>10-15</u>
		<u>3/4</u>	<u>8-12</u>
		<u>5/8</u>	<u>8</u>
	<u>Haulback</u>	<u>3/4 to 7/8</u>	<u>8-12</u>
		<u>1/2</u>	<u>6-10</u>
	<u>Dropline</u>	<u>7/16</u>	<u>5-8</u>
<u>High Lead</u>	<u>Mainline</u>	<u>1-3/8</u>	<u>8-15</u>
		<u>1-1/8</u>	<u>6-12</u>

Source: Willamette Logging Specialist's Reference by Keith L McGonagill. 1976. Portland, OR: Willamette National Forest. Calculations of line life refer to EIPS 6x21 wire rope for the skyline, and EIPS 6x26 for other lines. Figures will be different for other classes of wire rope. ( )

**FIGURE 013.09-A**



Correct way to measure line diameter



Incorrect way to measure line diameter

( )

**10. Dynamic Loads.** Operators shall consider high dynamic loads when calculating safe working limits of wire ropes. Wire ropes are often subjected to high dynamic loads, which greatly multiply the force on a line and may exceed the safe working limit. Even a split second of time over the limit can lead to premature failure of a line. Typical dynamic loads occur when a turn hits a stump, a turn comes down off of the back hillside to full suspension, or when excessive force is applied to pulling a turnout of its bed. A high dynamic load or a sudden shock load that exceeds the working limit may not result in immediate failure, but rope strands may stretch and weaken, and may fail at a later time.

( )

**11. Other Common Wire Rope Considerations.**

( )

**a. Wire Rope Stretching and Line Diameter.** A stretched wire rope has a reduced diameter. Operators shall check for stretched lines by measuring the diameter, particularly on older lines and any line used in stressful situations.

( )

**b. Older Wire Rope.** Standing lines and guylines are often kept in service for multiple years (four (4) to five (5), and as long as ten (10) years in some instances) without exhibiting any obvious signs of excessive wear other than rust. Operators shall check date stamps of wire rope and evaluate line life. Operators shall also inspect the core of older lines periodically for a fractured or dry core, which could indicate other deficiencies such as broken wires, excessive wear, or line deformation.

( )

**c. Hard Use.** The life of a wire rope is also affected by hard use. Line life can be measured by the volume of wood hauled (see Table 013.08-A). Line life is reduced when a line exceeds its elastic limits, is heavily shocked, or rubbed against rocks or other lines. As a line wears, the safe working load limit shall be lower and the payload adjusted appropriately.

( )

**d. Wire Rope endurance and elastic limits.** Working within the endurance and elastic limits of lines can help preserve line life. The following principles shall be observed when evaluating the integrity and safe use of wire rope:

( )

**i.** The “endurance limit” for all lines is fifty percent (50%) of the breaking strength. If wire rope tensioning regularly exceeds the endurance limit, the life of the line is reduced through fatigue.

( )

**ii.** The “elastic limit” for all lines is sixty to sixty-five percent (60-65%) of the breaking strength. When a wire rope is loaded to its normal safe working limit, the line stretches, but then returns to its original size when the load is released. If a load increases past the elastic limit through prolonged exertion or repeated stress, the line will stretch and stay stretched, resulting in a permanent reduction in the breaking strength.

( )

**e. Lubrication and Abrasion.** Wire rope is lubricated in the factory to reduce internal friction and corrosion, and prolong the life of the rope. Heat from friction causes the internal lubricant to deteriorate. Friction occurs when the rope stretches under load, particularly in places where it bends around sheaves or other objects. An

improperly lubricated line can pick up particles of dirt and sand that will increase abrasion. Accordingly, operators shall: ( )

i. Check for and ensure the proper lubrication of all lines and wire rope, following the manufacturer's instructions. Commercial wire rope lubricants are available. ( )

ii. Carefully inspect lines for faults in areas where dust and sand may collect. ( )

iii. Store all wire rope and lines off the ground. ( )

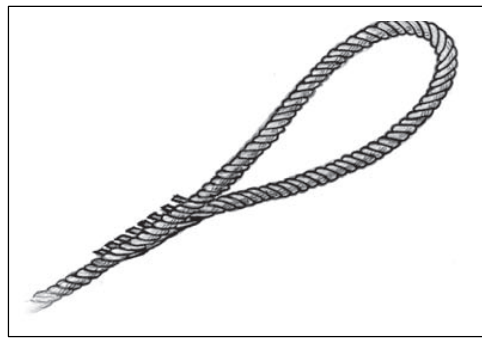
**12. Line Connections.** ( )

a. Inspection. Operators shall regularly inspect shackles, hooks, splices, and other connecting equipment for damage and wear, as well as ensure the connectors are the correct type and size for the line and intended use. ( )

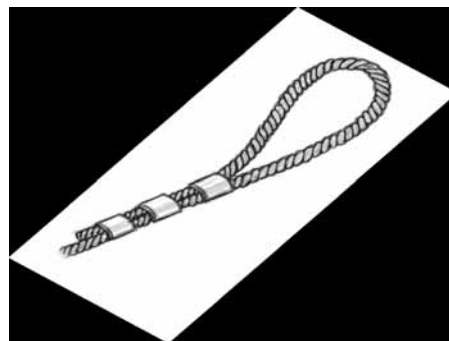
b. Wire Splicing. Splices are used to form an eye at the end of a line, extend the length of a line, or repair a broken or damaged line. The splicing of wire rope requires special skill and shall only be performed under the supervision of a competent person with using the proper tools. Reference materials are available with detailed instructions for numerous types of splices. Individuals splicing wire shall always wear appropriate eye protection while splicing or assisting with a splicing procedure. ( )

c. The logger's eye splice and three (3)-pressed eye are the most common methods to form an eye for use as a skyline terminal. See Figure 013.12-A. The spliced eye is approximately eighty percent (80%) efficient. A three (3)-pressed eye can reach ninety percent (90%) line strength. The pressed eye is typically performed at the rigging shop. Spliced eyes may be placed in the field, but may require additional time to install. ( )

**FIGURE 013.12-A**



**THE LOGGER'S EYE SPLICE**



**THREE-PRESSED EYE**

d. Guyline Care. Guylines are a vital link in holding up a tower. Guyline extensions shall not be excessively moved around by dragging on the ground, or left on the ground for long periods of time as they will deteriorate faster. ( )

e. Line Deformity. A line may deform where it loops around a shackle or pin, producing weakness that may result in line failure. A thimble in the loop protects the line. Thimbles may be used on standing lines, but not on running lines. Examples of the appearance of deformed lines and the use of thimbles in shackles are illustrated in Figure 013.12-B. ( )

**FIGURE 013.12-B**



DEFORMED EYE



EYE WITH THIMBLE

( )

**13. Shackles and Hooks.**

( )

**a.** Hooks. Hooks shall be inspected to ensure that they have not sprung open. Ensure that shackles are positioned correctly to bear the load. Haywire swivels shall be inspected frequently, due to their susceptibility to wear rapidly.

( )

**b.** Shackle Safety. Proper bells or shackles shall be used to connect the guylines to the stumps, and the guyline lead blocks to the ring at the top of the tower. Connections shall have at least one and a half (1-1/2) times the strength of the guyline. The pins of the shackles must be secured to protect against dislodgement, and a nut and cotter key, or a nut and molly may be used for that purpose. The use of loops or mollies to attach guylines is prohibited. Examples of the appearance of some shackle equipment is illustrated in Figure 013.13-A.

**FIGURE 013.13-A**



SHACKLE WITH  
SAFETY PIN



HAYWIRE SWIVEL



HAYWIRE HOOKS

( )

**c.** The following practices shall be observed in order to ensure the safe use of shackles:

( )

**i.** A shackle must have a rated breaking strength greater than the rated breaking strength of the lines attached to it, and the manufacturer's rated strengths to determine oversized requirements shall be used. Accepted industry standards shall be utilized and adhered to when determining the correct shackle size based on the type and nature of the logging operation being performed. Examples of the appearance of some shackle equipment for the purposes of proper selection is illustrated in Figure 013.13-B.

( )

**ii.** Shackles with pins, and securing nuts with mollies or a cotter key shall be used on standing or overhead rigging.

( )

**iii.** Screw shackle pins shall not be used in any standing or overhead rigging.

( )

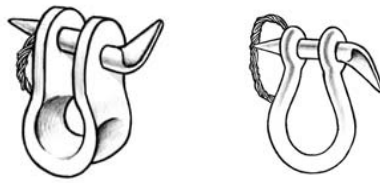
- iv. Screw shackle pins, where allowed to be used, shall be tightened securely. ( )
- v. Shackle pin mollies shall be rolled sufficiently and fit the pin hole fully. Mollies shall be tucked a minimum of three (3) times. ( )
- vi. The shackle shall always be placed with the pin nearest to the yarder, so that in the event the shackle fails the least amount of hardware may be thrown at the yarder. ( )
- vii. Replace shackles that are bent, broken, or show excess wear on the inner surfaces. Examples of the appearance of some damaged or non-conforming shackles are illustrated in Figure 013.13-A.

**FIGURE 013.13-A**

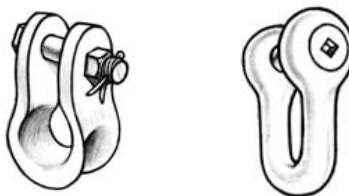


**REPLACE SHACKLES THAT ARE BENT, BROKEN, OR SHOW EXCESS WEAR ON THE INNER SURFACES.**

**FIGURE 013.13-B**



**SLEEVE WITH KNOCKOUT PIN**      **BELL WITH KNOCKOUT PIN**



**SLEEVE WITH SAFETY PIN**      **FLUSH PIN STRAIGHT SIDE**

**14.      Knobs, Ferrules, and Eyes.**

**a.**      Poured nubbins and a double-end hook are acceptable connectors in place of shackles in some instances. The use of quick nubbins (wedge buttons) as guylines and skyline end fittings is prohibited unless attaching guylines to guyline drums. Operators shall follow the manufacturer's recommendations when attaching sockets and similar end fastenings.

**b.**      Poured nubbins achieve ninety-nine percent (99%) of line strength and may be used. Quick nubbins only achieve a maximum of sixty-five percent (65%) under ideal conditions, and accordingly operators shall consider whether they are appropriate for safe use in any given application. Pressed ferrule are not certifiable for strength, and shall not be used. Examples of the appearance of some knob, ferrule, and nubbin equipment are illustrated in Figure 013.14-A.

**c.**      Operators shall inspect knobs, ferrules, and eyes at cable ends for loose or broken wires, and corroded, damaged, or improperly applied end connections. Poured nubbins shall be date stamped.

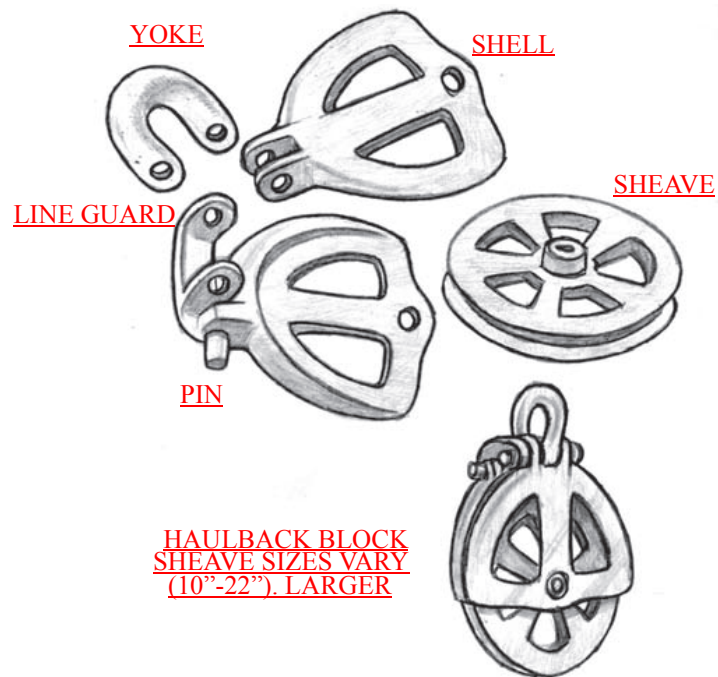
**FIGURE 013.14-B**



**BABBITED KNOB & PRESSED FERRULE      QUICK NUBBIN (WEDGE BUTTON)**

**15.      Brush Blocks.** Brush blocks shall be thoroughly inspected for cracks, wear, or deterioration. Operators shall closely examine the areas subject to the most wear, including bearings, sheave, frame, yoke, and pins. Defective parts shall be replaced immediately. Blocks shall be greased every time before each use.

**FIGURE 013.15-A**



( )

**16. Chains and Straps.** Chains or straps shall always be sized and used correctly for the intended purpose. Determining which size to use may depend on various factors. Oversized trailer lift straps, for example, shall have a breaking strength equal to five (5) times the load to be lifted. Towing chains shall have a tensile strength equivalent to the gross weight of the towed vehicle. The manufacturer's specifications or other appropriate reference materials shall always be consulted to ensure the right chain or strap is used for a task. ( )

**a.** Operators shall periodically inspect chains for damaged, worn, or stretched links. Chains with more than ten percent (10%) wear at the bearing surface shall be replaced. Operators shall periodically inspect straps, and examine them for broken wires or wear. Examples of the appearance of damaged and safe chains are illustrated in Figure 013.16-A. ( )

**FIGURE 013.16-A**



**GOOD CHAIN**



**STRETCHED CHAIN**





WORN CHAIN (INSIDE LINKS)

( )

**014. TREE CLIMBING.**

Loggers are often required to climb considerable heights to top trees or hang rigging on lift trees. All workers who may be exposed to fall hazards shall be specifically trained and equipped with fall protection.

( )

**01. Rescue Plan.** Before rigging any tree, the employer must develop rescue procedures, which includes identifying appropriate equipment, personnel, and training to perform a rescue in case a climber is injured or incapacitated in the tree. A second set of climbing gear and a person with climbing experience shall be readily available. Equipment and procedures that will support an injured climber's chest and pelvis in an upright position during a rescue shall be used. When an injured climber is wearing only a climbing belt, provisions must be made to prevent the climber from slipping through it; this may include using a rope to create an upper-body support system. Consideration should be made to replacing climbing belts with a climbing harness.

( )

**02. Before Leaving the Ground.** Employers shall check climbing equipment and immediately remove defective equipment from service. Personnel shall ensure that hardware and safety equipment is securely fastened before placing weight on the lanyard or life-support rope. All climbing knots shall be tied, dressed, and set prior to ascending. All personnel shall follow the recommendations of the manufacturer of the cordage with respect to the use of splices.

( )

**03. Climbing Equipment.**

( )

**a.** A climbing harness provides both pelvic and upper-body support, and may be a one (1)-piece, full-body harness, or any two (2)-piece design that meets industry standards.

( )

**b.** Climbing and life-support lines shall be conspicuous and easily identifiable.

( )

**c.** All lines and webbing used for life support shall have a minimum breaking strength of five thousand four hundred (5,400) pounds and may only be used for climbing.

( )

**d.** When a cutting tool is used in a tree, the climbing rope (lanyard) shall be a high-quality steel safety chain of three-sixteenths (3/16) inch size or larger, or a wire-core rope.

( )

**e.** A life-support rope evidencing excessive wear or damage or that has been subjected to a shock load shall be removed from climbing service.

( )

**04. Climbing Operations.**

( )

**a.** Ensure climbers are appropriately well-trained in climbing and in the use of all equipment to carry out assigned tasks.

( )

**b.** While climbing operations are underway, co-workers and others on the ground shall stay clear of potential falling objects. If co-workers must work directly below a climber, the climber shall stop any activity in which objects could be dropped or dislodged until the area below is cleared. Climbers shall provide warning whenever any material may be likely to fall or is dropped deliberately. Unsecured equipment, rigging, or material shall not be left in the tree.

( )

**c.** Yarding activity must cease within reach of a tree or guylines of a tree where a climber is working. Machinery may operate in reach of the climber to hoist rigging into the tree. In such circumstance the following shall apply:

( )

**i.** A spotter shall be utilized and yarding operations shall be performed with extra caution;

( )

**ii.** The machine operator and the spotter shall give the task their undivided attention;

( )

iii. Equipment that is nearby and which may be noisy, such as power saws, tractors, or logging machines shall be shut down if the noise interferes with signal communications with the climber; and ( )

iv. Lines attached to a tree in which a climber is working shall not be moved except on a signal from the climber. ( )

d. Tree climbers shall use a three (3)-point climbing system whereby three (3) points of contact must be firmly in place on a secure surface before moving to another point. Along with hands and feet, other points on the body, such as a hooked knee, can be considered a point of contact if it can support the full body weight. Additionally, the places of support must be secure, and climbers should use care to void unsound branches or stubs as a contact point. A lanyard around the tree secured to the safety harness or climbing belt on both ends constitute two (2) points of contact. ( )

e. Climbing without being secured to the tree is prohibited, except in conifers, when in the judgment of a qualified climber, the density of branches growing from the stem make attaching the lanyard more hazardous than simply climbing the tree. In such instances, the climber shall evaluate the tree farther up, and use attachments when it is safe to do so. ( )

05. Topping Trees. Only an experienced climber with experience felling trees shall top a tree. Cutters shall not cut when wind or other conditions make doing so hazardous. Standard safe felling procedures shall apply, with the additional following requirements: ( )

a. A chainsaw with a bar short enough to make both the face-cut and backcut easily from one side shall be used. ( )

b. Cutters shall determine the felling direction and ensure there are no obstructions. Consideration shall be given to the fact that an impact could cause violent movement in the tree being topped where the climber is perched. ( )

c. A safety chain shall be wrapped around the tree just below the cut to prevent the tree from splitting or slabbing down inside the climbing rope. ( )

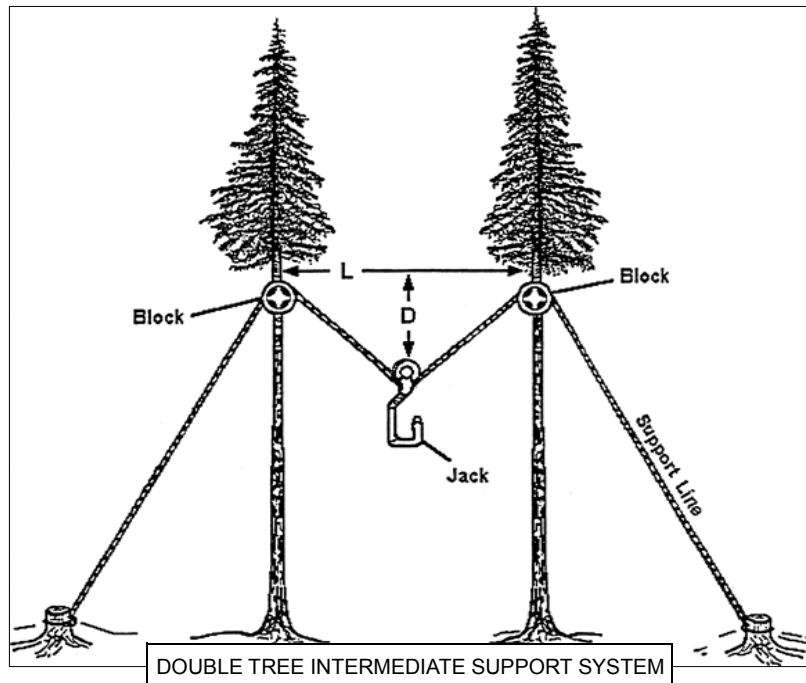
d. The cutter shall ensure he is comfortable, and avoid any awkward cutting position. ( )

e. Exact cuts should be made. There is no escape route for the climber to get away from the stem to avoid kickback or a splintered hinge. When making horizontal side cuts, extra care shall be used to stay on the line of the backcut to avoid wood breaking away with the saw as the top falls. ( )

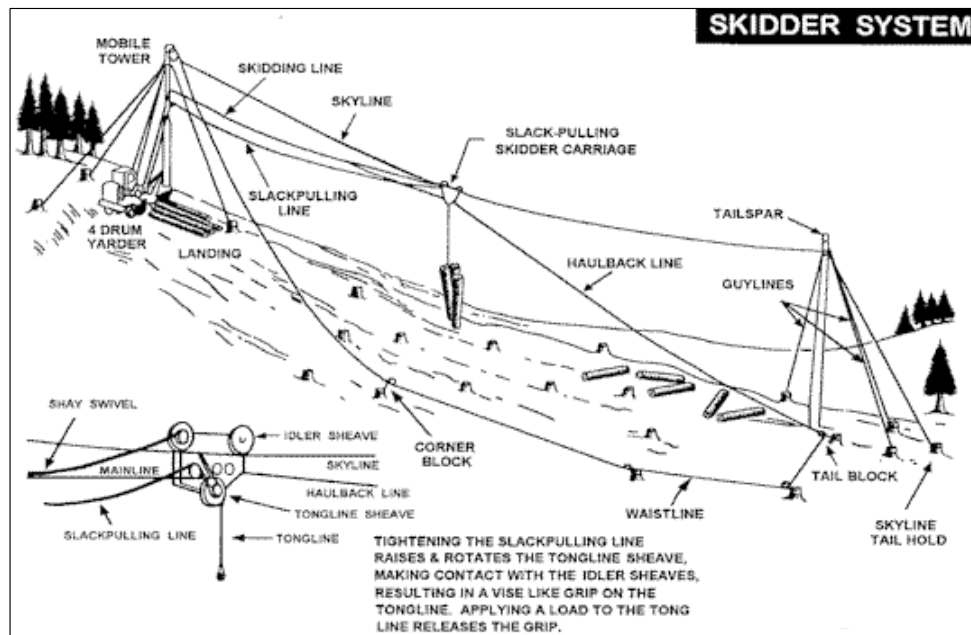
**015. TYPICAL RIGGING SYSTEMS.**

01. See Figures 015.16-A through 015.16-H.

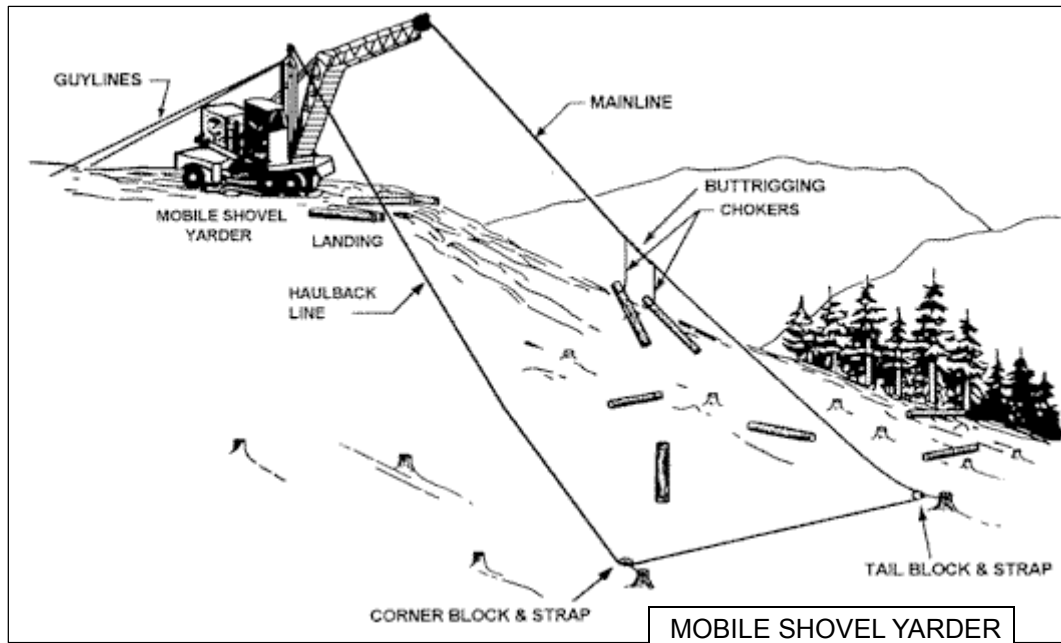
**FIGURE 015.16-A**



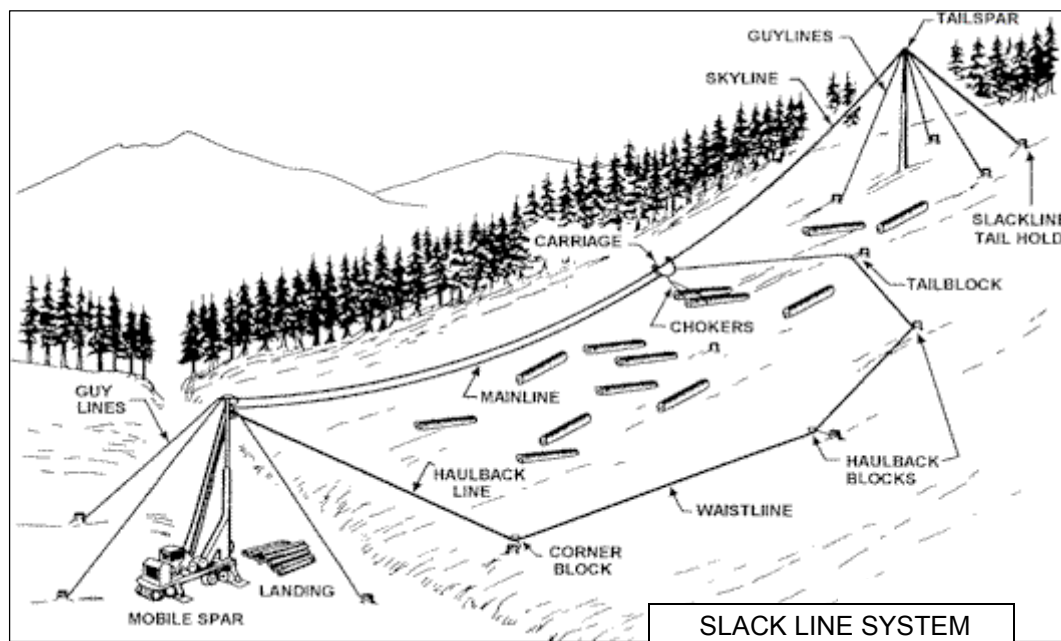
**FIGURE 015.16-B**



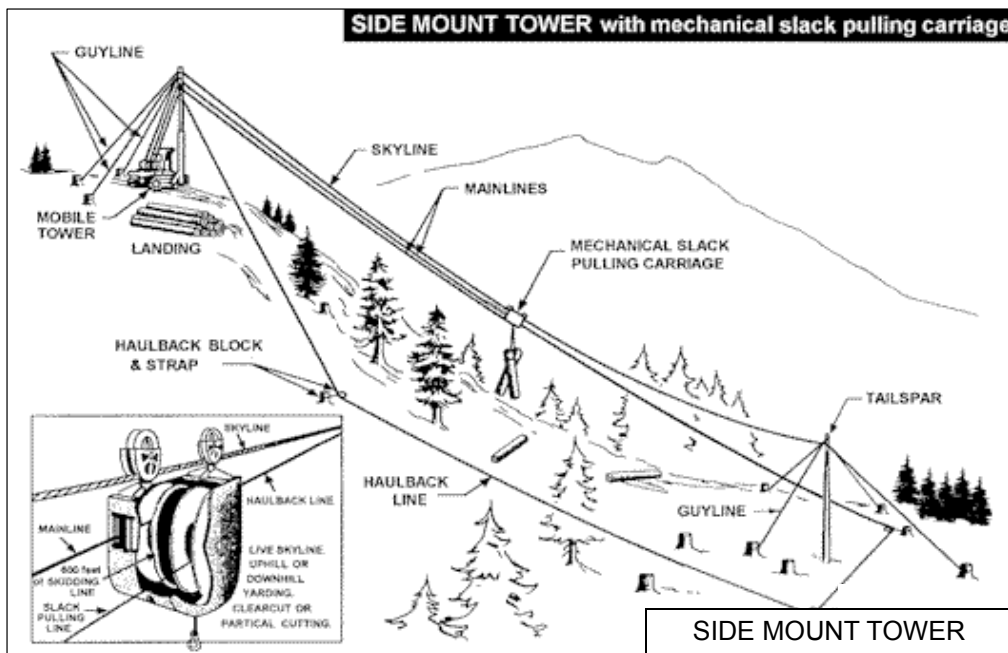
**FIGURE 015.16-C**



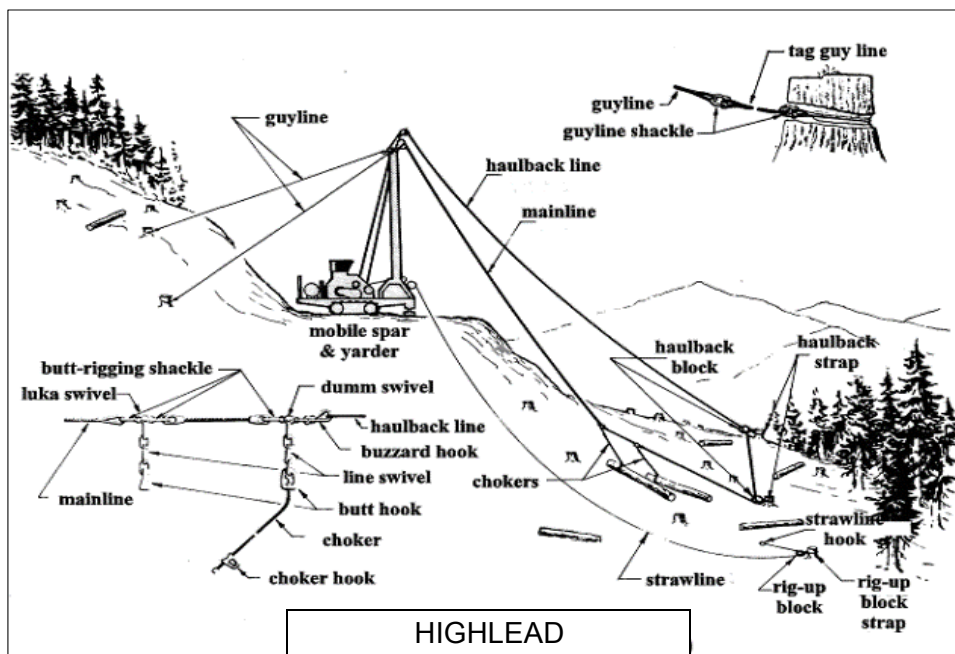
**FIGURE 015.16-D**



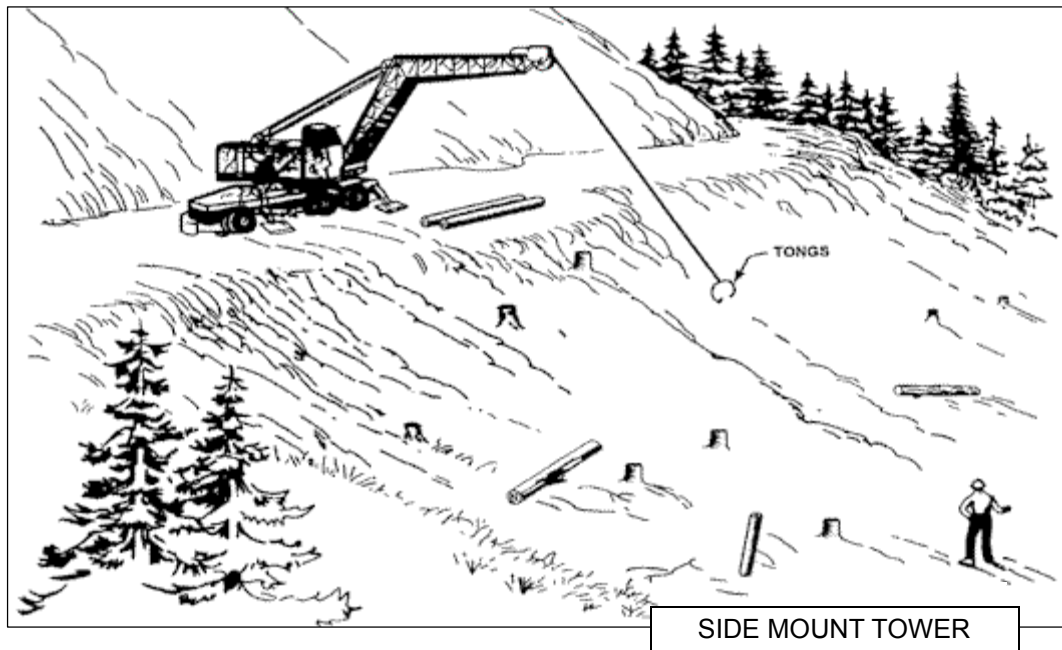
**FIGURE 015.16-E**



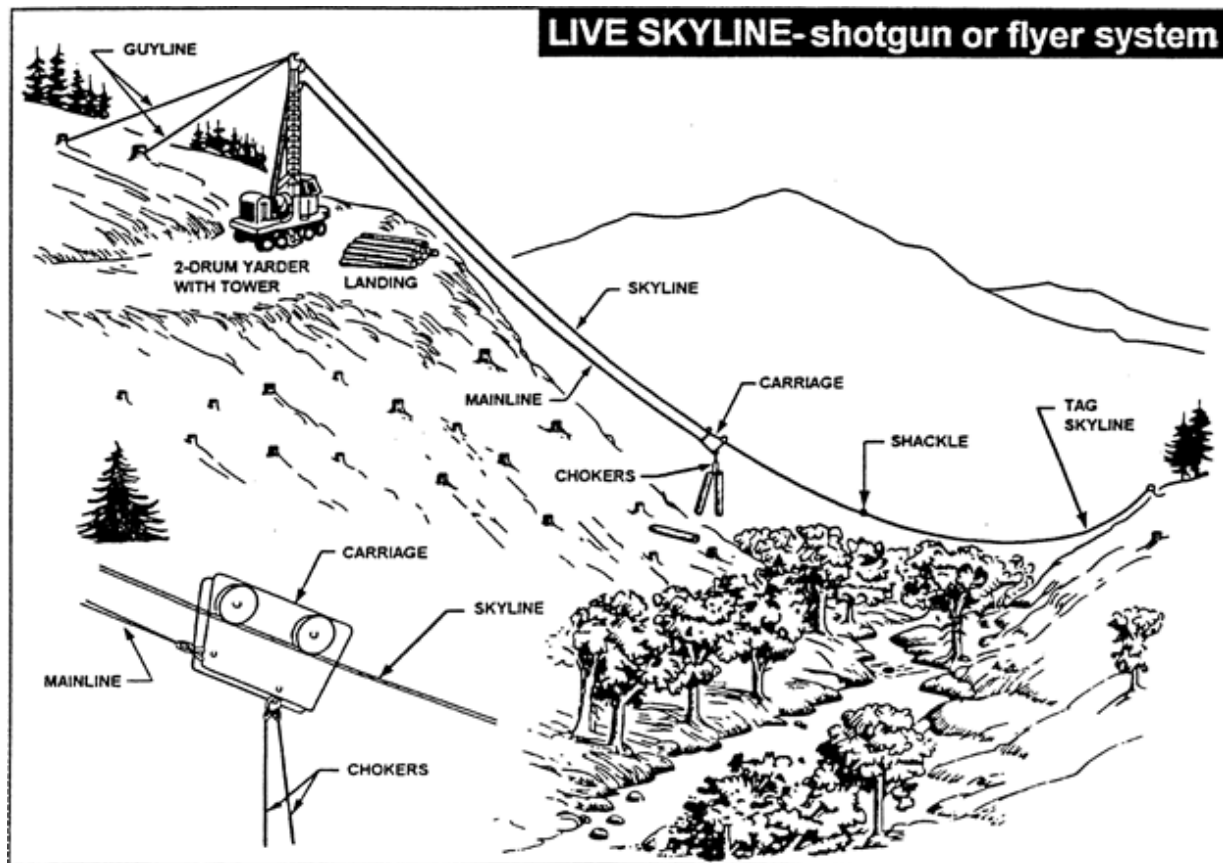
**FIGURE 015.16-F**



**FIGURE 015.16-G**



**FIGURE 015.16-H**



01-6. -- 999. (RESERVED)



## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.12 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING -- ROAD TRANSPORTATION**

**DOCKET NO. 07-0812-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to update and clarify the rules concerning the Idaho minimum safety standards and practice for logging related to road transportation.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 183-192](#).

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-8986  
Fax: (877) 810-2840

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
--

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.



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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Several of the provisions required updates to references, as well as minor editorial revisions to ensure clarity. Through the negotiated rulemaking process, the logging industry expressed support for the proposed amendments set forth in the rulemaking.

This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the Division related to logging safety matters. The rulemaking also makes minor editorial revisions to several references and other rule provisions related to safe logging truck transportation.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

#### **LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0812-1601**

#### **000. LEGAL AUTHORITY.**

Pursuant to the provisions of Section 67-2601A, Idaho Code, the Division of Building Safety has the authority to promulgate and adopt ~~reasonable~~ rules for affecting the purposes ~~of the Workers' Compensation Act~~ [therein](#).  
(7-1-97)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

~~There are no provisions for administrative appeal of these rules.~~ The procedure for appeals in logging safety matters is prescribed by IDAPA 07.08.16, "Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program," and Title 67, Chapter 52, Idaho Code. (7-1-97)( )

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. ( )

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Division of Building Safety, Logging Safety Program, is at the Division office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Logging Safety Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and at 2055 Garrett Way, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810-2840. The Department website is <http://dbs.idaho.gov>. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**0047. -- 008. (RESERVED)**

**009. DEFINITIONS.**

For definitions refer to IDAPA 07.08.01, "Idaho Minimum Safety Standards and Practices for Logging -- General Provisions," Section 007, and IDAPA 07.08.15, "Idaho Minimum Safety Standards and Practices for Logging -- Commonly Used Logging Terms." (7-1-97)( )

**010. LOG TRUCK TRANSPORTATION.**

**01. General.** The following requirements are supplemental to any Idaho law governing automobiles, trucks, tractors, trailers, and any combination of these units. If there are any discrepancies in the codes between this section and ~~the any F~~ federal ~~and~~ or Idaho motor vehicle regulations pursuant to title 49, Idaho Code, applicable for in the state of Idaho, ~~the such federal of other~~ governmental regulations will govern ~~(Idaho Code Title 49 Chapter 25)~~. (7-1-97)( )

**02. Stopping and Holding Devices for Log Trucks. (7-1-97)**

**a.** Motor logging trucks and trailers must be equipped with brakes ~~and~~ or other control methods which will safely stop and hold the maximum load on the maximum grade. Air or vacuum brake lines shall be of the type intended for such use and shall have fittings which will not be interchangeable with water or other lines. (7-1-97)( )

**b.** Brake Test - A brake test shall be made before and immediately after moving a vehicle. Any defects shall be eliminated before proceeding. (7-1-97)

**03. Lighting Equipment Required. (7-1-97)**

**a.** Motor vehicles used on roads not under the control of the ~~State Highway~~ Idaho Transportation Board, counties or cities, shall have equipment necessary for safe operation, such as head, tail, and stop lights. (7-1-97)( )

**b.** Such lights shall be used during clearance periods of reduced visibility. (7-1-97)

**04. Safe Operating Requirements. (7-1-97)**

**a.** The driver shall do everything reasonably possible to keep his truck under control at all times and

shall not operate in excess of a speed at which he can stop the truck in one-half (1/2) the distance between him and the range of unobstructed vision. (7-1-97)

b. The driver shall take into consideration the condition of the roadway, weather factors, curves, grades and grade crossings, the mechanical condition of his equipment, and other ~~pertinent items~~ relevant factors. (7-1-97)( )

c. The driver shall clear rocks from between dual tires before driving on multi-lane roads. (7-1-97)

d. A daily inspection shall be made of trucks and trailers with particular attention to steering apparatus, brakes, boosters, brake hoses and connections, reaches, and couplings. Any defects found shall be corrected before equipment is used. (7-1-97)

**05. Stakes, Bunks, or Chock Blocks.** All stakes and bunks, installed on log trucks and trailers, together with the means provided for securing and locking the stakes in a hauling position, shall be designed and constructed of materials of such size and dimensions that ~~they~~ will withstand a pressure of fifteen thousand (15,000) pounds applied outward against the tops of the stakes, and, or extensions when used, without yield or permanent set resulting in the stakes, bunks or the means provided for securing and locking the stakes.

NOTE: Test Procedure - A test pressure of fifteen thousand (15,000) pounds is applied to the top of one (1) stake, using the top of the stake opposite as a base for applying pressure. Bunk is not to be secured to floor or other base except in a manner similar to that used to mount it to truck or trailer. Stakes must return to normal upright position at end of test and stakes and all component parts examined and checked with original specifications. If no yield results in any part, the design and construction may be considered as meeting code requirements. (7-1-97)( )

**06. Stake Extensions.** (7-1-97)

a. Stake extensions shall not be used unless all component parts of the bunking system are of sufficient size and strength to support the added stresses involved. (7-1-97)

b. Truck drivers shall report ~~to the proper authority~~, missing or broken stake extensions to the proper authority. (7-1-97)( )

**07. Stake and Chock Tripping Mechanisms.** Stakes and chocks ~~which~~ that trip shall be constructed in such a manner that the tripping mechanism, which releases the stake or chocks, is activated at the opposite side of the load from the stake being tripped. (7-1-97)( )

**08. Linkage for Stakes or Chocks.** (7-1-97)

a. The linkage used to support the stakes or chock must be of adequate size and strength to withstand the maximum imposed impact lead. (7-1-97)

b. "Molly Hogans" or cold shuts are prohibited in chains or cable used for linkage. (7-1-97)

**09. Notify Engineer When Around Truck.** (7-1-97)

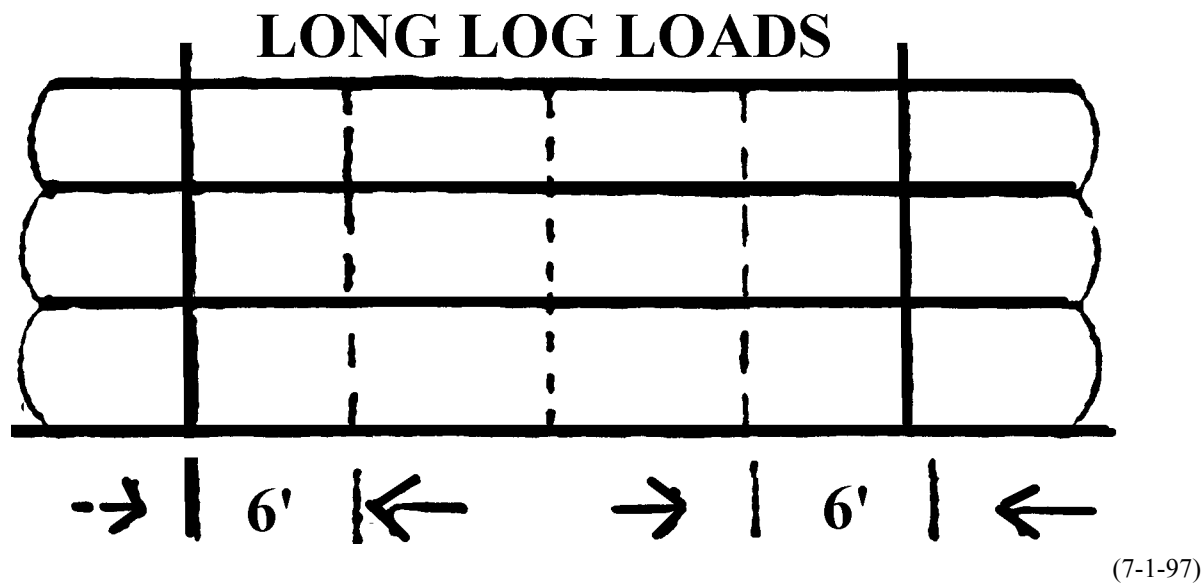
a. Persons shall not walk along side of or be underneath any truck being loaded. (7-1-97)

b. Prior to performing any duties, such as releasing bunk locks, placing or removing compensating pin, scaling logs, reading scale, chopping limbs or making connections, ~~they~~ persons shall notify the loading engineer of their intentions and be acknowledged. (7-1-97)( )

**10. Number of Wrappers Required.** (7-1-97)

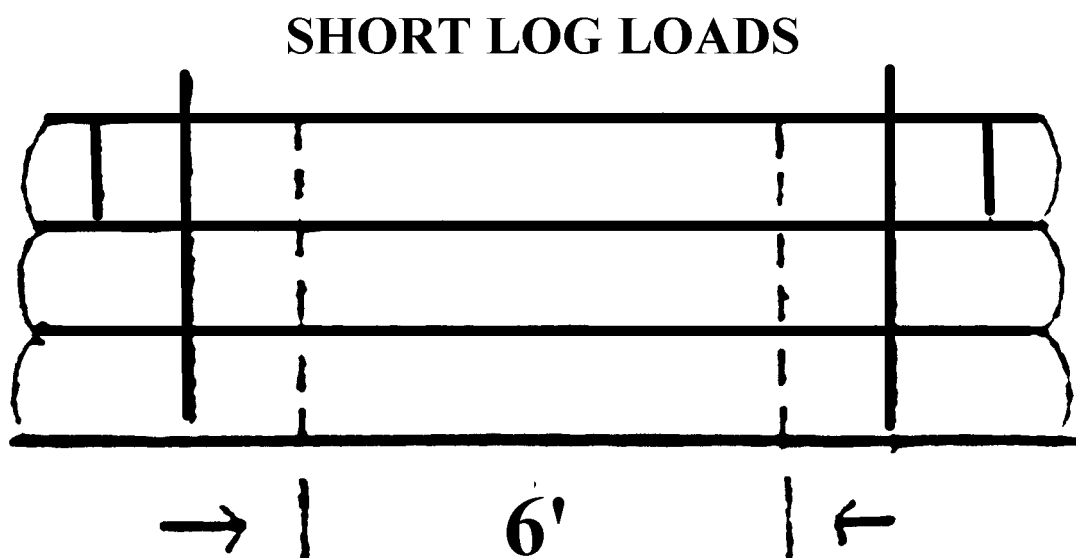
a. Each unit used for hauling logs longer than twenty six (26) feet, shall have the load secured by a minimum of three (3) wrappers, one within six (6) feet of each bunk. See Figure 010.10-A.

FIGURE 010.10-A

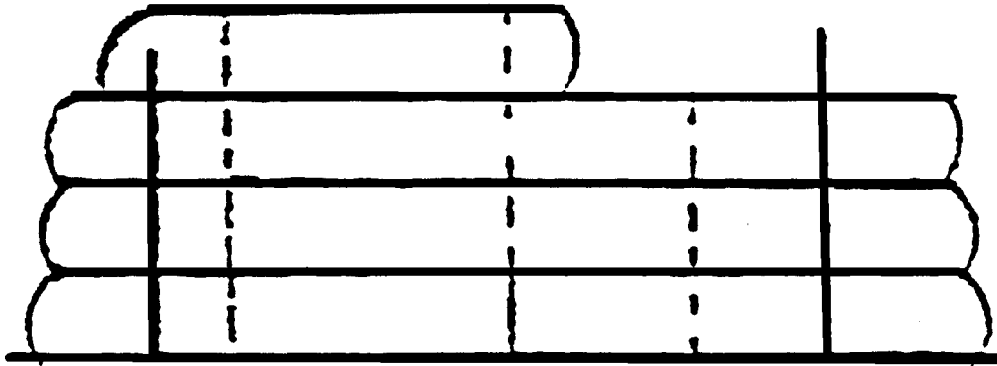


b. All exposed outside logs shall be secured by one (1) wrapper passing near each end of the log. See Figure 010.10-A.

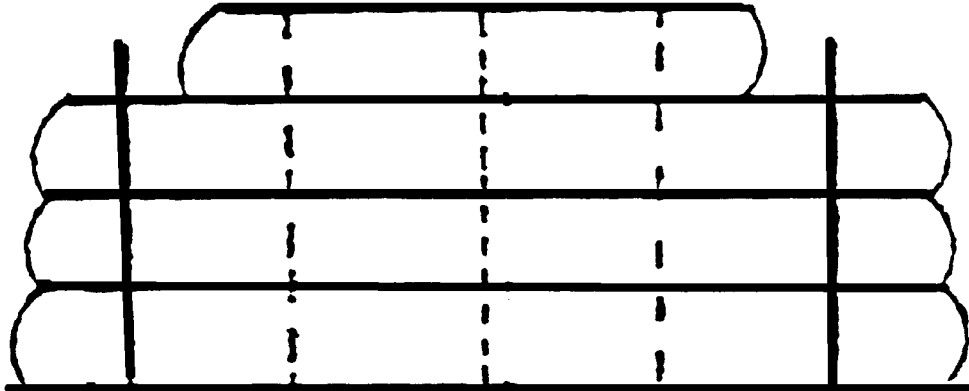
FIGURE 010.10-B



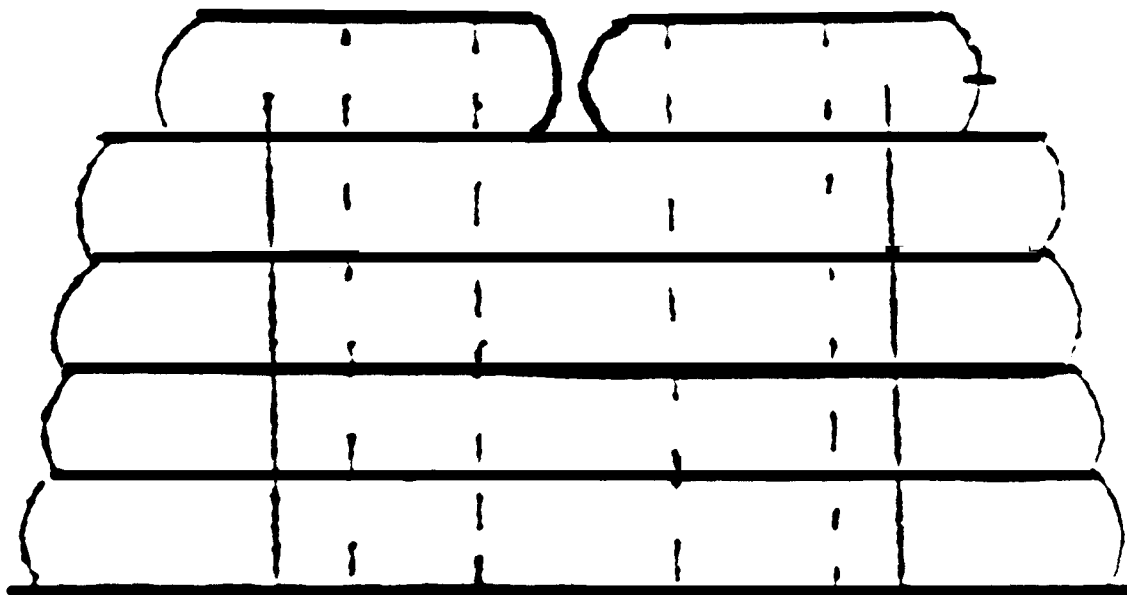
**LONG LOG LOAD WITH SHORT  
LOGS IN REAR OR IN FRONT**



**LONG LOG LOAD WITH  
SHORT LOGS IN CENTER**



## **LONG LOG LOAD WITH SHORT LOGS BUTTED**



(7-1-97)

c. On one (1) log load where trailer bunk is equipped with cheese blocks, one (1) wrapper securing log to the trailer bunk will be sufficient. Outside wrappers on short logs shall have a minimum of six (6) feet spread. (See Figure 010.10-C.)

NOTE: High loads are defined as logs loaded above bunk stakes.

**FIGURE 010.10-C**

## **ONE LOG LOAD**



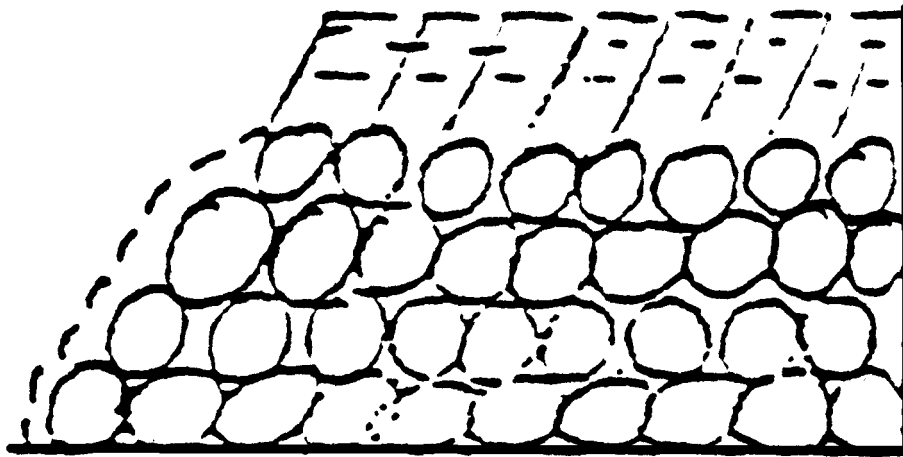
(7-1-97)

**11. Requirements for Crosswise Loaded Trucks. (7-1-97)**

**a.** When loads of short logs are loaded crosswise, the logs shall be properly contained by use of stake or chock blocks and shall be secured by a minimum of two (2) wrappers. (See Figure 010.11-A.)

**FIGURE 010.11-A**

**CROSSWISE LOADED TRUCK**



(7-1-97)

**b.** Binders shall be securely fastened to the vehicle. (7-1-97)

**12. Construction of Wrappers. (7-1-97)**

**a.** Cables shall have a spliced eye or swaged fittings. (7-1-97)

**b.** “Molly Hogans” or cold shuts are prohibited to make splices or connections. (7-1-97)

**c.** Wrappers shall have a minimum breaking strength of not less than thirteen thousand (13,000) pounds. (7-1-97)

**13. Binder Placement Requirements. (7-1-97)**

**a.** Binders shall be placed in a manner whereby they will be released on the side opposite the brow log, or on the side where the unloading equipment operator can see the binders. (7-1-97)

**b.** Truck drivers shall be required to stop vehicles, dismount, check and tighten loose load binders, either just before or immediately after leaving a private road to enter the first public road they encounter. (7-1-97)

**14. Precautions When Placing or Removing Binders and Wrappers. (7-1-97)**

**a.** Binders and wrappers shall remain on the load until an approved safeguard has been provided to prevent logs from rolling off the side of truck where binders are being released. (7-1-97)

**b.** At least one (1) wrapper shall remain secured while relocating or tightening other binders. (7-1-97)

**15. Binders and Wrappers to Be Placed Before Leaving Landing Area.** Binders and wrappers shall be placed and tightened around the completed load before shifting the load for proper balance and a wrapper or wrappers shall be placed and secured to hold the load in place before the truck is moved from the landing area or out of sight of the landing crew. (7-1-97)

**16. Adequate Reaches Required.** (7-1-97)

**a.** Log trailers must be connected to tractors by reaches of a size and strength to withstand all imposed stresses. (7-1-97)

**b.** Spliced reaches shall not be used. (7-1-97)

**c.** Documented reach inspections shall be performed annually. ( )

**17. Proper Lay of Logs in Stakes or Bunks.** (7-1-97)

**a.** The method of loading shall be such that the logs in any tier or layer unsecured by stakes or cheese blocks shall have their centers inside of the centers of the outer logs of the next lower tier or layer so that the load is stable without the aid of binders. (7-1-97)

**b.** Logs shall be well saddled without crowding so that there will be no excessive strain on the wrappers or stakes. (7-1-97)

**c.** No more than one half (1/2) of any log shall extend above the stakes unless properly and securely saddled. (7-1-97)

**d.** Bunk logs shall extend not less than twelve (12) inches beyond the bunk, with the exception of non-oscillating bunks. ( )

**18. Traffic Travel on Right Side of Road Except Where Posted.** All trucks shall keep to the right side of the road. ~~(F, e)~~ except where road is plainly and adequately posted for left side traveling. ~~(7-1-97)~~ ( )

**19. Towing of Trucks.** When trucks must be towed on any road, the person guiding the vehicle being towed shall, by prearranged signals, govern the speed of travel. (7-1-97)

**20. Scaling and Branding.** When at the dump or reload and where logs are scaled or branded on the truck, the logs shall be scaled or branded before the wrappers are released. (7-1-97)

**21. Metal Parts Between Bunk and Cab to ~~Be~~ Covered.** Suitable material shall be used on treading surfaces between the bunk and cab to prevent persons from slipping on the metal parts. ~~(7-1-97)~~ ( )

**22. Bunks to Be Kept in Good Condition and Repair.** (7-1-97)

**a.** Log bunks or any part of bunk assembly bent enough to cause bunks to bind shall be straightened. (7-1-97)

**b.** Bunks shall be sufficiently sharp to prevent logs from slipping. (7-1-97)

**23. Following Other Vehicles.** (7-1-97)

**a.** A vehicle not intending to pass shall not follow another vehicle closer than one hundred fifty (150) feet. ~~(7-1-97)~~ ( )

**b.** Passing shall be done only when it can be done safely. The passing vehicle shall consider all factors which may be essential, such as condition of the roadway, width of the road, and distance of clear visibility ahead. (7-1-97)



**24. Reaches to Be Clamped When Towing Unloaded Trailer.** A positive means, in addition to the clamp, shall be installed on the reach of log truck trailers when the trailers are being towed without a load. (7-1-97)

**25. Inserting of Compensating Pin.** (7-1-97)

**a.** Persons shall never enter the area below suspended logs or trailers. (7-1-97)

**b.** At dumps where the load must remain suspended above the bunks until the truck is moved away and when the trailer is the type with a compensating pin in the reach, a device shall be installed ~~which~~ **that** will allow the trailer to be towed away from the danger area. (7-1-97)( )

**26. Safety Chains.** (7-1-97)

**a.** All trailers shall be secured with a safety chain, or chains, which connect the frame of the truck assembly to the trailer unit. (7-1-97)

**b.** The chains shall be capable of holding the trailer in line in case of failure of the hitch assembly. (7-1-97)

**011. STEERED TRAILERS.**

**01. Steered Trailers.** Steered trailers not controlled from the truck cab shall be designed, constructed, and operated ~~as follows~~ **in accordance with this section.** (7-1-97)( )

**a.** Secure seat. A secure seat with substantial foot rests shall be provided for the steerer at the rear of the bunk. Any arrangement that permits the steerer to ride in front of the bunk is prohibited. (7-1-97)

**b.** Unobstructed exit. The seat for the steerer shall be so arranged that the steerers ~~have~~ **has** an unobstructed exit from both sides and the rear. (7-1-97)( )

**c.** Bunk support. The bunk support shall be so constructed that the steerer has a clear view ahead at all times. (7-1-97)

**d.** Adequate means of communication. Adequate means of communication shall be provided between the steerer and the truck driver. (7-1-97)

**e.** Eye protection and respirator. Eye protection and respirator shall be provided for the steerer. (7-1-97)

**f.** Fenders and splash plates. The trailer shall be equipped with fenders or splash plates to protect the steerer from mud and dust so far as possible. (7-1-97)

**g.** Lights. If used during **a** period of reduced visibility on roads not under the control of the ~~State Highway~~ **Idaho Transportation** Board, counties or cities, the trailer shall be equipped with head, tail and stop lights. (7-1-97)( )

**012. COMMON CARRIERS.**

**01. Responsibility.** It shall be the responsibility of the common carrier, and particularly the operator of the common carrier, upon entering the premises of any sawmill, woodworking or allied industry, to exercise all possible caution and to use all necessary safety devices and precautions to their fullest extent. (7-1-97)

**02. Audible and Visual Warning Devices.** (7-1-97)

**a.** All common carriers equipped with audible and visual warning devices shall activate such warning devices before entering a danger zone, and they shall remain activated as long as the carrier is moving in that zone.

(7-1-97)

- b. A danger zone shall be defined as an area where men or vehicles are working or normally work.

(7-1-97)

**03. Train Operations.** When a train is operating on a plant railway system, the safety rules shall apply as outlined by the Association of American Railroads governing train, engine and transportation of employees.

~~(7-1-97)~~( )

## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.13 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING -- LOG DUMPS, LANDING, LOG HANDLING EQUIPMENT, LOADING AND UNLOADING BOOMS, LOG PONDS, RAFTING, TOWING, STIFF BOOMS, BOOM STICKS AND FOOT LOGS, POND BOATS AND TOW BOATS AND TRAILER LOADING HOISTS**

**DOCKET NO. 07-0813-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to update and clarify the rules concerning the Idaho minimum safety standards and practice for logging related to log dumps, landing, log handling equipment, loading and unloading booms, log ponds, rafting, towing, stiff booms, boom sticks and foot logs, pond boats and tow boats and trailer loading hoists.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 193-199](#).

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-8986  
Fax: (877) 810-2840

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
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**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Several of the provisions required minor editorial revisions to ensure clarity. Through the negotiated rulemaking process, the logging industry expressed support for the proposed amendments set forth in the rulemaking.

This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the Division related to logging safety matters. The rulemaking also makes minor editorial revisions to several citations and other rule provisions related to log handling.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0813-1601**

**000. LEGAL AUTHORITY.**

Pursuant to the provisions of Section 67-2601A, Idaho Code, the Division of Building Safety has the authority to promulgate and adopt ~~reasonable~~ rules for affecting the purposes ~~of the Workers' Compensation Act~~ ~~therein.~~ ~~(7-1-97)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

~~There are no provisions for administrative appeal of these rules.~~ The procedure for appeals in logging safety matters is prescribed by IDAPA 07.08.16, "Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program," and Title 67, Chapter 52, Idaho Code. (7-1-97)( )

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. ( )

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Division of Building Safety, Logging Safety Program, is at the Division office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Logging Safety Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and at 2055 Garrett Way, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810-2840. The Department website is <http://dbs.idaho.gov>. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**007. -- 008. (RESERVED)**

**009. DEFINITIONS.**

For definitions refer to IDAPA 07.08.01, "Idaho Minimum Safety Standards and Practices for Logging -- General Provisions," Section 007, and IDAPA 07.08.15, "Idaho Minimum Safety Standards and Practices for Logging – Commonly Used Logging Terms." (7-1-97)( )

**010. SPECIFIC REQUIREMENTS.**

**01. Log Dumps, Landings, Log Handling Equipment, Loading, and Unloading. (7-1-97)**

a. Only authorized persons shall operate log handling equipment. Machine operators shall be capable and experienced personnel. No persons other than the operator may be in the operator's compartment while machine<sup>ary</sup> is operating, except for purposes of operating instructions. Unnecessary talking to the operator of log handling equipment while the machine is in operation is prohibited. (7-1-97)( )

b. Machine operators shall make necessary inspection of machines each day before starting work. All repairs or adjustments shall be made before any strain or load is placed upon the equipment. (7-1-97)

c. Substantial barriers or bulkheads ~~to~~ protecting the operator shall be provided for all log handling machines where the design, location, or use of such machines exposes the operator to material or loads being handled. Such barriers or bulkheads shall be of adequate area and capable of withstanding impact of materials handled. (7-1-97)( )

d. A safe and adequate means of access to, and egress from, the operator's station shall be provided. Necessary ladders, steps, step plates, foot plates, running boards, walkways, grab irons, handrails, etc., shall be provided and maintained. (7-1-97)

e. All moving parts shall be guarded in an approved manner to afford complete protection to the operator and other workers. (7-1-97)

f. Throttles and all power controls shall be maintained in good operating condition. (7-1-97)

- g.** Landings shall be prepared and arranged to provide maximum safety for all employees and shall provide ample space for the safe movement of equipment and storage and handling of logs. (7-1-97)
- h.** Adequate means shall be used to prevent logs from rolling into the road or against trucks. Workers shall be sure that logs are securely landed before approaching them. While unhooking chokers, workers shall choose the safest approach. This is usually from the upper side of the log. (7-1-97)
- i.** Logs shall not be landed at loading areas until all workers, tractors, trucks, or equipment are in the clear. All persons shall stay in the clear of running lines, moving rigging, and loads until rigging or loads have stopped. (7-1-97)
- j.** The loading machine shall be set so that the operator shall have an unobstructed view of the loading area, or a signalman shall be properly placed and his signal shall be followed. Signaling the operator shall be done by standard hand signals, whistles, or other positive means of communication. (7-1-97)
- k.** Machines, sleds, or bases shall be of sufficient strength to safely withstand moving, and machines shall be securely anchored to their bases. (7-1-97)
- l.** Mufflers shall be installed on all internal combustion engines of log handling equipment and located or guarded in such a manner as to prevent accidental contact with the muffler or exhaust pipes and afford protection from fumes. (7-1-97)
- m.** Brakes shall be installed on all machine drums and maintained in effective working condition. (7-1-97)
- n.** Brake levers shall be provided with a ratchet or other equally effective means for securely holding the drum. (7-1-97)
- o.** Brake bands shall have a safety factor of five (5) times the stress to be imposed and they shall be of a design which will render them impervious to exposure. Operators shall test brakes before lifting any load at the start of each shift. (7-1-97)( )
- p.** In no case shall stresses in excess of the manufacturer's recommendation be permitted. Equipment not carrying a manufacturer's recommendation shall not exceed stresses of more than one half of the yield strength of the material used. Conversion of ~~C~~cranes, ~~S~~shovels, etc., into yarders shall be in conformity with these rules. Necessary guylines ~~and~~ or outriggers shall be provided and used to effectively prevent mast, A-frames, etc., from tipping or overturning. (7-1-97)( )
- q.** The manufacturer's recommendations for line sizes, if in compliance with ~~this Code~~ these rules, shall be followed and such line sizes shall not exceed the rated capacity of the machine using it. (7-1-97)( )
- r.** Fork lifts or arms, tongs, clams or grapples shall be lowered to their lowest position and all equipment brakes set before the operator leaves the machine. (7-1-97)
- s.** Log unloaders shall not be moved about the premises for distances greater than absolutely necessary with the lift extended or with the loads higher than necessary for clear vision. (7-1-97)
- t.** All log handling machines which have lift arms that create a shear point with the driver's cab or position shall be provided sheer guards that will eliminate the operator's exposure to such hazard. Grapple arms or other positive means of keeping logs on the forks shall be required on fork lift-type loading machines. (7-1-97)( )
- u.** All workers shall be in the clear and in view of the machine operator before a lift is made. (7-1-97)
- v.** All mobile log handling machines shall be equipped with rearview mirrors, a horn or other audible warning device, and lights front and rear so as to illuminate the entire length of the load being lifted or carried. An automatic warning device that will activate when the vehicle is moved is preferable in areas where other workers are

employed. (7-1-97)

**w.** Logs or loads shall not be swung over occupied equipment or workers and no ~~one~~ **person** shall ride the load or rigging. (7-1-97)( )

**x.** While logs are being loaded, no ~~one~~ **person** shall remain on the chain deck or behind the truck cab protector where they could be pinned between the end of a log and cab, tank, or cab protector. Cab protectors shall be cleaned of all loose gear before trucks are moved from the landing. (7-1-97)( )

**y.** An unimpaired clearance of not less than three (3) feet shall be maintained from swinging or moving parts of machines, where such swinging or moving parts create a hazard to personnel. If this clearance cannot be maintained, suitable barricades or safeguards shall be installed to isolate the hazardous area. (7-1-97)

**z.** A-frames, towers, masts, etc., shall be designed and constructed to provide adequate structural strength and height for positive control of materials or loads lifted. When in use, they shall be guyed or braced to provide stability and prevent tipping. Their bases shall be secured against possible displacement. (7-1-97)

**aa.** When moving machines on sleds, etc., stumps shall be used, when available, in preference to trees. These stumps shall be carefully examined to make sure that they will safely withstand the strains imposed by moving. If there is any doubt, the stumps shall be tied back. Insecure trees used for holds shall be guyed. Workers shall stand in the clear while pulls are being made. When holds are being changed, the machine shall be secured with a separate line if there is danger of the machine sliding. When snubbing machines down steep grades, the main line shall be used for snubbing and the haul back for pulls. Only the operator and those required to assist him shall ride on the machine while it is being moved.

NOTE: All lines, blocks, etc., and their use shall be in conformity with the applicable provisions of the "Rigging, Lines, Blocks, and Shackles" (IDAPA 07.08.09) of this Standard. (7-1-97)

**bb.** All log handling equipment shall be equipped with brakes capable of holding and controlling the vehicle with capacity load. (7-1-97)

**cc.** A limit stop which will prevent the lift arms from over-traveling shall be installed on all electric powered log unloaders. (7-1-97)

**dd.** Gas powered vehicles shall not be refueled while motor is running nor in the vicinity of smoking or open flames. (7-1-97)

**ee.** All log handling equipment shall be ~~provided~~ **equipped** with approved fire extinguisher of at least five (5) B.C. rating easily accessible to operator. (7-1-97)( )

**ff.** Methods of unloading logs shall be properly arranged and used in a manner to provide protection to all employees. (7-1-97)

**gg.** A substantial log dump shall be constructed at each log pond or mill dumping ground. The road bed shall be of hard packed stone, heavy planking or equivalent material. (7-1-97)

**hh.** Where logs are dumped directly into water from truck or rail car, a substantial brow log eighteen (18) inches or more in diameter shall be provided and securely anchored. (7-1-97)

**ii.** After cars or trucks are spotted at such dump or landing, no person will be permitted to pass between a brow log and a truck or rail car. (7-1-97)( )

**jj.** The use of plain end hooks without a bell is prohibited. Loading hooks shall be kept in good repair at all times. They shall be equipped with at least one half (1/2) inch diameter hand ropes in good condition and of sufficient length for workers to be in the clear. When carrying tongs, they shall not be rested on both shoulders with points around the neck. (7-1-97)

**kk.** Where there is danger of tongs or hooks pulling out of the logs, straps shall be used. (7-1-97)



ll. All equipment should be so positioned, equipped, or protected so that no part shall be capable of coming within ten (10) feet of any power line. ~~(7-1-97)~~( )

mm. Bunk logs shall extend not less than twelve (12) inches beyond the bunks, with the exception of non-oscillating bunks. ~~(7-1-97)~~( )

nn. The method of loading shall be such that the logs in any tier or layer unsecured by stakes or cheese blocks shall have their centers inside of the centers of the outer logs of the next lower tier or layer so that the load is stable without the aid of binders. Logs shall be well saddled without crowding so that there will be no excessive strain on the binders, bunk chains, or stakes. No more than one half (1/2) of any log shall extend above the stakes unless properly and securely saddled. (7-1-97)

oo. Binders shall be so placed that they will not be fouled by the unloading machine and that they may be released from the side on which the unloader operates. Proper protection shall be provided for workers while removing wrappers. (7-1-97)

pp. Whenever loads consist of logs to be dumped at different landings, lots shall be separated with gut wrappers. Wrappers shall be used for the entire load, as required for single unit loads. Not more than two (2) lots shall be loaded on a single vehicle. (7-1-97)

qq. Truck drivers shall be in the clear and in view of the log unloader operator before forks are moved into the load or against it, before a lift is made. All persons are prohibited from standing under, or near, the ends of logs being lifted or moved. (7-1-97)

rr. Loads or logs shall not be moved or shifted while binders are being applied or adjusted.  
NOTE: For logs in transit see "Log Truck Transportation" (IDAPA 07.08.12, Section 010). (7-1-97)

ss. The unloading machine or lines shall be so positioned to securely hold the logs to keep them from rolling off on the side from which the wrappers, bunk blocks, or stake trips are being released, and they shall not be released until the machine is so placed. Signs to this effect shall be prominently posted at each landing or dump. An extra wrapper shall be placed to hold the logs if it becomes necessary to move a wrapper to prevent it from being fouled by the unloading machine. Stake finger trips shall be released by using rip chains. The use of hammers, peaveys, etc., is strictly prohibited. (7-1-97)

tt. All log dumps, trailer loading areas, and landings shall be kept reasonably free from bark and other debris. (7-1-97)

uu. Artificial log ponds, subject to stagnation, shall be drained and refilled at such intervals necessary to keep them in a sanitary condition. (7-1-97)

vv. Logs in storage decks shall be so arranged as to prevent logs from rolling off the face of the deck. (7-1-97)

ww. All log load wrappers shall be arranged so that they must be released in view of the unloader operator or signal person. When binders are released by remote control devices and when the person releasing the binders is in a safe location, and when in view of the unloading operators, or signal person, the binders may be released from either side. After the unloading machine is in position to hold the load, the binders shall be removed and the person removing them shall be in a safe location in view of the operator. The operator will be given a signal by the person releasing the binders before the machine or load is moved. (7-1-97)

**02. Log Ponds.** (7-1-97)

a. Pond walks shall be kept in good repair and free of protruding nails and obstructions. (7-1-97)

b. Persons working on logs or around booms in water shall wear sharp caked shoes. When conditions such as snow and ice render calks ineffective, other types of shoes with "safety soles" may be worn. (7-1-97)



c. Approved buoyant life vests or life jackets shall be worn and fastened by the persons working on water. (7-1-97)

d. Pike poles shall be of metal, fiberglass, or continuous, straight-grained No. 1 wood material. Metal or conductive pike poles shall not be used around exposed electrical conductors. Defective poles, blunt or dull pikes shall not be used. They shall be restricted to the use for which they are intended. (7-1-97)

e. Sufficient walkways and floats shall be proved and securely anchored to insure the safe passage ~~of~~ <sup>of</sup> workers. (7-1-97) ( )

f. Decks of floats or other walkways shall be kept reasonably level and above the waterline at all times and shall be capable of supporting four (4) feet from log haul. (7-1-97)

g. Pond walkways shall be at least four (4) feet or more in width for a distance of at least forty (40) feet from log haul. (7-1-97)

h. Gaps between end of boom sticks or walkways shall not be over twenty four (24) inches. (7-1-97)

**03. Booms-Rafting-Towing.** (7-1-97)

a. Life ~~R~~ <sup>R</sup>ings with a minimum of fifty (50) feet of approved line attached shall be provided at convenient points where water is more than five (5) feet in depth. Life rings shall be maintained so as to retain their positive buoyancy. (7-1-97) ( )

b. Workmen, whose duties require them to work from boats or from floating logs, boom sticks, or walkways along or on water, shall be provided with and shall wear approved, positive, buoyant equipment while performing such duties. (7-1-97)

**04. Stiff Booms.** (7-1-97)

a. All stiff booms shall be made of not less than two (2) boom sticks. Width of stiff booms shall be not less than thirty-six (36) inches from outside to outside float logs. Float logs shall be fastened together with not less than four by six inch (4" x 6") cross ties, or equivalent, or cable lashings notched into float logs. All stiff booms and floating walkways shall be decked with not less than two by six inch (2" x 6") planking and kept free of snow and other debris. (7-1-97)

b. All sorting gaps shall have a substantial stiff boom on either side of gap. Stiff booms or walkways shall be planked over with not less than two by six inch (2" x 6") or wider planks and shall be kept free of tripping hazards. (7-1-97)

**05. Boom Sticks and Foot Logs.** (7-1-97)

a. All regular boom sticks and foot logs shall be made of sound straight timber and shall be free of protruding knots and bark, and shall be of a size to support two (2) workers above the water line. (7-1-97)

b. Boom sticks which have been condemned shall be marked with three (3) chopped crosses ten (10) feet from the butt end and shall not be reused as boom sticks. (7-1-97)

c. Gaps between ends of boom sticks shall not be over twenty four (24) inches. All wire shall be removed from boom sticks or boom chains before they are reused or stored. (7-1-97)

d. When power driven machinery is used on booms or sorting jacks, it shall be placed on raft or float with enough buoyancy to keep machine well above waterline. If electric power is used it shall be grounded in an approved manner. Electric powered hand tools shall not be used unless the tool has a positive ground. (7-1-97)

e. When dog lines become hazardous, they shall be discarded. (7-1-97)

f. Booms, ponds, sorting jacks or walkways, shall be provided with sufficient illumination for all employees to have clear vision at all points where work is being carried on. (7-1-97)

**06. Pond Boats and Tow Boats. (7-1-97)**

a. All persons whose duties require them to work from boats, floating logs, boom sticks, or floating walkways shall wear sharp calked shoes. When conditions render calks ineffective, other approved foot gear may be worn. (7-1-97)

b. All metal decks of pond boats or tow boats shall be covered with a material that will prevent slippage of calks. (7-1-97)

c. All boats used by workmen shall be provided with at least one (1) life ring with fifty (50) feet of approved line attached. (7-1-97)

d. All power boats shall be provided with one (1) or more approved fire extinguishers of five (5) B-C rating or more for each fifteen (15) feet in length. (7-1-97)

e. Power boats shall not be re-fueled while the motor is running. (7-1-97)

f. All powered boats shall be vented in accordance with U.S. Coast Guard Regulations. (7-1-97)

g. All powered boats shall conform to operating requirements of the U.S. Coast Guard where applicable. (7-1-97)

**07. Trailer Loading Hoist/Sawmill Log Dump. (7-1-97)**

a. The hoist shall be designed and constructed in accordance with the National Electrical Code, so as to provide safe loading or unloading of the trailer. (7-1-97)

b. The hoist shall be equipped with a limiting device to maintain safe take-up limits of line on the hoisting drum. (7-1-97)

c. Regular service and inspection of the hoist and hoisting equipment shall be made to assure reliable serviceability of the facility. (7-1-97)

**011. -- 999. (RESERVED)**

## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.14 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - HELICOPTER LOGGING**

**DOCKET NO. 07-0814-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to update and clarify the rules concerning the Idaho minimum safety standards and practice for logging related to helicopter logging.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 200-203](#).

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-8986  
Fax: (877) 810-2840

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
--

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Several of the provisions required minor editorial revisions to ensure clarity. Through the negotiated rulemaking process, the logging industry expressed support for the proposed amendments set forth in the rulemaking.

This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the Division related to logging safety matters. This rulemaking also makes minor editorial revisions to several of the requirements related to helicopter logging operations.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0814-1601**

**000. LEGAL AUTHORITY.**

Pursuant to the provisions of Section 67-2601A, Idaho Code, the Division of Building Safety has the authority to promulgate and adopt ~~reasonable~~ rules for affecting the purposes ~~of the Workers' Compensation Act~~ therein.  
(7-1-97)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

~~There are no provisions for administrative appeal of these rules.~~ The procedure for appeals in logging safety matters is prescribed by IDAPA 07.08.16, "Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program," and Title 67, Chapter 52, Idaho Code. (7-1-97)( )

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. ( )

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Division of Building Safety, Logging Safety Program, is at the Division office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Logging Safety Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and at 2055 Garrett Way, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810-2840. The Department website is <http://dbs.idaho.gov>. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**0047. -- 008. (RESERVED)**

**009. DEFINITIONS.**

For definitions refer to IDAPA 07.08.01, "Idaho Minimum Safety Standards and Practices for Logging -- General Provisions," Section 007, and IDAPA 07.08.15, "Idaho Minimum Safety Standards and Practices for Logging -- Commonly Used Logging Terms." (7-1-97)( )

**010. GENERAL REQUIREMENTS.**

Safety requirements are as follows: (7-1-97)

**01. Briefings.** Prior to each day's operation, a briefing shall be conducted. This briefing shall set forth the daily plan of operation for the pilot and ground personnel. (7-1-97)

**02. Personal Protective Equipment.** Personal protective equipment for employees receiving the load shall ~~consist of~~, as a minimum, consist of complete eye protection and hard hats secured by chinstraps. (7-1-97)( )

**03. Loose-Fitting Clothing.** Loose-fitting clothing likely to flap in the downwash, and perhaps be snagged on the hoist line, shall not be worn. (7-1-97)

**04. Reduced Visibility.** When visibility is reduced by dust or other conditions, ground personnel shall keep clear of main and stabilizing rotors. (7-1-97)

**05. Unauthorized Personnel.** No unauthorized person shall be allowed to approach within fifty (50) feet of the helicopter when the rotor blades are turning. (7-1-97)

**06. Approaching or Leaving Helicopter.** All employees approaching or leaving a helicopter with blades rotating shall remain in full view of the pilot and remain in a crouched position. (7-1-97)

**07. Areas to Avoid in Helicopter.** Employees shall avoid the area from the cockpit or cabin rearward unless authorized to be there by the helicopter operator ~~to be there~~. (7-1-97)( )

**08. Approach and Departure Zones.** Helicopter approach and departure zones shall be designated and no equipment or personnel will occupy these areas during helicopter arrival or departure. (7-1-97)

**09. External Loads.** Helicopters with an external load shall not pass over areas where fallers are

working. (7-1-97)

**10. Open Fires.** Open fires shall not be permitted in an area that could result in such fires being spread by rotor downwash. (7-1-97)

**11. Compliance with FAA Regulations.** Helicopter ~~operations~~ shall ~~be expected to~~ comply with any applicable regulation of the Federal Aviation Administration. (7-1-97)( )

**12. Protective Precautions.** Every practical precaution shall be taken to provide for the protection of employees from flying objects in the rotor downwash. (7-1-97)

**011. SPECIFIC REQUIREMENTS.**

**01. Signal Systems.** (7-1-97)

**a.** Signal systems between air crew and ground personnel shall be understood and checked before hoisting the load. This applies to either radio or hand signal systems. (7-1-97)

**b.** There shall be constant reliable communication between the pilot and a designated signalman during the period of loading and unloading. (7-1-97)

**c.** The helicopter shall be equipped with a siren to warn workers of hazardous situations. (7-1-97)

**02. Loading Logs.** (7-1-97)

**a.** It shall be the responsibility of the firm, supervisor, or person who is in charge of the actual loading operation to comply with the ~~Section in~~ provisions of these rules applicable to log loading. (7-1-97)( )

**b.** The helicopter operator shall be responsible for the size, weight and manner in which loads are attached to the helicopter. If, for any reason, the helicopter operator believes the lift cannot be made safely, the lift shall not be made. (7-1-97)

**c.** When employees are required to perform work under hovering aircraft, a safe means of access shall be provided for employees to reach the hoist line hook and engage or disengage cargo slings. (7-1-97)

**d.** Employees shall not work under hovering aircraft except while hooking or unhooking loads. (7-1-97)

**e.** The weight of an external load shall not exceed the manufacturer's rating. (7-1-97)

**f.** The hook-up crew shall not work on slopes below felled and bucked timber when an unsafe situation exists. Culls left, ~~that~~ which have a potential of rolling, should be moved to a safe position. (7-1-97)( )

**03. Loading and Landing Areas.** (7-1-97)

**a.** The minimum dimensions of a drop zone shall be determined by the length of the logs being hauled. All zones shall be at least one and one-half (1 1/2) times as long, and as wide as the length of the average log being harvested. (7-1-97)

**b.** Landing or loading machinery shall be a reasonable distance away from where logs are to be landed. (7-1-97)

**c.** Landing crew shall be in the clear before logs are landed. (7-1-97)

**d.** The approach to the landing shall be clear and long enough to prevent tree tops from being pulled onto the landing. (7-1-97)

- e. Separate areas shall be designated for landing logs and fueling helicopters. (7-1-97)
- f. Sufficient ground personnel shall be provided for safe helicopter loading and unloading operations. (7-1-97)
- g. A clear area shall be maintained in all helicopter loading and unloading areas. (7-1-97)
- h. Emergency landing areas for injured workers shall be located within a reasonable distance from all working areas. (7-1-97)
- 04. Hooks and Chokers.** (7-1-97)
  - a. The electrical activating device of all electrically operated cargo hooks shall be designed and installed to prevent inadvertent operation. In addition, these cargo hooks shall be equipped with an emergency mechanical control for releasing the load. (7-1-97)
  - b. Logs will be laid on the ground and the helicopter completely free of the chokers before workers approach the logs. (7-1-97)
  - c. One (1) end of all the logs in the turn shall be touching the ground and at an angle no greater than forty-five ~~(45)~~ degrees ~~(45°)~~ before the chokers are released. ~~(7-1-97)~~( )
  - d. If the load must be lightened, the hook shall be placed on the ground on the uphill side of the turn before the hooker approaches to release the excess logs. (7-1-97)
- 012. -- 999. (RESERVED)**

## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.15 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING -- COMMONLY USED LOGGING TERMS**

**DOCKET NO. 07-0815-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to update and clarify the rules concerning the Idaho minimum safety standards and practice for logging related to commonly used logging terms.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 204-209](#).

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
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 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.



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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Several of the commonly used logging terms required minor editorial revisions to ensure clarity. Through the negotiated rulemaking process, the logging industry expressed support for the proposed amendments set forth in the rulemaking.

This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the Division related to logging safety matters. The rulemaking also makes minor editorial revisions to several commonly used logging terms.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0815-1601**

**000. LEGAL AUTHORITY.**

Pursuant to the provisions of Section 67-2601A, Idaho Code, the Division of Building Safety has the authority to promulgate and adopt ~~reasonable~~ rules for affecting the purposes ~~of the Workers' Compensation Act~~ therein.  
(7-1-97)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

~~There are no provisions for administrative appeal of these rules.~~ The procedure for appeals in logging safety matters is prescribed by IDAPA 07.08.16, “Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program,” and Title 67, Chapter 52, Idaho Code. (7-1-97)( )

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. ( )

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Division of Building Safety, Logging Safety Program, is at the Division office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Logging Safety Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d’Alene, Idaho 83814, and at 2055 Garrett Way, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810-2840. The Department website is <http://dbs.idaho.gov>. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

~~0047.~~ -- **008. (RESERVED)**

**009. ADDITIONAL DEFINITIONS.**

For definitions refer to IDAPA 07.08.01, “Idaho Minimum Safety Standards and Practices for Logging -- General Provisions,” Section 007. (7-1-97)( )

**010. DEFINITIONS.**

**01. A-Frame.** A structure made of the independent columns (of wood or steel) fastened together at the top and separated a reasonable width at the bottom to stabilize the unit from tipping sideways. (7-1-97)

**02. Arch.** A piece of equipment attached to the rear of a vehicle, used for raising one end of logs to facilitate skidding. (7-1-97)( )

**03. Back Cut.** The final falling cut. (7-1-97)

**04. Barber Chair.** Slab portion of tree remaining on the stump above the back cut due to improper falling. (7-1-97)

**05. Bell or Cup Hook With Spike.** A hook consisting of a cylindrical cup from whose center there projects a spike. (7-1-97)

**06. Bight.** The loop of a line, the ends being “gast” elsewhere, or the angle formed by a line running through a block. (7-1-97)

**07. Binder.** Chain, cable, or steel strap used for binding loads of logs. (7-1-97)

**08. Blasting Cap.** A metal shell containing a detonating compound. (7-1-97)

**09. Brailing.** One (1) section of flat log raft enclosed by boom sticks. To place logs end to end in a long flat raft or boom. (7-1-97)

**10. Brow Log.** A log placed parallel to any roadway at a landing or dump to protect vehicles while loading or unloading. (7-1-97)

**11. Bullbuck.** The supervisor over cutting crew. (7-1-97)

12. **Buckle Guy Line.** Line used to stiffen or support a tree, pole, or structure between the top guys and the base. (7-1-97)
13. **Bunk.** The cross support for logs on a logging car or truck. (7-1-97)
14. **Butt Hook.** Hook at the end of a haul-in line for attaching chokers to line. ~~(7-1-97)~~( )
15. **Butt Rigging.** Arrangement at the end of main line for attaching chokers. ~~(7-1-97)~~( )
16. **Capped Fuse.** A piece of fuse to which a blasting cap has been crimped. (7-1-97)
17. **Carriage Logging.** A type of high lead logging using gravity, haul back, or remote control carriages to yard logs. (Bullet carriage is one type). (7-1-97)
18. **Cat Road.** A tractor road. (7-1-97)
19. **Chaser.** The member of the yarding crew who unhooks the logs at the landing or fights hang-ups on skid road. (7-1-97)
20. **Chipper.** A machine which cuts materials into chips. (7-1-97)
21. **Chock (Bunk Block-Cheese Block).** A wedge that prevents logs from rolling off the bunks. (7-1-97)
22. **Cheater.** An ~~E~~extension to bunk stakes. ~~(7-1-97)~~( )
23. **Choker.** A wire rope with special attachments put around the log near the end for hauling or lifting. ~~(7-1-97)~~( )
24. **Cold Deck.** Any pile of logs which is yarded and left for future removal. (7-1-97)
25. **Cold Shut.** A link for joining two (2) chains, the link being closed cold with a hammer, not a weld. (7-1-97)
26. **Connecting Wires.** ~~Means~~ Those wires that connect the leg wire of one (1) electric blasting cap or with the leading wires, when blasting in series. ~~(7-1-97)~~( )
27. **Crotch Line.** Two (2) short lines attached to a hoisting line by means of a ring or shackle, the lower ends being attached to loading hooks and used for loading or unloading. ~~(7-1-97)~~( )
28. **Cutter.** A term used to designate faller or buckler. (7-1-97)
29. **D or Strap Socket.** A socket with a closed loop and arranged to be attached to the end of a line. It is used in place of a spliced eye. (7-1-97)
30. **Dead Man.** A ~~B~~uried log or other object used as an anchor. ~~(7-1-97)~~( )
31. **Detonator.** ~~Means~~ A blasting cap, electric blasting cap, or delay electric blasting cap. ~~(7-1-97)~~( )
32. **Dog Line.** Any line used to tie logs together. (7-1-97)
33. **Donkey- (Short for "Donkey Engine")** ~~—~~ Power equipment equipped with drum and cable for moving or transporting logs as in loading or yarding. ~~(7-1-97)~~( )
34. **Drag-Turn.** Any log or group of logs attached by some means ~~to~~ of power and moved from a point

of rest.

(7-1-97)( )

35. **Explosive.** Any chemical compound or mechanical mixture ~~that is~~ commonly used that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that an ignition by fire, friction concussion, percussion, or detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or destroying life or limb. (7-1-97)( )

36. **Fair Lead.** A combination of a pair of sheaves or roller set transversely or vertically in a unit in front of another pair of sheaves to guide a line coming from any direction and leading it properly to a drum. (7-1-97)

37. **Gin Pole.** A raised pole properly guyed and used to support lines and blocks. (7-1-97)

38. **Grapple.** A device attached to a hoisting line for mechanically handling logs. (7-1-97)( )

39. **Gut Wrapper.** An intermediate binder for an individual tier of logs. (7-1-97)( )

40. **Guy Lines.** The lines used to stay or support spar trees, booms, etc. (7-1-97)

41. **Haul Back.** A small wire line traveling between the power skidder and a pulley set near the logs. Used to return the main cable with tongs, chokers, or hooks to the next log. (7-1-97)

42. **Heel Block.** The block heel of boom. (7-1-97)

43. **Heel Boom.** A type of loading boom where one end of the log is pulled up against the boom. (7-1-97)

44. **Hook Tender, Hooker.** The worker who supervises the method of moving the logs from the woods to the place of loading. (7-1-97)

45. **Hazard.** Any condition or circumstance which may cause an accident or injury. (7-1-97)

46. **Jaggers.** Any projecting broken strand of cable. (7-1-97)

47. **Jammer.** A machine used for handling logs. (7-1-97)

48. **Jill Poke.** A projecting object out of its normal position. (7-1-97)

49. **Knob.** A metal ferrule arranged to be attached to the end of a line, used in place of a spliced eye. (7-1-97)

50. **Landing, Rollway.** Any place where logs are placed, after being yarded, awaiting loading or unloading. (7-1-97)

51. **Lang Lay Rope.** A wire rope, in which the wires in the strands of the rope are laid in the same direction. (7-1-97)

52. **Leading Wires.** Those wires between the "connecting wires" or "leg wires" and a portable generating devise or an approved type blasting battery in series blasting. (7-1-97)

53. **Leaners.** A live or dead leaning tree. (7-1-97)

54. **Loading Boom.** Any structure projecting from a pivot point to guide a log when lifted. (7-1-97)

55. **Log Stacker.** A machine with lift forks used to handle logs. (7-1-97)

56. **Magazine.** Any building or other structure used exclusively for the storage of explosives. (7-1-97)

57. **Operation (Show Woods Layout).** Any place where logging is being done. (7-1-97)
58. **Mainline.** A cable which pulls logs or trees to loading. (7-1-97)
59. **Pan (Skidding Pan).** A solid piece of metal placed behind a tractor on which one ~~(+)~~ end of logs rest. ~~(7-1-97)~~ ( )
60. **Peeling Bar or Spud.** A tool for removing bark from trees or logs. (7-1-97)
61. **Pike, Pole.** A long pole whose end is shod with a sharp pointed steel spike, point, ~~and~~ or hook. ~~(7-1-97)~~ ( )
62. **Portable Spar or Tower.** An engineered structure designed to be used in a manner similar to which a wooden spar tree would be used. (7-1-97)
63. **Powder.** Any explosive other than the detonating agent. (7-1-97)
64. **Primer.** A cartridge of explosive with a detonator inserted there in. (7-1-97)
65. **Reach.** An adjustable beam between a trailer and a motorized logging vehicle. ~~(7-1-97)~~ ( )
66. **Receding Line.** The line on ~~which~~ a skidder or slack-line comparable to the haul back line on a yarder. ~~(7-1-97)~~ ( )
67. **Reload.** Any area where logs are dumped and reloaded. (7-1-97)
68. **Running Line.** Any line which moves. (7-1-97)
69. **Sail Guy.** A guy which holds the outer end of a boom. (7-1-97)
70. **Sail Block.** A block hung inverted on the sail guy to hold the tong block in proper position. (7-1-97)
71. **Schoolmarm.** A crotched tree consisting chiefly of two (2) trunks. (7-1-97)
72. **Skids.** Any group of timbers spaced a short distance apart on which the logs are placed. (7-1-97)
73. **Side, Show, Chance.** That unit of a logging operation, including men and equipment that is sufficient to fall, buck, and load a given area ready for transportation of the logs to the mill. (7-1-97)
74. **Side Winders.** A piece of log, brush, or limb thrown up or sideways during skidding operation ~~or a~~ tree knocked down by another tree in falling. ~~(7-1-97)~~ ( )
75. **Signalman, Whistle Punk.** The authorized worker who transfers signals from a given location to the operator. (7-1-97)
76. **Skidding.** Movement of logs on the ground. (7-1-97)
77. **Skyline.** The supporting line on various types of logging systems on which carriage, block, or bullet travels. (7-1-97)
78. **Slack Line.** A form of skyline where skyline is spooled on drum and can be raised or lowered. (7-1-97)
79. **Slack Puller.** Any device used to increase the movement of a line when its own weight is inadequate. (7-1-97)

80. **Snags.** Any dead standing trees. (7-1-97)
81. **Snubbing.** A method of retarding or controlling the movement of logs or machine by means of looping the line around a stationary object. (7-1-97)
82. **Spring Board.** A board with an iron tip used by fallers to stand on when they must stand above the ground level. (7-1-97)
83. **Strap.** Any short piece of line with an eye or “D” in each end. (7-1-97)
84. **Strawline.** A small line used for miscellaneous purposes. (7-1-97)
85. **Strip.** A definite location of timber allocated to a cutting crew. (7-1-97)
86. **Sweeper.** Unexpected and controlled lateral movement of a log, tree, etc., during skidding operations. ~~(7-1-97)~~ ( )
87. **Swamp.** The falling or clearing of limbs and brush around or along a specific place. (7-1-97)
88. **Tag Line.** A line used to control movement during loading, unloading, or skidding operations. (7-1-97)
89. **Tail Hold.** Any anchor used for making fast any line. (7-1-97)
90. **Tell Tale.** A devise used to serve as a warning for overhead hazards. (7-1-97)
91. **Tight Line.** When power is exerted on both mainline and haul back at the same time. (7-1-97)
92. **Tongs.** A hooking device used to lift or skid logs. (7-1-97)
93. **Transfer.** Changing of a load of logs in a unit from one means of transportation to another. (7-1-97)
94. **Tree Plates.** Steel protectors spiked around a tree to prevent the lines from cutting into the trees. (7-1-97)
95. **Undercut.** A notch cut in the tree to guide and control the tree in falling. (7-1-97)
96. **Windfall.** A tree felled by the wind or other natural causes. (7-1-97)
97. **Widow Maker.** A loose limb, top, or piece of bark which may fall on a logger working beneath it. (7-1-97)
98. **Yarding.** Movement of logs or trees from the place they are felled (bucked) to a central loading or shipping point. (7-1-97)
011. -- 999. (RESERVED)

## **IDAPA 07 – DIVISION OF BUILDING SAFETY**

### **07.08.16 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING -- RECOMMENDED SAFETY PROGRAM**

**DOCKET NO. 07-0816-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-2601A(3), Idaho Code.

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

The pending rule is being adopted in order to update and clarify the rules concerning the Idaho minimum safety standards and practice for logging related to a recommended safety program.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 210-218](#).

**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, at (208) 332-8986.

DATED this 4th day of November, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P.O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-8986  
Fax: (877) 810-2840

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
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**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2601A(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.



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:

During the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the Division of Building Safety. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Many of the provisions contained therein the rules are outdated, no longer applicable, or confusing to the logging industry. Accordingly, many of the amendments contained in the rulemaking are either administrative in nature to clarify rule provisions, provide updated references and citations, or replace outdated or unclear provisions related to common logging practices. Additionally, as authorized in statute, rules are established related to the process for the administrator to issue and enforce safety orders when inspection of logging operations reveals an unsafe condition or threat of serious bodily harm or loss of life. Through the negotiated rulemaking process, the logging industry indicated support for the proposed amendments set forth in the rulemaking.

This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the Division related to logging safety matters. It also provides various amendments to clarify and update provisions related to the scope of the rules, fire and safety policies, and the proper reporting of logging injuries and fatalities to appropriate authorities. Finally, the rulemaking establishes the administrative procedures related to the issuance of safety orders by the administrator, as well as the procedural rights afforded to responsible logging parties who may object to a safety order and seek to contest the matter.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the December 2, 2015 Idaho Administrative Bulletin under Docket No. 07-0800-1501, [Vol. 15-12, pages 34-35](#).

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0816-1601**



**000. LEGAL AUTHORITY.**

Pursuant to the provisions of Section 67-2601A, Idaho Code, the Division of Building Safety has the authority to promulgate and adopt ~~reasonable~~ rules for affecting the purposes ~~of the Workers' Compensation Act~~ therein.  
(7-1-97)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

~~There are no provisions for administrative appeal of these rules.~~ The procedure for appeals in logging safety matters is prescribed by IDAPA 07.08.16, "Idaho Minimum Safety Standards and Practices for Logging -- Recommended Safety Program," and Title 67, Chapter 52, Idaho Code.  
(7-1-97)( )

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. ( )

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

The principal place of business of the Division of Building Safety, Logging Safety Program, is at the Division office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Logging Safety Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and at 2055 Garrett Way, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810-2840. The Department website is <http://dbs.idaho.gov>. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

~~004.~~—007. (RESERVED)

**008. DEFINITIONS.**

For definitions refer to IDAPA 07.08.01, "Idaho Minimum Safety Standards and Practices for Logging -- General Provisions," Section 007, and IDAPA 07.08.15, "Idaho Minimum Safety Standards and Practices for Logging -- Commonly Used Logging Terms."  
(7-1-97)( )

**009. ABBREVIATIONS (RESERVED)**

~~For abbreviations, refer to IDAPA 07.08.01, "Idaho Minimum Safety Standards and Practices for Logging -- General Provisions."~~  
(3-29-10)

**010. INTRODUCTION.**

**01. Scope.** (7-1-97)

a. ~~This Standard is a~~ These rules are part of the accident prevention program of the Sstate of Idaho. This ~~book~~ program is dedicated to the safety and well-being of all workers in Idaho's logging industry. It has been ~~prepared and adopted~~ established according to the processes prescribed by law. ~~We make this book available to all persons concerned with the maintenance of safe working conditions in the logging industry.~~  
(7-1-97)( )

b. ~~This Standard~~ These rules contain~~s~~ the primary safety rules for the logging industry. However, other Idaho Safety Standards promulgated and adopted by the Industrial Commission shall be applicable to this industry where not inconsistent with the provisions herein, or where any particular activity which is being carried on is not specifically covered or regulated herein.  
(7-1-97)( )

**02. Enforcement.** The enforcement of ~~the Standard becomes~~ these rules is the responsibility of the Division of Building Safety. ~~This Standard~~ These rules will not serve ~~its entire~~ their purpose if ~~its~~ their requirements

are considered anything but a minimum for safe operation. So much variation exists in the logging industry that each operation should be judged, not by its compliance to the letter of this Standard, but according to a higher standard -- that of absolute safety under all conditions. (7-1-97)( )

**03. Accident Prevention.** Accident prevention is often a problem of organization and education. It does not ~~rest upon involved theory or~~ succeed solely on detailed safety codes but consists largely of the desire to institute a common sense safety program and determination to carry out the program effectively. Effective accident prevention embodies the following five (5) principles: management leadership; employee cooperation; effective organization; thorough training; and good supervision. (7-1-97)( )

#### **011. FIRE AND SAFETY POLICY.**

**01. Elements.** The basic elements or management responsibility for fire and safety policy are enumerated in this section. (7-1-97)

**02. Management Leadership.** The declaration establishment of the safety policy should be made clear to all levels of supervision, purchasing, engineering, industrial and construction; and communicated to all employees that top management has approved the operation's safety program. (7-1-97)( )

**03. Planning.** The program should be based on the following: accounting record of safety cost, accident recording system, accident investigation recommendations, operation inspection recommended corrections, employee suggestions, and job analysis to determine the work hazards. The hazard appraisal can be summarized as follows: mechanical and physical hazards; environmental hazards; and work procedure and practices. (7-1-97)

**04. Management Discharge of Duty.** (7-1-97)

**a.** If management is to discharge its duty in proper directing of the fire and safety program, it must organized a definite planned program of continuous supervision and leadership by all facets of the management organization. The very fact that safety must be woven into all operations and activities ~~will~~ should not require extra managerial time beyond the ordinary to operate a business successfully, i.e., if the entire management team will assume their safety responsibility. (7-1-97)( )

**b.** The first problem task of management is to determine the operational hazards. Once these are ascertained and appraised, suitable corrective action can be initiated. If the working unit is operating, the following specific activities should be carried out to find the hazards. These are: job inspection; job analysis; accident investigation (near accident, non-disabling injuries) to determine necessary remedial action to prevent recurrence of the accident. (7-1-97)( )

**05. Hazard Appraisal.** The partial list of terms covered by appraisals are summarized briefly as follows: mechanical and physical hazards; adequacy of mechanical guarding of machines and equipment; preventing the use of inferior manufactured and unsafe supplies, equipment, chain, cables, sheaves, tires, power saws, tractor canopy guards, approved head protection, fire extinguishers, solvents, mill saws, etc.; and physical exhaustion such as may be caused by excessive work hours by truck drivers and mill maintenance employees. (7-1-97)( )

**06. Environmental Hazards Inherent to the Operation.** (7-1-97)

**a.** Personal protection devices (approved head protection, ear plugs, knee pads, proper eye protection, respirators, etc.) (7-1-97)

**b.** Storage and use of flammable liquids and gases (gasoline, diesel, acetone, acetylene, acids, etc.) (7-1-97)

**c.** All employees should be familiar with proper work signals (falling, blasting, high lead signals, loading, mill signals, operation fire signal, etc.) (7-1-97)

**d.** Noise and fatigue hazards that are inherent to the industry (planers, cutoff saws, jack hammers, etc.). (7-1-97)

**07. Work Procedures and Practices. (7-1-97)**

a. Hazards directly related to work practices should be carefully observed and evaluated. (7-1-97)

b. ~~A few of the important w~~ Work practices ~~which that~~ should be investigated ~~are~~ include, but are not necessarily limited to: use, care and maintenance of hand and portable power tools; degree of supervision given the worker; the extent of job training provided; the safety indoctrination and training of new or transferred employees; the proper use of fire extinguishers; the use of personal protective devices (approved head protection, shoes, etc.); and the repair and maintenance of equipment with respect to machines, mechanical handling equipment, log loaders, yarding equipment, tractors, fork lifts, overhead cranes, headrigs, etc.; (7-1-97)( )

**08. Reporting of Injuries. (7-1-97)**

a. The employer shall instruct all employees to report all job injuries ~~before the shift ends~~, to the supervisor at the time injuries occur. The employer shall ~~check~~ specifications for new machines, processes and equipment for compliance with existing safety standards, laws and safety requirements, and shall have such equipment fully inspected before it is placed in use. (7-1-97)( )

b. The employer is responsible for reporting all industrial lost time injuries to the Industrial Commission within forty-eight (48) hours. (3-29-10)

c. The employer is responsible for reporting all in-patient hospitalization, amputation, or the loss of an eye for any employee to the Occupational Safety and Health Administration (OSHA) and the Division of Building Safety Logging Safety Program within twenty-four (24) hours. ( )

**09. Fatalities.** All work fatalities should be immediately reported to the County Sheriff or Coroner, the Division of Building Safety Logging Safety Program, and OSHA in accordance with the Code of Federal Regulations, 29 CFR 1904.39. (3-29-10)( )

**10. Management of Personnel. (3-29-10)**

a. The recruiting and placing of a new worker on the job is a major responsibility of the management organization. Every effort should be made to match the qualifications of the worker with the demands of the job. (3-29-10)

b. The furnishing of first aid services, treatment of injuries, and inspection of working conditions is the employer's responsibility. (3-29-10)

**11. Assignment of Responsibilities. (3-29-10)**

a. Supervisors, purchasing agents, engineering personnel, safety directors, personnel directors, and employees have ~~certain~~ responsibilities ~~to ensure conformance with~~ the organization's fire and safety objectives in every operation. (3-29-10)( )

b. Management must accept the normal obligation for preventing accidents. In many operations it is a practice to delegate the actual administration of the safety program to a person who can devote full-time to it. In ~~the~~ smaller operations, safety administration may be a collateral duty carried on in conjunction with some other duties. The safety ~~administrator or safety man~~ director should function in a staff capacity. Because the safety director operates in a consultant capacity, ultimate responsibility for accident prevention rests with the workers' supervisor, the foreman and line production organization. There is no doubt that the foreman is the key person in every safety program. Safety is not something separate and apart from production. If the job is done right, it is done safely. (3-29-10)( )

c. Safety is an integral and important part of production, just as is quality and quantity, or meeting production schedules. (3-29-10)

d. All these duties are foreman or project superintendent duties, and the most important part of the line production organization. This obligation cannot be delegated. As the person in charge of production, the foreman is responsible for the safety of his people. This fact must be made clear and should be included in the statement of policy. (3-29-10)

**12. Safety Director (Part-Time or Full-Time):** (3-29-10)

a. Makes periodic inspections of the operations and suggests corrective measures to eliminate hazards. (3-29-10)

b. Should assist in investigation of all types of accidents to determine the cause, so as to prevent like accidents in the future. (3-29-10)

c. Aids foremen in developing safe work procedures and practices and assists foremen in training their workers. (3-29-10)

d. Keeps accident records and makes periodic reports to the proper official on the progress being made. Reports and records; report of accidents; accident investigation report; performance report (injury frequency ~~&~~ and severity); accident cost report; safety committee reports; report on degree of corrective action taken on different recommendations. (3-29-10)( )

e. Conducts or initiates safety training courses including first aid and fire fighting, where appropriate, and any other course inherent to the job (truck driver courses, power saw courses, welding, grinder usage, fork lift truck operator, etc.). (3-29-10)

f. Establishes safety committee. (3-29-10)

g. Sees Ensures that recommendations are promptly and properly implemented. (3-29-10)( )

h. Checks specifications for new machines, processes and equipment for compliance with existing safety standards, laws and safety requirements, and shall have such equipment fully inspected before it is placed in use. (3-29-10)

i. He shall assist the safety committee in developing agendas for their meetings. (3-29-10)

**13. Foreman Responsibilities.** ~~No theorem~~ It is ~~more thoroughly proven and~~ widely accepted ~~than:~~ that the foreman is the key man in attaining proper work habits in any operation. It is the obligation of management to give the most careful attention to the selection, education, and training of foremen and train ~~him~~ them in the proper way to train employees in correct and safe work methods to attain the best production in the safest way. (7-1-97)( )

**14. First Aid Training.** It shall be the responsibility of management to arrange to have all employees take a full course in first aid training. It is ~~a must~~ required that supervisory personnel shall take an approved ~~F~~ first ~~Aid~~ course, and have a current ~~F~~ first ~~Aid~~ card. (3-29-10)( )

**15. ~~Accident~~ Injury Record and Reporting System.** (7-1-97)( )

a. If an employer had ten (10) or fewer employees at all times during the last calendar year, it does not need to keep OSHA injury and illness records unless OSHA or the Bureau of Labor Statistics (BLS) informs the employer in writing that it must keep records under OSHA regulations. However, as required by such regulations, all employers covered by the OSH Act must report to OSHA and the Division of Building Safety Logging Safety Program any workplace incident that results in a fatality or the hospitalization, the amputation of a limb, or the loss of an eye for any employee. ( )

~~#b.~~ For those employers subject to the injury and illness recording requirements under OSHA, the employer shall ~~establishment, in the its main Idaho office of the employer, of an~~ accident injury record and reporting system which ~~will definitely tie into nationally uniform~~ is consistent with reporting, record, and statistical

requirements ~~United States American Standard Method of Recording and Measuring Work Injury Experiences (Z 16.1)~~ of the Occupational Safety and Health Administration (OSHA). (7-1-97)( )

b. Injury frequency rates shall be calculated annually ~~on a calendar basis~~ commencing the first of January each year. These rates shall be kept on file in the office of the employer for at least four (4) years after the date of entry thereof, and shall be made available to the Division of Building Safety, upon request. (7-1-97)( )

c. The injury frequency rate shall be the number of lost time injuries to all employees per one million (1,000,000) man hours of exposure. The frequency rate is computed by multiplying the number of lost time injuries by one million (1,000,000) (the standard of measurement) and dividing the product by the total number of man hours worked during the period. The formula is expressed as follows: Frequency equals the number of lost time injuries times one million (1,000,000) total man hours of exposure. (7-1-97)( )

d. A lost time injury shall be the term applied to any injury, arising out of, and in the course of employment which makes it impossible for the injured person to return to an established regular job at the beginning of the next regular shift following the shift during which the injury occurred, or some future shift. (7-1-97)

e. Man hours of exposure shall be the total number of man hours actually worked by all personnel in the industrial unit during the period for which the rate is being computed. (7-1-97)

~~f. Translating the number of injuries in a plant or organization, into frequency rates serves as a standard measure which enables anyone to compare the industrial injury record of the plant with that of other industrial organizations or with national and state frequency rates for the same industry. The standards that shall be used are the United States American Standard Method of Recording and Measuring Work Injury Experiences (Z 16.1).~~ (7-1-97)

**16. Training and Education.** (7-1-97)

**a. Training and education includes:** ( )

ai. Establishment of effective job training methods and safety education. (7-1-97)

bii. First Aid courses, proper work signals and job hazard warnings. (7-1-97)( )

ciii. Pamphlets, bulletin boards, safety meetings, posters, etc. (7-1-97)

~~db.~~ The employer shall establish an adequate job training and safety education program. The relationship of safety to job quality and modern quantity production methods should be clearly understood. Good work production is governed by careful planning and accurate control of all phases of the operation. Accidents are the result of inadequate planning of faulty operation. (7-1-97)

~~ec.~~ Safety must be made an essential and integral part of every operation and integrated into the activity if the most successful quantity production is to be attained. The soundness of this statement has been proven many times by comparing the accident cost with the day by day curve of production. (7-1-97)

~~fd.~~ It is the responsibility of management to train employees in all phases of the work ~~he is~~ they are assigned. The worker training should begin at the time of employment with a careful presentation of the general safety information ~~he~~ the employee must have to work on and in logging and lumbering or wood working operations. When the worker is placed on the job, the worker must be given detailed training on proper work methods for accomplishment of the job. The correct way is the safe way. Telling is not training. (7-1-97)( )

~~ge.~~ People learn to do things primarily through ~~doing~~ action. The employee's job training should be given ~~by using~~ the five (5) step job training method: (7-1-97)( )

i. Tell the employee; (7-1-97)

ii. Show the employee; (7-1-97)

- iii. Have the employee do it; (7-1-97)
- iv. Correct until the employee does it right; ~~and~~ (7-1-97)( )
- v. Supervise to see that the employee keeps doing it right. (7-1-97)

~~4f.~~ Education and promotion are a supplemental means of reducing injuries. This device employs any number of methods to accomplish results. A good program may use but will not overemphasize emotional appeal to the workers using such devices as scholarships, stamps, posters, safety meetings, contests, and awards. It ~~is~~ is management's responsibility to integrate education and training program and balance its effectiveness to employee training. Unsafe acts or unsafe work practices are the result of failure to train workers in safe work procedures. In establishing or operating a safe and quality work program, an appraisal of unsafe work procedures and poor quality of work is called for, and job training methods initiated to correct these practices. (7-1-97)( )

**17. Employer, Employee, and Labor Representative Cooperation. (7-1-97)**

a. The workers have a responsibility to obey the units safety rules, smoking rules, report unsafe conditions, to serve on the different safety committees, perform their work in a safe way, and to help fellow workers by showing them how to do their job safely. (7-1-97)

b. Many safety programs fail because the worker has not been made to feel that it is their program; ~~or~~ that they can contribute as well as benefit from the program. It ~~often failed~~ often fails because it lacks employee participation and interest. The fact that employees are given the opportunity to participate and to contribute to the program not only opens a reservoir of valuable information on practical experience in accident prevention, it also gives the employee a feeling of being a part of the organization. (7-1-97)( )

c. The committee on safety should be made up of personnel selected from management and workers. Management members are supervisors and worker members may be selected by the union or by the employees. (7-1-97)

d. The labor unions should help develop a safe behavior among the workers. (7-1-97)

**18. Maintenance of Safe Working Conditions. (7-1-97)**

a. The employer shall provide a safe and healthy work area in which to work, including purchasing of safe equipment and tools and provide proper maintenance of such equipment. (7-1-97)( )

b. Since a safe and healthy ~~fully~~ place to work is the very foundation of the safety program, the mechanical, physical, and environmental conditions ~~will~~ should be given first consideration. (7-1-97)( )

c. For almost every accident there are typically two (2) contributing causes - an unsafe condition and an unsafe act. A safe and healthy ~~fully~~ place to work will diminish or eliminate the first cause, the unsafe condition; but unless the unsafe act is corrected, accidents will continue to occur. Unsafe acts may stem from a number of factors, such as improper selection of the worker for the job, lack of job training, physical or mental limitations or inadequate supervision. When a safety program is first established or a new project with a new crew is started, this may necessitate a thorough periodic survey of the entire operation to determine hazards. (7-1-97)( )

**19. Remedial Measures of Corrective Action. (7-1-97)**

a. The employees shall support and correct the findings of job analysis, inspections, accident investigations, employee suggestions, etc. (7-1-97)

b. The assumption of responsibility for fire and accident prevention by management carries with it the continuing responsibility to assess the progress being made on the program, and where progress is unsatisfactory to take ~~what necessary~~ are necessary steps to bring about improvement. Inspection alone is primarily a means of finding and eliminating fire and physical hazards, particularly in connection with enforcement. All educational and



promotional activities should be integrated with inspection activities, and should be based on the specific needs of the establishment or operation. Inspection and educational and promotional programs are sometimes looked upon as entirely unrelated activities rather than a single integrated program. (7-1-97)( )

c. None of the foregoing activities are of value unless followed by effective corrective action. The responsible executive ~~of~~ within top management must establish specific procedures to effect proper and complete corrective action in each area for problems that occur. In well-managed ~~establishments~~ organizations the areas of responsibility are clearly defined. The activities are well coordinated, supervision is ~~good~~ adequate and proactive, employees' safety behavior is excellent, and policies are well-defined to permit smooth organization. This is not difficult; the corrective measures are applied as part of the day ~~by~~ to day operating procedure. (7-1-97)( )

**20. Safety Order By the Administrator.** In accordance with the provisions of section 67-2601A (3), Idaho Code, the administrator may issue a safety order requiring an owner, operator or other party responsible for ensuring safe logging operations to immediately stop work or close any work site, or portion thereof where an inspection has revealed evidence of a condition that poses an immediate threat of bodily harm or loss of life to any person. The process governing the issuance of a safety order is contained herein this section. ( )

a. Upon receiving information evidencing an unsafe condition or unsafe practices at any logging workplace or place of employment, the administrator shall inspect or cause to be inspected such place of employment unless such information was obtained by previous inspection of the Division. If upon such inspection the administrator determines that an unsafe condition or unsafe practice exists which may pose an immediate threat of bodily harm or loss of life, the administrator may issue a safety order requiring the employer to immediately stop work or close any work site, or portion thereof. Any safety order issued by the administrator shall specifically identify the unsafe condition or practice, as well as the safety risks associated therewith. Written notice of such order shall immediately be provided by the administrator to the owner or operator of the business, or any other appropriate party responsible for abating the unsafe condition or practice. ( )

b. Upon receiving such notice from the administrator, such owner, operator or responsible party shall immediately comply with such, and may notify the administrator in writing of their objection to the notice and request to contest such at a hearing. The owner, operator or responsible party shall provide the administrator with information, documentation, or other evidence supporting their objection. ( )

c. Upon receipt and review of such information from the owner, operator, or responsible party, the administrator may reconsider the matter and issue appropriate findings to the owner, operator, or party responsible for abating the unsafe condition or practice, including rescission of the order. ( )

d. If after review it is the determination of the administrator to keep the safety order in place, he shall so notify the owner, operator or responsible party and designate a time and place for hearing, and may assign the matter for hearing by a hearing officer. The hearing shall be afforded at such time not to exceed five (5) business days from the date the administrator received the notice of objection unless additional time is requested by the owner, operator, or responsible party. The hearing proceedings shall be governed by the provisions of Title 67, Chapter 52, Idaho Code. The hearing officer shall issue an order in accordance with Section 67-5243, Idaho Code. The hearing may be held at such location or by such means as the administrator determines most convenient for the parties. ( )

e. The safety order shall remain in effect, and shall not be rescinded until the administrator has determined that the safety threat has been corrected or removed from the workplace. Upon verification by the administrator that the safety threat has been corrected or otherwise removed from the worksite, the administrator shall immediately notify the owner, operator or responsible party of the rescission of the safety order. Any party aggrieved by the final order of the administrator shall be entitled to judicial review thereof in accordance with the provisions of Title 67, Chapter 52, Idaho Code. ( )

f. Any person who knowingly fails or refuses to comply with the provisions of a safety order issued by the administrator shall be guilty of a misdemeanor, and the administrator may seek criminal prosecution of any such violations. ( )

**012. -- 999. (RESERVED)**

# IDAPA 10 – BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

## 10.01.01 – RULES OF PROCEDURE

### DOCKET NO. 10-0101-1601

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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:

The amendments will update the education requirements for licensure as a professional land surveyor for applicants with unaccredited surveying or related programs. The update aligns Idaho's education requirements with those used in most states and broadens the course options for those with unaccredited or non-surveying 4-year degrees. It provides more educational choices for those seeking to enter the land surveying profession.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 3, 2016 Idaho Administrative Bulletin, [Vol. 16-8, pages 57-64](#).

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

There is no fiscal impact to the state general or agency dedicated funds.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Keith Simila at (208) 373-7210.

DATED: August 31, 2016.

Keith Simila, P.E.  
Executive Director  
1510 Watertower St.  
Meridian, Idaho 83642  
Telephone: (208) 373-7210  
Fax: (208) 373-7213  
Email: [keith.simila@ipels.idaho.gov](mailto:keith.simila@ipels.idaho.gov)

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
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**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:

**Friday, August 5, 2016 - 9:00 AM**

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

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

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

The amendments will update the education requirements for licensure as a professional land surveyor for applicants with unaccredited surveying or related programs. The update aligns Idaho's education requirements with those used in most states and broadens the course options for those with unaccredited or non-surveying 4-year degrees. It provides more educational choices for those seeking to enter the land surveying profession.

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

There is no fee associated with this rule 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 as a result of this rulemaking:

There is no impact to the General Fund or to the dedicated fund of the board by this rule change.

**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, 2016 Idaho Administrative Bulletin, [Volume 16-5, page 43](#).

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

There are no materials incorporated by reference.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Keith Simila, (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 August 24, 2016.

DATED this 17th Day of June, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0101-1601**

**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 or professional land surveyor together with a passing score on the written ethics questionnaire or Idaho specific land surveying 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 professional examination. (3-25-16)

**a.** In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs that are accredited either by the Engineering Accreditation Commission (EAC) of ABET, Inc., or those engineering programs that are accredited by official organizations signatory to the "Washington Accord." 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. (3-25-16)

**b.** An applicant who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for certification as an Engineer Intern or as required by Section 54-1212(1)(b), Idaho Code, for assignment to the examination for licensure as a professional engineer: (3-25-16)

**i.** Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in differential and integral calculus are required. Additional courses may include differential equations, linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include at least two (2) courses. These courses must be in general chemistry, general calculus-based physics, or general biological sciences; the two (2) courses may not be in the same area. Additional basic sciences courses may include earth sciences (geology, ecology), advanced biology, advanced chemistry, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. (3-25-16)

**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 (micro and macro), professional ethics, social responsibility. Examples of other general education courses deemed acceptable include management (such as organizational behavior), accounting, written and oral communications, business, and law. No more than six (6) credit hours may come from courses in management, accounting, business, or law. Courses in engineering economics, engineering management, systems engineering/ analysis, production, and industrial engineering/management will not be counted. Language courses in the applicant's native language are not acceptable for credit; no more than six (6) credit hours of foreign language courses are acceptable for credit. Native language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. (3-25-16)

**iii.** Forty-eight (48) college credit hours of engineering science and/or engineering design courses. Courses in engineering science 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 may be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. (3-25-16)

iv. The Board may require detailed course descriptions for seminar, directed study, special problem and similar courses to ensure that the above requirements are met. (3-25-16)

c. In regard to educational requirements, the Board will consider as unconditionally approved only those surveying programs that are accredited either by the Engineering Accreditation Commission (EAC), the Applied Science Accreditation Commission (ASAC) or the Engineering Technology Accreditation Commission (ETAC) of ABET, Inc. An applicant who has completed a four (4) year bachelor degree program in a related ~~science~~ program must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(4)(b), Idaho Code, for certification as a Land Surveyor Intern or as required by Section 54-1212(2)(b), Idaho Code, for assignment to the examination for licensure as a professional land surveyor: (3-25-16)( )

i. ~~Three (3) credits in Surveying Law and Boundary Descriptions~~ Eighteen (18) college semester credit hours of mathematics and basic sciences. A minimum of twelve (12) credits in mathematics must be beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus. A minimum of six (6) credits must be in basic sciences. These courses must cover one or more of the following topics: general chemistry, advanced chemistry, life sciences (biology), earth sciences (geology, ecology), general physics, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements; (3-30-07)( )

ii. ~~Three (3) credits in Route Surveying~~ Sixteen (16) college semester credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, and social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses that instill cultural values are acceptable, while routine exercises of personal craft are not; (3-30-07)( )

iii. ~~Three (3) credits in Public Land Surveying;~~ Thirty (30) college semester credit hours of surveying science and surveying practice. Courses shall be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system and global positioning systems. Graduate-level surveying courses can be included to fulfill curricular requirements in this area. (3-30-07)( )

- ~~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 has a non-EAC/ABET accredited engineering degree or a non-engineering degree. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant to ensure that the applicant 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. (4-11-15)

**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, or utilize other state examinations in disciplines other than those for which examinations may be available from NCEES. (3-25-16)

**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 Idaho specific professional land surveyor shall be the examination as determined by the Board.

(3-25-16)

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

(3-20-04)

**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, BOARDS, AND COUNTRIES.**

**01. Interstate Licensure Evaluation.** Each application for an Idaho professional engineer license or professional land surveyor license submitted by an applicant who is licensed as a professional engineer, or licensed as a professional land surveyor, respectively, in one (1) or more states, possessions or territories or the District of Columbia, 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 related to experience, examination, and education. A minimum of four (4) years of progressive experience after graduation with a bachelor of science degree is required for licensure. Individuals who have passed the National Council of Examiners for Engineering and Surveying (NCEES) examinations for professional engineering or professional land surveying shall be considered to have satisfied the examination requirement for issuance of a license as a professional engineer or professional land surveyor provided that land surveyor applicants also pass the Idaho specific professional land surveying examination. Prescriptive education requirements are as follows:

(4-11-15)

**a.** Graduates from programs accredited by the Engineering Accreditation Commission of the ABET, Inc., (EAC/ABET), or graduates of university engineering programs accredited by official organizations in countries signatory to the Washington Accord, or graduates of engineering programs with coursework evaluated by the board as being substantially equivalent to EAC/ABET degrees, shall be considered to have satisfied the educational requirement for issuance of a license as a professional engineer.

(4-11-15)

**b.** The Board may require an independent evaluation of the engineering education of an applicant who has a non-EAC/ABET accredited four (4) year bachelor degree. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant to ensure that they have completed the coursework requirements of Subsection 019.01.c. 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.

(4-11-15)

c. An applicant who was originally licensed in another jurisdiction after June 30, 1996 and who has completed a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code: (4-11-15)

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in differential and integral calculus are required. Additional courses may include differential equations, linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include at least two (2) courses. These courses must be in general chemistry, general calculus-based physics, or general biological sciences; the two (2) courses may not be in the same area. Additional basic sciences courses may include earth sciences (geology, ecology), advanced biology, advanced chemistry, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. (3-25-16)

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 (micro and macro), professional ethics, social responsibility. Examples of other general education courses deemed acceptable include management (such as organizational behavior), accounting, written and oral communications, business, and law. No more than six (6) credit hours may come from courses in management, accounting, business, or law. Courses in engineering economics, engineering management, systems engineering/ analysis, production, and industrial engineering/management will not be counted. Language courses in the applicant's native language are not acceptable for credit; no more than six (6) credit hours of foreign language courses are acceptable for credit. Native language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. (3-25-16)

iii. Forty-eight (48) college credit hours of engineering science and engineering design courses. Courses in engineering science 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 may be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. (3-25-16)

d. In regard to educational requirements, the Board will consider as unconditionally approved only those surveying programs that are accredited either by the Engineering Accreditation Commission (EAC), the Applied Science Accreditation Commission (ASAC) or the Engineering Technology Accreditation Commission (ETAC) of ABET, Inc. An applicant who has completed a four (4) year bachelor degree program in a related ~~science~~ program must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(2)(b), Idaho Code, for licensure as a professional land surveyor: ~~(3-25-16)~~( )

i. ~~Three (3) credits in Surveying Law and Boundary Descriptions~~ Eighteen (18) college semester credit hours of mathematics and basic sciences. A minimum of twelve (12) credits in mathematics must be beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus. A minimum of six (6) credits must be in basic sciences. These courses must cover one or more of the following topics: general chemistry, advanced chemistry, life sciences (biology), earth sciences (geology, ecology), general physics, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements; ~~(3-30-07)~~( )

ii. ~~Three (3) credits in Route Surveying~~ Sixteen (16) college semester credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, and social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses that instill cultural values are acceptable, while routine exercises of personal craft are not; (3-30-07)(\_\_\_\_)

iii. ~~Three (3) credits in Public Land Surveying;~~ Thirty (30) college semester credit hours of surveying science and surveying practice. Courses shall be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system and global positioning systems. Graduate-level surveying courses can be included to fulfill curricular requirements in this area. (3-30-07)(\_\_\_\_)

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. International Engineering Licensure Evaluation - Countries or Jurisdictions with Board Approved Licensure Process.** The board may determine the professional engineering licensure process in other countries or jurisdictions within other countries is substantially equivalent to that required 54-1219 Idaho Code. As such, the board may waive prescriptive education and examination requirements if the applicant possesses a professional engineer license credential, attains a minimum of eight (8) years of experience after licensure, provided the applicant has no criminal or outstanding disciplinary action in any country or jurisdiction, and is in good standing with the licensing board within that country or jurisdiction. A bona fide licensing process in another country must include requirements of experience, education, testing, a code of professional responsibility, regulation of licensees including the ability take disciplinary action and the willingness, availability, and capacity of a foreign board to release information to the Idaho board in English. (4-11-15)

**03. International Engineering Licensure Evaluation - Countries or Jurisdictions without a Board Approved Licensure Process.** Each application for an Idaho professional engineer license submitted by an applicant who is licensed as a professional engineer in one (1) or more foreign countries or jurisdictions within a country, shall be considered by the board on its merits, and the application evaluated for substantial compliance with the requirements of Idaho law with respect to experience, examination, and education. A minimum of four (4) years of progressive experience after graduation is required for licensure. The board will require two (2) years of experience working in the United States or two (2) years of experience working on projects requiring the knowledge and use of codes and standards similar to those utilized in the United States where the experience is validated by a professional engineer licensed in the United States. The board may postpone acting on or deny an application for a license by comity if disciplinary or criminal action related to the applicant's practice has been taken or is pending in any country or jurisdiction. Applicants must have passed a professional engineering examination administered by NCEES. Applicants who meet the residency requirements of 54-1212, Idaho Code, may be assigned to an examination in Idaho only after four (4) years of experience after graduation from a program that meets the education requirements of the board. Prescriptive education requirements are as follows: (4-11-15)

a. Graduates of engineering university programs accredited by official organizations in countries signatory to the Washington Accord or graduates of engineering university programs accredited by EAC/ABET or



evaluated by the board 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. (4-11-15)

**b.** The board may require an independent credentials evaluation of the engineering education of an applicant who was educated outside the United States whose university engineering program is not accredited by an official organization in countries signatory to the Washington Accord or has a non-EAC/ABET accredited engineering degree. Such evaluation shall be done through NCEES or another organization approved by the board and shall be done at the expense of the applicant. (4-11-15)

**c.** The board may require an independent credentials evaluation of the education for an applicant who has completed a four (4) year bachelor degree program outside the United States in engineering technology, or in a related science degree program other than engineering and must demonstrate completion of the requirements of Subsection 019.01.c. before the Board will consider the applicant to possess the knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code. Such evaluation shall be done through NCEES or another organization approved by the board and shall be done at the expense of the applicant. (4-11-15)

**04. Waiver of Prescriptive Engineering Licensure Evaluation for Unique International Expertise.** The board may waive the prescriptive licensure evaluation requirements of 019.03 for international applicants who, in the board's opinion, are qualified by reason of education and experience and offer unique technical expertise, provided the licensee meets the requirements of 54-1219 Idaho Code. (4-11-15)

**05. Denials or Special Examinations.** An application from a licensee of another state, possession or territory, District of Columbia, or foreign country may be denied by the Board for any just cause and the application fee retained; or the Board may approve the applicant for a special written and/or oral examination. (4-11-15)

**06. Business Entity Requirements.** No application for a certificate of authorization to practice or offer to practice professional engineering or professional land surveying, or both, in Idaho by a business entity authorized to practice professional engineering or professional land surveying, or both, in one (1) or more states, possessions or territories, District of Columbia, or foreign countries 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. (4-11-15)



# **IDAPA 10 – BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS**

## **10.01.01 – RULES OF PROCEDURE**

### **DOCKET NO. 10-0101-1602**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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:

The amendments will provide a new section defining the process for applying for a Restricted PE License available to Ph.D. faculty teaching upper division engineering courses at an Idaho University.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 3, 2016 Idaho Administrative Bulletin, [Vol. 16-8, pages 65-66](#).

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

There is no fiscal impact to the state general or agency dedicated funds.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Keith Simila at (208) 373-7210.

DATED: August 31, 2016.

Keith Simila, P.E.  
Executive Director  
1510 Watertower St.  
Meridian, Idaho 83642  
Telephone: (208) 373-7210  
Fax: (208) 373-7213  
Email: [keith.simila@ipels.idaho.gov](mailto:keith.simila@ipels.idaho.gov)

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
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**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:

**Friday, August 5, 2016 - 9:00 AM**

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

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

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

The draft amendments will provide a new section defining the process for applying for a Restricted PE License available to Ph.D. faculty teaching upper division engineering courses at an Idaho University.

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

There is no fee associated with this rule change. There are some fees that are removed and clarified by the rule 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 as a result of this rulemaking:

There is no impact to the General Fund or to the dedicated fund of the board by this rule change.

**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, 2016 Idaho Administrative Bulletin, [Volume 16-5, page 44](#).

**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:

There are no materials incorporated by reference.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Keith Simila, (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 August 24, 2016.

DATED this 17th Day of June, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0101-1602**

**023. PROFESSIONAL ENGINEER LICENSURE FOR FACULTY APPLICANTS.**

Written examinations related to applicable laws and rules for engineering licensure based upon criteria established by the board shall be offered to Idaho college or university faculty applicants whose credentials have been approved by

the board and who possess an earned doctorate degree. The credentials the board considers in this regard should include the applicant's university course work completed, the applicant's thesis and dissertation work, the applicant's peer reviewed publications, and the nature of the applicant's professional experience. A satisfactory application, along with a passing score on the examination exempts the applicant from the written technical examinations, and may qualify the applicant for a restricted license as a professional engineer. The restricted license applies only to college or university related teaching upper division design subjects. All conditions for maintaining licensure, such as compliance with the laws and rules of the Board, fees and continuing professional development are the same as required for all licensees. The restricted license is effective from the date of issuance until such time as the licensee ceases to be a faculty member of an Idaho college or university, unless not renewed, retired, suspended or revoked and is subject to renewal requirements established in 54-1216, Idaho Code. Teaching and teaching work products are exempt from the requirements of sealing and signing engineering work under 54-1215(c), Idaho Code. Restricted licensees are not required to obtain a seal. ( )

02~~3~~<sup>4</sup>. -- 994. (RESERVED)

# **IDAPA 10 – BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS**

## **10.01.02 – RULES OF PROFESSIONAL RESPONSIBILITY**

**DOCKET NO. 10-0102-1601**

### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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:

The amendments will clarify the requirement to base opinions stated in reports, statements or testimony when founded on adequate knowledge of the facts, adequate competence and honest conviction of the accuracy and propriety of the information. The existing rule does not include this requirement for documents and testimony unless serving as an expert witness. The rule change clarifies the intent of the board.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 3, 2016 Idaho Administrative Bulletin, [Vol. 16-8, page 67-68](#).

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

There is no fiscal impact to the state general or agency dedicated funds.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Keith Simila at (208) 373-7210.

DATED: August 31, 2016.

Keith Simila, P.E.  
Executive Director  
1510 Watertower St.  
Meridian, Idaho 83642  
Telephone: (208) 373-7210  
Fax: (208) 373-7213  
Email: [keith.simila@ipels.idaho.gov](mailto:keith.simila@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:** Public hearing concerning this rulemaking will be held as follows:

**Friday, August 5, 2016 - 9:00 AM**

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

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

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

The amendments will clarify the requirement to base opinions stated in reports, statements or testimony in accordance with the standard of care. The existing rule does not include this requirement for documents and testimony unless serving as an expert witness. The rule change clarifies the intent of the board.

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

There is no fee associated with this rule 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 as a result of this rulemaking:

There is no fiscal impact to the state general fund or the agency dedicated fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 4, 2016, Idaho Administrative Bulletin, [Volume 16-5, page 45](#).

**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:

There are no materials incorporated by reference.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Keith Simila, (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 August 24, 2016.

DATED this 17th Day of June, 2016.

[LSO Rules Analysis Memo](#)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0102-1601**

**007. PUBLIC STATEMENTS.**

**01. Reports, Statements or Testimony.** A Licensee ~~shall~~ or certificate holder must not commit fraud, violate the standard of care, or engage in deceit or misconduct in professional reports, statements or testimony. ~~He shall, to the best of his knowledge,~~ Each licensee or certificate holder must include all relevant and pertinent information in such reports, statements or testimony and will express opinions in such reports, statements or testimony in accordance with the standard of care. ~~(3-29-10)( )~~

**02. Opinions Based on Adequate Knowledge.** A Licensee or Certificate Holder, when serving as an expert or technical witness before any court, commission or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his testimony. (5-8-09)

**03. Statements Regarding Public Policy.** On matters connected with establishing public policy a Licensee or Certificate Holder shall issue no statements, criticisms or arguments which are paid for by an interested party, or parties, unless he has prefaced his comment by explicitly identifying himself, by disclosing the identities of the party, or parties, on whose behalf he is speaking, and by revealing the existence of any pecuniary interest he may have in the matters. (5-8-09)

**04. Actions in Regard to Other Licensees or Certificate Holders.** A Licensee or Certificate Holder shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another Licensee or Certificate Holder, nor shall he indiscriminately criticize another Licensee's or Certificate Holder's work in public. If he believes that another Licensee or Certificate Holder is guilty of fraud, deceit, negligence, incompetence, misconduct or violation of these rules he should present such information to the Board for action. (5-8-09)

## IDAPA 12 – DEPARTMENT OF FINANCE

### 12.01.08 – RULES PURSUANT TO THE UNIFORM SECURITIES ACT (2004)

DOCKET NO. 12-0108-1601

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

**COORDINATOR'S NOTE:** This rulemaking was incorrectly designated as a fee rule when it was promulgated as proposed and published in the August 2016 Administrative Bulletin. There was no additional fee being imposed through the rulemaking as was incorrectly indicated. The fee in question is being reduced which does not negatively impact agency revenues. Because a pending rule that imposes a fee or charge must be approved by concurrent resolution of the legislature to become effective, it is important that this pending rule be correctly promulgated as a non-fee rulemaking. This correction makes no substantive change and does not change the intent or effect of this rulemaking.

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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) 30-14-605 and 30-14-608, 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 reason for adopting the pending rule is to reflect changes that have been made to existing guidance governing securities industry participants (dealers, dealer and advisor sales agents, investment advisors and issuers of securities).

After consideration of public comments, and in accordance with Section 67-5227, Idaho Code, the text of the pending rule has been amended at Section 104.22 and is adopted as amended. The remainder of the rule has been adopted as initially proposed. Only that section containing the change that differs from the proposed text is printed in this bulletin. The complete text of the proposed rule was published in the August 3, 2016 Idaho Administrative Bulletin, [Vol. 16-8, pages 69-98](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Jim Burns at (208) 332-8080, [jburns@finance.idaho.gov](mailto:jburns@finance.idaho.gov), or [securitiesrules@finance.idaho.gov](mailto:securitiesrules@finance.idaho.gov).

DATED this 1st day of September, 2016.

James A. Burns  
Securities Bureau Chief  
Department of Finance  
800 Park Blvd.  
PO Box 83720 Boise, ID 83720-0031  
Office: (208) 332-8080  
Fax: (208) 332-8099

**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 30-14-605 and 30-14-608, 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, 2016*.

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:

**I. Amendments Associated with Federal Regulatory Naming Conventions and Related References**

The Department's rules reference various rules of federal regulatory bodies with whom the Department shares regulatory authority.

**II. Amendments Resulting from Federal Preemption of State Authority**

During 2015 and as a result of the federal Dode Frank legislation, the U.S. Securities and Exchange Commission (SEC) passed new rules governing federal Regulation A securities offerings. In part, these new rules preempted state authority to oversee and comment on the disclosures presented in certain securities offerings but partially retained state authority to require filings and collect fees. Rule XX clarifies the effect of this federal preemption and allows the Department to know who will be offering Regulation A securities to Idaho residents and to reduce its fee schedule accordingly.

Recently the former National Association of Securities Dealers (NASD) was renamed as the Financial Industry Regulatory Authority (FINRA). Various rules changes are associated with eliminating and replacing NASD references to FINRA references. Where applicable, some references to CFR<sup>1</sup> citations have been amended to reference the appropriate CFR rules citation.

**III. Amendments Associated with Multi-State Uniform Guidelines**

The Department collaborates with 50 other state securities regulators, as well as Canadian and Mexican securities regulators through the North American Securities Regulators Association (NASAA) <http://www.nasaa.org/about-us/our-role/>. Many of these efforts are directed at providing a uniform regulatory framework for securities issuers across jurisdictions.

The Department seeks to amend its existing incorporation of NASAA Statements of Policy to reflect changes in these uniform guidelines during the last ten years.

**IV. Rules Intended To Streamline Multi-State Securities Issuer Filings**

To provide some regulatory relief for certain securities issuers that wish to sell securities in multiple jurisdictions, the Department piloted and allows the use of a national electronic depository (EFD) for the filing of certain documents. Acknowledgment of this optional issuer filing format will be provided for in these rules.

**V. Rule Amendment to Clarify State/Federal Investment Adviser Books and Records Requirements**

There are two tiers of regulated investment advisers in the United States. Investment advisers with assets under management in excess of \$100 million are required to register only with the U.S. Securities and Exchange Commission, while those managing funds under \$100 million are required to register only with their state of domicile. Since Advisers may, over time, experience variances in their "book of business", they may migrate back and forth between federal and state oversight.

The Department seeks to minimize the changes required of state registered advisers as they move between the



two regulatory systems.

**VI. Clarification Regarding Investment Adviser and Investment Adviser Representative Registration Platforms**

Investment Advisers and their representatives are required to use national registration platforms to license in the jurisdictions where they will conduct business. Presently, advisers use the "IAR"<sup>2</sup> while their representatives use a corollary system known as the "CRD."<sup>3</sup>

The rules pertaining to these adviser and adviser representative registrations are being amended to clarify which registration platform should be used based upon the registrant's status as either an adviser or an adviser representative.

**VII. Update to Better Identify Suitability Standards Where Investment Advisers are Involved**

Rule 104.04 proposes to add language that clarifies that investment advisers have a duty to provide suitable recommendations in connection with their advisory activities when advising clients to purchase or sell securities.

**VIII. Clarification Regarding Investment Adviser Financial Statement**

As a condition of registration and ongoing compliance, investment advisers must demonstrate solvency by providing a balance sheet to the Department. To avoid confusion on the format and content of Adviser balance sheets, it is proposed that Rule 89.01(e) be amended to identify that balance sheets provided to the Department are prepared substantially in accordance with Generally Accepted Accounting Principles (GAAP)

<sup>1</sup> Investment Adviser Registration Depository

<sup>2</sup> Investment Adviser Registration Depository

<sup>3</sup> Central Registration Depository

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

There are no proposed additional fees associated with the proposed rules changes. There is one fee reduction associated with the implementation federal preemption of state authority in association with certain securities registrations. The prospective fee reduction and resulting loss of revenue does not materially affect projected agency revenues.

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 4, 2016 Idaho Administrative Bulletin, [Vol. 16-5, pages 46-47](#).

**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 regulation of securities issuers, as well as financial professionals, firms and agents is a shared burden between states and federal authorities. Rather than develop separate state standards, the Department seeks to provide a level playing field for all affected financial professionals by incorporating various rules of pertinent Self Regulator Organizations (SROs) such as the Financial Institutions Regulatory Authority (FINRA). The Department has previously adopted various policy statement of the North American Securities Administrators Association (NASAA) in order to promote uniformity among state regulators. This approach provides industry participants with a uniform approach to regulation (more certainty) while reducing compliance costs with the application of broadly accepted standards of conduct.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jim Burns at (208) 332-8080, [jburns@finance.idaho.gov](mailto:jburns@finance.idaho.gov), or [securitiesrules@finance.idaho.gov](mailto:securitiesrules@finance.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, 2016.

DATED this 5th Day of July, 2016.

LSO Rules Analysis Memo

Substantive changes have been made to the pending rule.  
Italicized red text that is double underscored is new text that has been added to the pending rule.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 12-0108-1601

005. INCORPORATION BY REFERENCE (RULE 5).

01. **Incorporated Documents.** IDAPA 12.01.08, “Rules Pursuant to the Uniform Securities Act (2004),” adopts and incorporates by reference the full text of the following Statements of Policy and guidelines adopted by the North American Securities Administrators Association (NASAA): (3-24-05)

- a. “Loans and Other Material Affiliated Transactions,” as adopted with amendments through ~~November 18, 1997~~ March 31, 2008; (3-24-05)( )
- b. “Options and Warrants,” as adopted with amendments through ~~September 28, 1999~~ March 31, 2008; (3-24-05)( )
- c. “Corporate Securities Definitions,” as adopted with amendments through ~~September 28, 1999~~ March 31, 2008; (3-24-05)( )
- d. “Impoundment of Proceeds,” as adopted with amendments through ~~September 28, 1999~~ March 31, 2008; (3-24-05)( )
- e. “Preferred Stock,” as adopted with amendments through ~~April 27, 1997~~ March 31, 2008; (3-24-05)( )
- f. “Promotional Shares,” as adopted with amendments through ~~September 28, 1999~~ March 31, 2008; (3-24-05)( )
- g. “Promoters’ Equity Investment,” as adopted with amendments through ~~April 27, 1997~~ March 31, 2008; (3-24-05)( )
- h. “Specificity in Use of Proceeds,” as adopted with amendments through ~~September 28, 1999~~ March 31, 2008; (3-24-05)( )
- i. “Underwriting Expenses, Underwriter’s Warrants, Selling Expenses, and Selling Securities Holders,” as adopted with amendments through ~~September 28, 1999~~ March 31, 2008; (3-24-05)( )
- j. “Unsound Financial Condition,” as adopted with amendments through ~~September 28, 1999~~ March 31, 2008; and (3-24-05)( )
- k. “Unequal Voting Rights,” as adopted ~~October 24, 1991~~ March 31, 2008; (3-24-05)( )
- l. “Debt Securities,” as adopted April 25, 1993; (3-24-05)

- m. “NASAA Guidelines Regarding Viatical Investments,” as adopted October 1, 2002; (3-24-05)
- n. “NASAA Statement of Policy Regarding Small Company Offering Registrations (SCOR),” as adopted April 28, 1996. (3-24-05)
- 02. Availability of Referenced Documents.** Copies of the “NASAA Statements of Policy” are available at the following locations: (3-24-05)
- a. NASAA, 750 First Street, N.E., Suite 1140, Washington, D.C. 20002. (3-24-05)
- ~~b.~~ ~~State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051.~~ (~~3-24-05~~)
- ~~eb.~~ Department of Finance, ~~700 W. State Street, P.O. Box 83720, Boise, ID 83720-0031~~ 800 Park Blvd., Suite 200, Boise, ID 83712. (~~3-24-05~~) ( )
- ~~dc.~~ NASAA Web site at <http://www.nasaa.org/regulatory-activity/statements-of-policy/>. (3-24-05)

**006. OFFICE MAILING ADDRESS AND STREET ADDRESS (RULE 6).**

The mailing address of the department is Idaho Department of Finance, P.O. Box 83720, Boise, Idaho 83720-0031. The street address of the department is Idaho Department of Finance, ~~Joe R. Williams Building, 700 West State Street, 2nd floor, Boise, Idaho 83702~~ 800 Park Blvd., Suite 200, Boise, ID 83712. The telephone numbers of the department include (208) 332-8000, Administration; and (208) 332-8004, Securities Bureau. The telephone number of the facsimile machine is (208) 332-8099. All filings with the department in connection with rulemaking or contested cases shall be made with the Administrator of the Idaho Department of Finance, and shall include an original and one (1) copy. (~~3-24-05~~) ( )

**007. PUBLIC RECORDS ACT COMPLIANCE (RULE 7).**

All rules contained in this chapter are public records. (3-24-05)

**008. -- 009. (RESERVED)**

**010. DEFINITIONS (RULE 10).**

- 01. Act.** The Uniform Securities Act (2004) set forth in Chapter 14, Title 30, Idaho Code. (3-24-05)
- 02. Administrator.** The Director of the Department of Finance. (3-24-05)
- 03. Agent of Issuer.** The term “agent of issuer” is used interchangeably with the term “issuer agent” through these rules. (3-24-05)
- 04. CRD.** Central Registration Depository. (3-24-05)
- 05. Department.** The Idaho Department of Finance. (3-24-05)
- ~~06.~~ EFD. Electronic Filing Depository. ( )
- ~~07.~~ FINRA. Financial Industry Regulatory Authority. ( )
- ~~068.~~ **Form ADV.** The Uniform Application for Investment Adviser Registration. (3-24-05)
- ~~079.~~ **Form ADV-H.** The Uniform Application for a Temporary or Continuing Hardship Exemption. (3-24-05)
- ~~0810.~~ **Form ADV-W.** The Uniform Request for Withdrawal of Investment Adviser Registration. (3-24-05)
- ~~0911.~~ **Form BD.** The Uniform Application for Broker-Dealer Registration. (3-24-05)

- ~~102.~~     **Form BDW.** The Uniform Request for Withdrawal from Registration as a Broker-Dealer. (3-24-05)
- ~~13.~~     **Form BR. The Uniform Application for Broker-Dealer Branch Registration.** (\_\_\_\_)
- ~~14.~~     **Form D.** The federal form entitled “Notice of Sale of Securities Pursuant to Regulation D, Section 4(6) and or Uniform Limited Offering Exemption.” (3-24-05)
- ~~125.~~     **Form NF.** The Uniform Notice Filing Form. (3-24-05)
- ~~136.~~     **Form 1-A.** A federal securities registration form of that number. (3-24-05)
- ~~147.~~     **Form S-18.** A federal securities registration form of that number. (3-24-05)
- ~~158.~~     **Form U-1.** The Uniform Application to Register Securities. (3-24-05)
- ~~169.~~     **Form U-2.** The Uniform Consent to Service of Process. (3-24-05)
- ~~1720.~~     **Form U-4.** The Uniform Application for Securities Industry Registration or Transfer. (3-24-05)
- ~~1821.~~     **Form U-5.** The Uniform Request for Withdrawal of Securities Industry Registration or Transfer. (3-24-05)
- ~~1922.~~     **Form U-7.** The Uniform Small Company Offering Registration Form. (3-24-05)
- ~~203.~~     **IARD.** Investment Adviser Registration Depository. (3-24-05)
- ~~214.~~     **NASAA.** The North American Securities Administrators Association, Inc. (3-24-05)
- ~~225.~~     **NASD.** The National Association of Securities Dealers, Inc. (3-24-05)
- ~~236.~~     **NASDAQ.** The National Association of Securities Dealers Automated Quotations. (3-24-05)
- ~~24.~~     **NMS. The National Market System operated by the NASD.** (~~3-24-05~~)
- ~~257.~~     **SEC.** The U.S. Securities and Exchange Commission. (3-24-05)
- ~~268.~~     **Transact Business.** For purposes of the Act, to “transact business” shall mean to buy or to sell or contract to buy or to sell or dispose of a security or interest in a security for value. It shall also mean any offer to buy or offer to sell or dispose of, and every solicitation of clients or of any offer to buy or to sell, a security or interest in a security for value. With respect to investment advisers and investment adviser representatives, “transact business” shall include preparation of financial plans involving securities, recommendations to buy or sell securities or interests in a security for value, and solicitation of investment advisory clients. (3-24-05)
- ~~27.~~     **UCSLE. The Uniform Combined State Law Examination.** (~~3-24-05~~)
- ~~28.~~     **UIALE. The Uniform Investment Adviser Law Examination.** (~~3-24-05~~)
- ~~2929.~~     **USA.** The Uniform Securities Act (2004). (3-24-05)
- ~~30.~~     **USASLE. The Uniform Securities Agent State Law Examination.** (~~3-24-05~~)
- ~~310.~~     **Unsolicited Order or Offer.** (3-24-05)
- a.     As used in these rules, an order or offer to buy is considered “unsolicited” if: (3-24-05)

- i. The broker-dealer has not made a direct or indirect solicitation or recommendation that the customer purchase the security; and (3-24-05)
  - ii. The broker-dealer has not recommended the purchase of the security to the customer, either directly or in a manner that would bring its recommendation to the customer; and (3-24-05)
  - iii. The broker-dealer has not volunteered information on the issuer to the customer; and (3-24-05)
  - iv. The customer has previously, and independent of any information furnished by the broker-dealer, decided to buy the security. (3-24-05)
- b. Any offer or order to buy from a customer whose first knowledge of the specific security or issuer was volunteered to him by the broker-dealer shall be regarded as a solicited order. (3-24-05)
- c. Any claim of exemption pursuant to Section 30-14-202(6), Idaho Code, shall be supported by the broker-dealer's certificate that the transaction in question was, in fact, unsolicited. (3-24-05)

**(BREAK IN CONTINUITY OF SECTIONS)**

**047. ADVERTISING (RULE 47).**

**01. Definitions.** The following words and terms, when used in Section 047, of these rules, shall have the following meaning, unless the context clearly indicates otherwise: (3-24-05)

a. "Sales literature" means material published, or designed for use, in a newspaper, magazine or other periodicals, radio, television, telephone solicitation or tape recording, videotaped display, signs, billboards, motion pictures, telephone directories (other than routine listings), other public media and any other written communication distributed or made generally available to customers or the public including, but not limited to, prospectuses, pamphlets, circulars, form letters, seminar texts, research reports, surveys, performance reports or summaries and reprints or excerpts of other sales literature or advertising to include publications in electronic format. (3-24-05)

b. "Sales literature package" means all submissions of sales literature to the Department under one (1) posting or delivery relating to a specific issue of securities. (3-24-05)

**02. Filing Requirement.** Pursuant to Section 30-14-504, Idaho Code, this rule requires ~~the~~ filing of all sales literature for review and response by the Administrator before use or distribution in Idaho. A complete filing shall consist of the sales literature package and a representation by the applicant, issuer or broker-dealer, that reads substantially as follows: "I ----- hereby attest and affirm that the enclosed sales literature or advertising package contains no false or misleading statements or misrepresentations of material facts, and that all information set forth therein is in conformity with the Company's most recently amended registration statement as filed with the Department on or about -----." (3-24-05)( )

**03. Exemption From Filing.** The following types of sales literature are excluded from the filing requirements set forth herein: (3-24-05)

a. Sales literature which does nothing more than identify a broker-dealer or investment adviser, and/or offer a specific security at a stated price; (3-24-05)( )

b. Internal communications that are not distributed to the public; (3-24-05)

c. Prospectuses, preliminary prospectuses, prospectus supplements and offering circulars which have been filed with the Department as part of a registration statement, including a final printed copy if clearly identified as such; (3-24-05)

d. Sales literature solely related to changes in a name, personnel, location, ownership, offices,

business structure, officers or partners, telephone or teletype numbers; ~~and~~ (3-24-05)( )

e. Sales literature filed with and approved by ~~the NASD~~, FINRA, the SEC, or other regulatory agency with substantially similar requirements; (3-24-05)( )

f. Sales literature relating to certain federal covered securities as set forth in Section 30-14-504(6b), Idaho Code. (3-24-05)( )

**04. Piecemeal Filings.** The Department will not approve any sales literature package until a complete filing is received. Piecemeal filings will not be accepted and will result in the disapproval of any materials submitted therewith. (3-24-05)

**05. Application of Antifraud Provisions.** Sales literature used in any manner in connection with the offer ~~and~~ or sale of securities is subject to the provisions of Section 30-14-501, Idaho Code, whether or not such sales literature is required to be filed pursuant to Section 30-14-504, Idaho Code, or Section 047 of these rules. Further, sales literature filed with the Department is subject to the provisions of Sections 30-14-501 and 30-14-505, Idaho Code. Sales literature should be prepared accordingly and should not contain any ambiguity, exaggeration or other misstatement or omission of material fact, which might confuse or mislead an investor. (3-24-05)( )

**06. Prohibited Disclosures.** Unless stating that the Administrator or Department has not approved the merits of the securities offering or the sales literature, no sales literature shall contain a reference to the Administrator or Department unless such reference is specifically requested by the Administrator. (3-24-05)

**(BREAK IN CONTINUITY OF SECTIONS)**

**052. ~~INVESTMENT~~ ISSUER AGENT REGISTRATION (RULE 52).**

Any individual not exempted pursuant to Sections 30-14-402(b)(3), (4) or (5), Idaho Code, must be registered as an issuer agent or comply with the registration requirement of Section 30-14-402(a), Idaho Code, if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities. (4-11-06)( )

**053. FEDERAL COVERED SECURITIES (RULE 53).**

**01. Investment Company Notices.** (3-24-05)

a. Notice Requirement. Pursuant to Section 30-14-302, Idaho Code, prior to the offer in this state of a series or portfolio of securities of an investment company that is registered, or that has filed a registration statement, under the Investment Company Act of 1940, that is not otherwise exempt under Sections 30-14-201 through 30-14-203, Idaho Code, the issuer must file a notice with the Administrator relating to such series or portfolio of securities. (3-24-05)

b. Content of Notice. Each required notice shall include the following: (3-24-05)

i. A properly completed Form NF; (3-24-05)

ii. A consent to service of process (Form U-2); (3-24-05)

iii. A filing fee of three hundred dollars (\$300) for mutual funds and one hundred dollars (\$100) for unit investment trusts; ~~and~~ (3-24-05)( )

iv. Notification of SEC effectiveness. (3-24-05)

c. Renewal of Notice. The effectiveness of a notice required pursuant to Subsection 053.01.a. of this rule may be renewed each year for an additional one (1) year period of effectiveness by filing on or before the expiration of the effectiveness of such notice: (3-24-05)

- i. A properly completed Form NF clearly indicating the state file number of the Notice to be renewed; (3-24-05)
- ii. A consent to service of process (Form U-2) in accordance with Section 30-14-611, Idaho Code; and (3-24-05)
- iii. A renewal fee of three hundred dollars (\$300) for mutual funds and one hundred dollars (\$100) for unit investment trusts. (3-24-05)
- d. Amendments. Amendment filings are required for the following: (3-24-05)
  - i. Issuer name change; (3-24-05)
  - ii. Address change for contact person; and (3-24-05)
  - iii. Notification of termination or completion. (3-24-05)
- e. Other Documents. Documents other than those required in Subsections 053.01.b., 053.01.c., and 053.01.d. of this rule, unless specifically requested by the Department, should not be filed with the Department. Documents that should be filed with the Department only if specifically requested include, but are not limited to, registration statements, prospectuses, amendments, statements of additional information, quarterly reports, annual reports, and sales literature. ~~Documents that should be filed with the Department only if specifically requested include, but are not limited to, registration statements, prospectuses, amendments, statements of additional information, quarterly reports, annual reports, and sales literature.~~ (3-24-05)( )

**02. Regulation D Rule 506 Notice Filing.** (3-24-05)

a. Notice Requirement. Issuers offering a security in this state in reliance upon Section 30-14-301, Idaho Code, by reason of compliance with Regulation D, Rule 506, adopted by the United States Securities and Exchange Commission, shall be required to file a notice with the Department or with EFD pursuant to the authority of Section 30-14-302(c), Idaho Code, if a sale of a security in this state occurs as a result of such offering. (3-24-05)( )

b. Terms of Notice Filing. The issuer shall file with the Department or with EFD no later than fifteen (15) days after the first sale of a security in this state for which a notice is required under Subsection 053.02.a. of this rule: (3-24-05)( )

- i. One (1) copy of the SEC-filed Form D ~~currently updated, and the Appendix thereto; and~~ (3-24-05)( )
- ~~ii. A consent to service of process (Form U-2); and~~ (3-24-05)
- ~~iii. The notice filing fee of fifty dollars (\$50).~~ (3-24-05)
- ~~i+ii.~~ A cover letter should be included in the notice filing which states the date in which the first sale of securities occurred in Idaho. (3-24-05)

c. Terms of Late Notice Filing. An issuer failing to file with the Administrator as required by Subsection 053.02.b. of this rule may submit its notice filing as required in Subsection 053.02.b. of this rule with an additional fifty dollars (\$50) late filing payment within thirty (30) days after the first sale of a security in this state. Failure to file a notice on or before the thirtieth day after the first sale of a securities in Idaho will result in the inability of the issuer to rely on Section 30-14-302(c), Idaho Code, for qualification of the offering in Idaho. (3-24-05)

d. Issuer Agent Registration. Pursuant to Section 30-14-402(b)(5), Idaho Code, an individual who represents an issuer who effects transactions in a federal covered security under Section 18(b)(4)(~~#D~~) of the



Securities Act of 1933 (15 U.S.C. 77r(b)(4)(D)) is not exempt from the registration requirements of Section 30-14-402(a), Idaho Code, if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities. In addition, if such person is registered as a broker-dealer or agent in another state or with ~~the NASD~~ FINRA, or affiliated with a broker-dealer registered in another state, with the SEC or ~~NASD~~ FINRA, then such person must also be similarly registered in Idaho. ~~(4-11-06)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**056. MANUAL EXEMPTION (RULE 56).**

For the purpose of the manual exemption (Section 30-14-202(2), Idaho Code), the following securities manuals or portions of the manuals are recognized. (3-24-05)

- a. Best's Insurance Reports- Life-Health. (3-24-05)
- b. Mergent's Industrial Manual. (3-24-05)
- c. Mergent's International Manual. (3-24-05)
- ~~d. Standard & Poor's Corporation Records.~~ ~~(3-24-05)~~
- ~~ed.~~ Walkers Manual of Western Corporations. (3-24-05)

**057. MINING, OIL OR GAS EXPLORATION EXEMPTION REQUIREMENTS (RULE 57).**

**01. Legal Opinion for Extractive Industries.** If the Department deems it necessary or advisable in the public interest or for the protection of investors, ~~he~~ it may require an issuer engaged in mining, gas, or oil exploration or extraction to submit an opinion of counsel on the nature of the title held to the property noting any defects or liens or both, and the principal terms of any lease or option with respect to the property. If continued possession of the property by the issuer depends upon the satisfaction of certain working conditions, describe these conditions and state the extent to which they have been met. The Department may require other issuers to submit a status of title to any real estate which is material to the business of the issuer. ~~(3-24-05)~~( )

**02. Quarterly Reports.** The issuer shall file quarterly reports, on the "Quarterly Report Form for Small Mining Issues." during the time the securities remain registered. Such reports are due within thirty (30) days following the end of the issuer's quarter. Failure to comply with this rule could be grounds for suspension or revocation of a permit. (3-24-05)

**03. Advertising.** The only advertising of exempt mining securities, whether on radio, television, print media, or other medium, shall be restricted to announcing the securities offering and stating the name and address of the issuer, the type of security, the underwriter, and where additional information may be obtained. (3-24-05)

**04. Offering Circulars.** All offers of the security must be accompanied by a complete, current offering circular previously reviewed by the Administrator adequate to satisfy the antifraud provisions of the Act. (3-24-05)

**058. STOCK EXCHANGE LISTED SECURITIES (RULE 58).**

Stock exchanges specified by or approved under Section 30-14-201(6), Idaho Code, are as follows: (3-24-05)

- 01. The New York Stock Exchange; (3-24-05)
- 02. The American Stock Exchange; (3-24-05)
- 03. The NASDAQ ~~NMS~~ Global Market and Global Select Market; ~~(3-24-05)~~( )
- 04. The Chicago Stock Exchange; (3-24-05)



05. The Chicago Board Options Exchange; (3-24-05)
06. Tier I of the Pacific Stock Exchange; and (3-24-05)
07. Tier I of the Philadelphia Stock Exchange, Inc. (3-24-05)

**059. NOTICE FILINGS FOR TRANSACTIONS UNDER REGULATION D, RULE 505 (RULE 59).**

**01. Exempt Securities.** Pursuant to Section 30-14-203(1), Idaho Code, transactions that are exempt securities under 17 CFR 230.505 are exempt from Section 30-14-301, Idaho Code. As a condition of this exemption, the issuer shall comply with the requirements in Subsection 059.02 of this rule. (3-24-05)

**02. Disqualification.** Unless upon a showing of good cause and without prejudice to any other action by the Administrator, the Administrator determines that it is not necessary under the circumstances that the exemption provided by Subsection 059.01 be denied, the exemption shall not be available for the offer or sale of securities if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of ten percent (10%) or more of any class of its equity securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director or officer of such underwriter: (4-11-06)

a. Is subject to any of the disqualifications ~~in~~ under 17 ~~C.F.R. Section~~ CFR 230.262, as in effect on August 24, 2005; (4-11-06)

b. Is enjoined or restrained by a court of competent jurisdiction in an action instituted by the administrator under this chapter or the predecessor act, a state, the securities and exchange commission, or the United States from engaging in or continuing an act, practice, or course of business involved in an aspect of a business involving securities, commodities, investments, franchises, insurance, banking or finance; (4-11-06)

c. Is currently subject to any state or federal administrative enforcement order or judgment, entered within the last five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or (3-24-05)

d. Is currently subject to any order, judgment or decree of any court of competent jurisdiction, entered within the last five (5) years, temporarily, preliminarily or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security. (3-24-05)

**03. Exceptions.** Subsection 059.02 of this rule shall not apply if: (3-24-05)

a. The party subject to the disqualification is licensed or registered to conduct securities related business in the state in which the order, judgment or decree creating the disqualification was entered against such party; (3-24-05)

b. Before the first offer under this exemption, the state securities administrator, or the court or regulatory authority that entered the order, judgment, or decree, waives the disqualification; or (3-24-05)

c. The issuer establishes that it did not know and in the exercise of reasonable care, based on a factual inquiry, could not have known that a disqualification existed under Subsection 059.02 of this rule. (3-24-05)

**04. Notice Filings for Rule 505.** The notice filing required for transactions in Idaho under 17 CFR 230.505, shall consist of the following: (3-24-05)

a. One (1) manually signed copy of the SEC filed electronic Form D (including the Appendix); (3-24-05)

b. Consent to service of process (Form U-2); (3-24-05)

- ~~eb.~~ Copy of the private placement memorandum, ~~and~~ ~~(3-24-05)~~( )
- ~~ec.~~ Each notice shall be filed with the Department no later than ten (10) business days prior to effecting a sale in Idaho. (3-24-05)
- 05. Amendments.** During the period of the offering, the issuer shall take steps necessary to insure that all material information contained in the notice filing remains current and accurate. (3-24-05)
- 06. Nonaccredited Investors.** In all sales to nonaccredited investors in this state, one (1) of the following conditions must be satisfied or the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry, shall believe that one (1) of the following conditions is satisfied: (3-24-05)
- a.** The investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to the purchaser's other security holdings, financial situation and needs. For the purpose of this condition only, it may be presumed that if the investment does not exceed ten percent (10%) of the investor's net worth, it is suitable. (3-24-05)
- b.** The purchaser either alone or with her purchaser representative(s) has such knowledge and experience in financial and business matters that she is or they are capable of evaluating the merits and risks of the prospective investment. (3-24-05)
- 07. Due Diligence.** Nothing in this rule is intended to relieve registered securities broker-dealers or agents from the due diligence, suitability, or know your customer standards or any other requirements of law otherwise applicable to such registered person. (3-24-05)
- 08. Disclosure.** Nothing in this exemption is intended to or should be construed as in any way relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the antifraud provisions of the Act. (3-24-05)
- 09. Denial, Suspension, Revocation, Condition or Limitation of Exemption.** Any issuer relying on the exemption under Regulation D, Rule 505 may be subject to the enforcement remedies provided in Section 30-14-204, Idaho Code, if it fails to satisfactorily address issues raised by the Department in comment letters or otherwise. (3-24-05)
- 10. Issuer Agent Registration.** Pursuant to Section 30-14-402(b)(9), Idaho Code, an individual who represents an issuer who effects transactions that are exempt securities under 17 CFR 230.505 and exempt from Section 30-14-301, Idaho Code, is not exempt from the registration requirements of Section 30-14-402(a), Idaho Code, if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities. In addition, if such person is registered as a broker-dealer or agent in another state or with ~~the NASD~~ FINRA, or affiliated with a broker-dealer registered in another state, with the SEC or ~~NASD~~ FINRA, then such person must also be similarly registered in Idaho. ~~(4-11-06)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**062. DESIGNATED MATCHING SERVICES (RULE 62).**

- 01. In General.** Sections 30-14-301 through 30-14-305, Idaho Code, shall not apply to any offer or sale of a security by an issuer in a transaction that meets the requirements of this rule. A designated matching service shall not be deemed a broker-dealer subject to registration within the meaning of the Act or the rules thereunder. (3-24-05)
- 02. Definitions.** The following words and terms, when used in this rule, shall have the following

meanings, unless the context clearly indicates otherwise. (3-24-05)

**a.** Designated Matching Service. Means a matching service designated by the Administrator under Section 062 of these rules. (3-24-05)

**b.** Designated Matching Service Facility. Means a computer system operated, or a seminar or meeting conducted, by a designated matching service. (3-24-05)

**c.** Individual Accredited Investor. Means any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his or her purchase, exceeds one million dollars (\$1,000,000) or any natural person who had an individual income in excess of two hundred thousand dollars (\$200,000) in each of the two (2) most recent years or joint income with that person's spouse in excess of three hundred thousand dollars (\$300,000) in each of those years and has a reasonable expectation of reaching the same income level in the current year. In addition each purchaser must evidence such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment. The term "individual accredited investor" shall also include any self-directed employee benefit plan with investment decisions made solely by persons that are "individual accredited investors" as defined in Subsection 062.02.c. of this rule, and the individual retirement account of any such individual accredited investor. (3-24-05)

**d.** Investor Member. Means an investor who has been properly qualified by and uses a designated matching service. Either of the following investors may be properly qualified: any institutional investor as described in Section 30-14-~~22(13)~~102(11), Idaho Code, or an individual accredited investor as defined in this rule. (3-24-05)( )

**e.** Issuer Member. Means an issuer who uses a designated matching service facility. (3-24-05)

**f.** Summary Business Plan. Means a brief statement specifically describing the issuer, its management, its products or services, and the market for those products or services. Other information, including, specifically, financial projections, must not be included in a summary business plan. (3-24-05)

**03. Application.** A person may apply to the Administrator to be a designated matching service by filing such forms as required by the Administrator. No designation will be made unless the applicant demonstrates that it: (3-24-05)

**a.** Owns, operates, sponsors, or conducts a matching service facility limited to providing investor members with the summary business plans and identities of issuer members; (3-24-05)

**b.** Will not be involved in any manner in the sale, offer for sale, solicitation of a sale or offer to buy, a security other than as set forth in Subsection 062.03.a. of this rule; (3-24-05)

**c.** Will make a reasonable factual inquiry to determine whether an investor member is properly qualified; (3-24-05)

**d.** Is a governmental entity, quasi-governmental entity, an institution of higher education or an Idaho nonprofit corporation that is associated with a governmental or quasi-governmental entity or an institution of higher education; (3-24-05)

**e.** Does not employ any person required to be registered under the Act as a broker-dealer, investment adviser, agent, or investment adviser representative; (3-24-05)

**f.** Does not have, and does not employ any person who has a business relationship with any investor member or issuer member other than to provide such member access to the matching service facility; (3-24-05)

**g.** Charges fees only in an amount necessary to cover its reasonable operating costs and that are unrelated to the amount of money being raised by any issuer member or the amount of securities sold by any issuer member; (3-24-05)

**h.** Agrees to not use any advertisement of its matching service facility that advertises any particular issuer or any particular securities or the quality of any securities or that is false or misleading or otherwise likely to deceive a reader thereof; and (3-24-05)

**i.** Meets such other conditions as the Administrator considers appropriate for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act, and the rules thereunder. (3-24-05)

**04. Designation Consistent with Act.** Designation under this rule is not available to any matching service formed in a manner that constitutes part of a scheme to violate or evade the provisions of the Act or rules thereunder. (3-24-05)

**05. Withdrawal of Designation.** The Administrator, upon ten (10) days notice and hearing before the Administrator or a hearing officer, may withdraw a person's designation as a matching service if the person does not meet the standards for designation provided in this rule. (3-24-05)

**06. Disqualifications.** (3-24-05)

**a.** No exemption under this rule shall be available for the securities of any issuer if the issuer: (3-24-05)

**i.** Within the last five (5) years, has filed a registration statement which is the subject of a currently effective registration stop order entered by the United States Securities and Exchange Commission or any state securities administrator; (3-24-05)

**ii.** Within the last five (5) years, has been convicted of any criminal offense in connection with the offer, purchase, or sale of any security or any felony involving fraud or deceit or a misdemeanor involving financial fraud; (3-24-05)

**iii.** Is the subject of any state or federal administrative enforcement order, entered within the last five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or (3-24-05)

**iv.** Is the subject of any order, judgment or decree of any court of competent jurisdiction, entered within the last five (5) years, temporarily, preliminarily or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security. (3-24-05)

**b.** For purposes of this rule, the term "issuer" includes: (3-24-05)

**i.** Any of the issuer's predecessors or any affiliated issuer; (3-24-05)

**ii.** Any of the issuer's directors, officers, general partners, or beneficial owners of ten percent (10%) or more of any class of its equity securities (beneficial ownership meaning the power to vote or direct the vote or the power to dispose or direct the disposition of such securities); (3-24-05)

**iii.** Any of the issuer's promoters presently connected with the issuer in any capacity, including: (3-24-05)

**(1)** Any person who, acting alone or in conjunction with one (1) or more other persons, directly or indirectly takes initiative in founding and organizing the business or enterprise of an issuer; or (3-24-05)

**(2)** Any person who, in connection with the founding and organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property, or both services and property, ten percent (10%) or more of any class of securities of the issuer or ten percent (10%) or more of the proceeds from the sale of any class of such securities; however, a person who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of Subsection 062.06.b.iii. of this rule, if such person does not otherwise take part in founding and organizing the

enterprise. (3-24-05)

iv. Any underwriter of the issuer. (3-24-05)

c. The exemption under this rule is not available to an issuer that is in the development stage that either has no specific business plan or purpose or had indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person. (3-24-05)

**07. Notice of Transaction.** The issuer shall file with the Administrator a notice of transaction, consent to service of process (Form U-2), and a copy of its summary business plan within fifteen (15) days after the first sale in this state. (3-24-05)

**(BREAK IN CONTINUITY OF SECTIONS)**

**078. IMPLEMENTATION OF CRD (RULE 78).**

**01. Designation and Use of CRD System.** Pursuant to Section 30-14-406, Idaho Code, the Administrator designates the web-based Central Registration Depository (CRD) operated by ~~the National Association of Securities Dealers~~ **FINRA** to receive and store filings and collect related fees from broker-dealers, agents and investment adviser representatives on behalf of the Administrator. Forms U-4, U-5, BD, ~~BR~~, and BDW shall be used to register or terminate agents, investment adviser representatives or broker-dealers, respectively, in the state of Idaho through the CRD system. The CRD system will be utilized to effect ~~NASD~~ **FINRA** registration as well as registration, termination, and renewal in the state. (3-24-05)( )

**02. Registrations Not Automatic.** A filing of Form U-4, ~~or~~ BD, ~~or~~ BR with the CRD system does not constitute an automatic registration in Idaho. Broker-dealers and investment advisers should not consider agents or investment adviser representatives registered until such approval from the state of Idaho has been received by them through CRD. (3-24-05)( )

**03. Electronic Signature.** When a signature or signatures are required by the particular instructions of any filing to be made through CRD, a duly authorized officer of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing to CRD. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing. (3-24-05)

**079. IMPLEMENTATION OF IARD (RULE 79).**

**01. Designation.** Pursuant to Section 30-14-406, Idaho Code, the Administrator designates the web-based Investment Adviser Registration Depository (IARD) operated by ~~the National Association of Securities Dealers~~ **FINRA** to receive and store filings and collect related fees from investment advisers on behalf of the Administrator. (3-24-05)( )

**02. Use of IARD.** Unless otherwise provided, all investment adviser applications, amendments, reports, notices, related filings and fees required to be filed with the Administrator pursuant to the rules promulgated under the Act, shall be filed electronically with and transmitted to IARD. The following additional conditions relate to such electronic filings: (3-24-05)

a. **Electronic Signature.** When a signature or signatures are required by the particular instructions of any filing to be made through IARD, a duly authorized officer of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing to IARD. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing. (3-24-05)

b. **When Filed.** Solely for purposes of a filing made through IARD, a document is considered filed with the Administrator when all fees are received and the filing is accepted by IARD on behalf of the state. (3-24-05)

**03. Electronic Filing.** The electronic filing of any particular document and the collection of related processing fees shall not be required until such time as IARD provides for receipt of such filings and fees and thirty (30) days notice is provided by the Administrator. Any documents or fees required to be filed with the Administrator that are not permitted to be filed with or cannot be accepted by IARD shall be filed directly with the Administrator. (3-24-05)

**04. Hardship Exemptions.** Subsection 079.04 of this rule provides two (2) "hardship exemptions" from the requirements to make electronic filings as required by the rules. (3-24-05)

**a. Temporary Hardship Exemption.** (3-24-05)

i. Investment advisers registered or required to be registered under the Act who experience unanticipated technical difficulties that prevent submission of an electronic filing to IARD may request a temporary hardship exemption from the requirements to file electronically. (3-24-05)

ii. To request a temporary hardship exemption, the investment adviser must file Form ADV-H which can be found at 17 CFR 279.3 in paper format with the Administrator where the investment adviser's principal place of business is located, no later than one (1) business day after the filing (that is the subject of the Form ADV-H) was due; and submit the filing that is the subject of the Form ADV-H in electronic format to IARD no later than seven (7) business days after the filing was due. (3-24-05)

iii. Effective Date - Upon Filing. The temporary hardship exemption will be deemed effective upon receipt by the Administrator of the complete Form ADV-H. Multiple temporary hardship exemption requests within the same calendar year may be disallowed by the Administrator. (3-24-05)

**b. Continuing Hardship Exemption.** (3-24-05)

i. Criteria for Exemption. A continuing hardship exemption will be granted only if the investment adviser is able to demonstrate that the electronic filing requirements of this rule are prohibitively burdensome. (3-24-05)

ii. To apply for a continuing hardship exemption, the investment adviser must file Form ADV-H which can be found at 17- CFR 279.3 in paper format with the Administrator at least twenty (20) business days before a filing is due; and, if a filing is due to more than one (1) securities regulator, the Form ADV-H must be filed with the Administrator where the investment adviser's principal place of business is located. The Administrator who receives the application will grant or deny the application within ten (10) business days after the filing of Form ADV-H. (3-24-05)

iii. Effective Date - Upon Approval. The exemption is effective upon approval by the Administrator. The time period of the exemption may be no longer than one (1) year after the date on which the Form ADV-H is filed. If the Administrator approves the application, the investment adviser must, no later than five (5) business days after the exemption approval date, submit filings to IARD in paper format (along with the appropriate processing fees) for the period of time for which the exemption is granted. (3-24-05)

**080. BROKER-DEALER REGISTRATION -- APPLICATION/RENEWAL (RULE 80).**

**01. Initial Application -- ~~NASD~~ FINRA Member Firms.** Broker-dealers applying for initial registration pursuant to Section 30-14-406, Idaho Code, and who are contemporaneously applying for ~~NASD~~ FINRA membership or who are an ~~NASD~~ FINRA member, shall file: (3-24-05)( )

**a.** With CRD, a completed Form BD, including Schedules A-~~ED~~; (3-24-05)( )

**b.** With CRD, a filing fee as specified in Section 30-14-410, Idaho Code; (3-24-05)

**c.** With CRD, the Form BR. ( )



**02. Initial Application -- Non-NASD FINRA Member Firms.** Broker-dealers applying for initial registration pursuant to Section 30-14-406, Idaho Code, and who are not contemporaneously applying for NASD FINRA membership or are not a NASD FINRA member, shall file with the Department: (3-24-05)( )

- a. A completed Form BD, including Schedules A-E; (3-24-05)
- b. The filing fee specified in Section 30-14-410, Idaho Code; (3-24-05)
- c. Audited financial statements; (3-24-05)
- d. Documentation of compliance with the minimum capital requirements of Section 087 of these rules; (3-24-05)
- e. Designation and qualification of a principal officer; (3-24-05)
- f. A list of the addresses, telephone numbers and resident agents of all office locations within the state of Idaho, to be provided within sixty (60) days of becoming registered; (3-24-05)
- g. A copy of the written supervisory procedures of the broker-dealer; (3-24-05)
- h. Any additional documentation, supplemental forms and information as the Administrator may deem necessary. (3-24-05)

**03. Incomplete Applications.** After a period of six (6) months from date of receipt, an incomplete application will automatically be considered abandoned and withdrawn if the requirements have not been fulfilled. (3-24-05)

**04. Annual Renewal.** (3-24-05)

a. A NASD FINRA member shall renew its registration by submitting the renewal fee specified in Section 30-14-410, Idaho Code, to the CRD according to their policies and procedures. A non-NASD FINRA member shall renew its registration by submitting to the Department current information required for initial registration, and the renewal fee specified in Section 30-14-410, Idaho Code. (3-24-05)( )

b. It is required that an application for the renewal of the registration of a broker-dealer must be filed with the Department before the registration expires, which is the thirty-first day of December next following such registration, per the provisions of Section 30-14-406(d), Idaho Code. Any registration that is not renewed within that time limit will be deemed to have lapsed, thus requiring the broker-dealer to reapply for registration with the Department in accordance with the requirements of the Act. (3-24-05)

**05. Updates and Amendments.** (3-24-05)

a. A broker-dealer must file with CRD, in accordance with the instructions in Form BD, any amendments to the broker-dealer's Form BD. All broker-dealers must assure that current and accurate information is on file with the Department at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form BD or by direct notice to the Department. (3-24-05)

b. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment; and (3-24-05)( )

c. **Litigation Notice.** Any broker-dealer shall notify the Administrator in writing or through the CRD of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement shall not include minor traffic violations or minor civil actions unrelated to the registrant's business as a broker-dealer. (3-24-05)

**d.** Notice of Address. Every broker-dealer shall provide the Department, with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. (3-24-05)

**e.** Change of Name. If a registered broker-dealer desires to change its name, notice of such an intent must be submitted to the CRD or this Department for non-~~NASD~~FINRA members, either before or within a reasonable time after the effective date of the change. The name change will not be effective in this state until the notice is received. ~~(3-24-05)~~( )

**06. Completion of Filing.** An application for initial or renewal registration is not considered filed for purposes of Section 30-14-406, Idaho Code, until the required fee and all required submissions have been received by the Administrator. (3-24-05)

**07. Deferral of Effectiveness.** The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

**(BREAK IN CONTINUITY OF SECTIONS)**

**083. BROKER-DEALER AGENT/ISSUER AGENT REGISTRATION (RULE 83).**

**01. Broker-Dealer Agents.** Agents of broker-dealers applying for initial registration in the state of Idaho pursuant to Section 30-14-406, Idaho Code, shall file the following: (3-24-05)

- a.** With CRD, a completed Form U-4; (3-24-05)
- b.** With CRD, the filing fee specified in Section 30-14-410, Idaho Code; (3-24-05)
- c.** With CRD, proof of successful completion of the applicable examinations specified in Section 103 of these rules; (3-24-05)
- d.** With the Department, any additional documentation, supplemental forms and information as the Administrator may deem necessary; (3-24-05)

**e.** With the Department, Subsections 083.01.a. through 083.01.d. of this rule, for any agent of a non-~~NASD~~FINRA member. ~~(3-24-05)~~( )

**02. Agents of Issuer.** (3-24-05)

**a.** Agents of issuers applying for initial registration in the state of Idaho pursuant to Section 30-14-406, Idaho Code, shall file the following with the Department: (3-24-05)

- i.** A completed Form U-4; (3-24-05)
- ii.** The fee specified in Section 30-14-410, Idaho Code; (3-24-05)
- iii.** Proof of successful completion of the applicable examination(s) specified in Section 103 of these rules; (3-24-05)

**iv.** Proof of a bond of a surety company duly authorized to transact business in this state, said bond to be in the sum of ten thousand dollars (\$10,000) and conditioned upon faithful compliance with the provisions of the Act by the agent, such that upon failure to so comply by the agent, the surety company shall be liable to any and all persons who may suffer loss by reason thereof. Provided, however, that the obligation of the surety bond must be maintained at all times in the amount therein provided; and provided further, that a certificate of deposit issued by any bank in the state of Idaho and assigned to the Administrator in an amount equal to the bond which would otherwise be required may be accepted by the administrator in lieu of a bond, if the certificate of deposit is maintained at all times in the amount and manner herein provided during the term for which the registration is effective and for three (3)



years thereafter; (3-24-05)

v. Any additional documentation, supplemental forms and information as the Administrator may deem necessary. (3-24-05)

b. An individual who represents an issuer that effects transactions in a federal covered security under Section 18(b)(3) (transactions relating to “qualified purchasers” as that term may be defined by the SEC) or 18(b)(4)(D) (commonly known as Regulation D, Rule 506) of the Securities Act of 1933 is not exempt from the registration requirements of Section 30-14-402(a), Idaho Code, if the individual is compensated, directly or indirectly, for participation in the specified securities transactions. (3-24-05)

c. Exceptions for officers. If there are not more than two (2) officers of an issuer, such officers may be registered as agents for a particular original offering of the issuer’s securities without being required to pass such written examination or file an agent’s bond as required by Subsection 083.02.a.iii. and 083.02.a.iv. of this rule, unless such person has registered under this rule within the prior five (5) years. (3-24-05)

**03. Incomplete Applications.** After a period of six (6) months from date of receipt, an incomplete application will automatically be considered abandoned and withdrawn if the requirements have not been fulfilled. (3-24-05)

**04. Annual Renewal.** (3-24-05)

a. Broker-Dealer Agent. Agents of ~~NASD~~ **FINRA** members shall renew their registrations by submitting the renewal fee specified in Section 30-14-410, Idaho Code, to the CRD. Agents of non-~~NASD~~ **FINRA** members shall renew their registrations by submitting a completed renewal application and a renewal fee as specified in Section 30-14-410, Idaho Code. ~~(3-24-05)~~ **( )**

b. Issuer Agent. Issuer agents shall renew their registrations by submitting a completed renewal application and a renewal fee as specified in Section 30-14-410, Idaho Code. (3-24-05)

**05. Updates and Amendments.** (3-24-05)

a. A broker-dealer agent or agent of issuer must file with CRD, or with this Department, in accordance with the instructions in Form U-4, any amendments to the broker-dealer agent’s or issuer agent’s Form U-4. It is the responsibility of each broker-dealer agent or issuer agent to assure that current and accurate information is on file with the Department at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form U-4 or by direct notice to the Department. (3-24-05)

b. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment; ~~and~~ ~~(3-24-05)~~ **( )**

c. Litigation Notice. Any broker-dealer agent or issuer agent shall notify the Administrator in writing or through the CRD of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement shall not include minor traffic violations or minor civil actions unrelated to the registrant’s business as a broker-dealer. (3-24-05)

d. Notice of Address. Every broker-dealer agent and issuer agent shall provide the Department with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. (3-24-05)

e. Change of Name. If a registered broker-dealer agent or issuer agent changes his or her name, notice of such must be submitted to the CRD or this Department within a reasonable time after the effective date of the change. The name change will not be effective in this state until the notice is received. (3-24-05)

**06. Completion of Filing.** An application for initial or renewal registration is not considered complete

for purposes of Section 30-14-406(c), Idaho Code, until the required fee and all required amendments, including submissions requested by the Department, have been received by the Department. (3-24-05)

**07. Deferral of Effectiveness.** The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

**(BREAK IN CONTINUITY OF SECTIONS)**

**086. AGENT TERMINATION (RULE 86).**

Termination notice pursuant to the requirements of Section 30-14-408, Idaho Code, shall be given by filing within thirty (30) calendar days of termination, a completed Form U-5. For agents terminating registration with a ~~NASD~~ FINRA member, such notice shall be filed with the CRD. For agents terminating registration with a non-~~NASD~~ FINRA member, such notice shall be filed with the Department. (3-24-05)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**089. INVESTMENT ADVISER REGISTRATION -- APPLICATION/RENEWAL (RULE 89).**

**01. Initial Application.** The application for initial registration as an investment adviser, pursuant to Section 30-14-406, Idaho Code, shall be made by completing Form ADV which can be found at 17 CFR 279.1 in accordance with the form instructions and by filing the form with IARD. The application for initial registration shall also include the following: (3-24-05)

**a.** Proof of compliance by the investment adviser with the examination requirements of Section 103 of these rules; (3-24-05)

**b.** A bond of a surety company duly authorized to transact business in this state, said bond to be in the sum of twenty-five thousand (\$25,000) and conditioned upon faithful compliance with the provisions of the Act by the investment adviser such that upon failure to so comply by the investment adviser, the surety company shall be liable to any and all persons who may suffer loss by reason thereof. Except that an investment adviser that has its principal place of business in a state other than this state shall be excluded from these bonding requirements provided that such investment adviser is registered as an investment adviser in the state where it maintains its principal place of business and is in compliance with such state's bonding or minimum net worth requirements; (3-24-05)( )

~~**c.** A hard copy of the completed Form ADV Part II, only until such time as this form can be electronically submitted via IARD;~~ (3-24-05)

~~**d.**~~ A copy of the investment advisory contract to be executed by Idaho clients; (3-24-05)

~~**e.**~~ A balance sheet, prepared substantially in accordance with Generally Accepted Accounting Principles, dated as of the investment adviser's prior fiscal year-end; however, if the investment adviser has not been in operation for an entire year, a balance sheet dated within ninety (90) days of filing shall be submitted; (3-24-05)( )

~~**f.**~~ The fee required by Section 30-14-410, Idaho Code; and; (3-24-05)

~~**g.**~~ Any other information the Department may reasonably require. (3-24-05)

**02. Incomplete Applications.** After a period of six (6) months from the date of receipt by the Department, an incomplete application will automatically be considered abandoned and withdrawn if the requirements have not been fulfilled. (3-24-05)

**03. Annual Renewal.** The application for annual renewal registration as an investment adviser shall be

filed with IARD according to their policies and procedures. The application for annual renewal registration shall include the fee required by Section 30-14-410, Idaho Code. (3-24-05)

**04. Applications Prior to Expiration.** An application for the renewal of the registration of an investment adviser must be filed with the Department before the registration expires, which is the thirty-first day of December next following such registration, per the provisions of Section 30-14-406(d), Idaho Code, unless an order is in effect under Section 30-14-412, Idaho Code. Any registration that is not renewed within that time limit will be deemed to have lapsed, thus requiring the investment adviser to reapply for registration with the Department in accordance with the requirements of the Act. ~~(3-24-05)~~( )

**05. Updates and Amendments.** (3-24-05)

**a.** An investment adviser must file with IARD, in accordance with the instructions in Form ADV, any amendments to the investment adviser's Form ADV. All investment advisers must assure that current and accurate information is on file with the Department at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form ADV or by direct notice to the Department. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment. (3-24-05)

**b.** Within ninety (90) days of the end of the investment adviser's fiscal year, an investment adviser must file a copy of the investment adviser's balance sheet as of the prior fiscal year-end. (3-24-05)

**c.** **Litigation Notice.** Any investment adviser shall notify the Administrator in writing or through the IARD of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement shall not include minor traffic violations or minor civil actions unrelated to the registrant's business as an investment adviser. (3-24-05)

**d.** **Notice of Address.** Every investment adviser ~~representative~~ shall provide the Department, through IARD, with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. ~~(3-24-05)~~( )

**06. Completion of Filing.** An application for initial or renewal registration is not considered filed for purposes of Section 30-14-406, Idaho Code, until the required fee and all required submissions have been received by the Administrator and until the investment adviser is registered in the jurisdiction where it maintains its principal place of business. ~~(3-24-05)~~( )

**07. Deferral of Effectiveness.** The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

**090. INVESTMENT ADVISER REPRESENTATIVE REGISTRATION - APPLICATION/RENEWAL (RULE 90).**

**01. Initial Application.** The application for initial registration as an investment adviser representative pursuant to Section 30-14-406, Idaho Code, shall be made by completing Form U-4 in accordance with the form instructions and by filing Form U-4 with CRD. The application for initial registration also shall include the following: (3-24-05)

**a.** Proof of compliance by the investment adviser representative with the examination requirements of Section 103 of these rules; and (3-24-05)

**b.** The fee required by Section 30-14-410, Idaho Code. (3-24-05)

**02. Incomplete Applications.** After a period of six (6) months from the date of receipt by the Department, an incomplete application will automatically be considered abandoned and withdrawn if the requirements have not been fulfilled. (3-24-05)

**03. Annual Renewal.** The application for annual renewal registration as an investment adviser representative shall be filed with CRD. The application for annual renewal registration shall include the fee required by Section 30-14-410, Idaho Code. (3-24-05)

**04. Updates and Amendments.** (3-24-05)

**a.** The investment adviser representative is under a continuing obligation to update information required by Form U-4 as changes occur. All investment adviser representatives must assure that current and accurate information is on file with the Department, through CRD, at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form U-4. (3-24-05)( )

**b.** An investment adviser representative and the investment adviser must file promptly with CRD any amendments to the representative's Form U-4. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment. (3-24-05)

**c.** Litigation Notice. Any investment adviser representative shall notify the Administrator in writing, through CRD, of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement shall not include minor traffic violations or minor civil actions unrelated to the registrant's business as an investment adviser representative. (3-24-05)

**d.** Change of Name. If a registered investment adviser representative changes his or her name, notice of such must be submitted to the CRD or this Department either before or within a reasonable time after the effective date of the change. The name change will not be effective in this state until the notice is received. (3-24-05)

**e.** Notice of Address. Every investment adviser representative shall provide the Department, through CRD, with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. (3-24-05)( )

**05. Completion of Filing.** An application for initial or renewal registration is not considered filed for purposes of Section 30-14-406, Idaho Code, until the required fee and all required submissions have been received by the Administrator. (3-24-05)

**06. Dual Registration Exemption.** A person may transact business in this state as an investment adviser representative if he is registered as an agent pursuant to Section 30-14-402, Idaho Code, and is employed by a broker-dealer registered pursuant to Section 30-14-401, Idaho Code, and (3-24-05)

**a.** The person's investment advisory activities are limited to recommending the investment advisory services of an investment adviser registered under Section 30-14-403, Idaho Code, or a federal covered adviser that has made a notice filing pursuant to Section 30-14-405, Idaho Code, and all such recommendations are made on behalf of the employing broker-dealer; (3-24-05)

**b.** The person is not compensated directly for making such recommendations; and (3-24-05)

**c.** The person provides written notice to the administrator that he is relying on this exemption from the requirement to be registered as an investment adviser representative. (3-24-05)

**07. Deferral of Effectiveness.** The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

**(BREAK IN CONTINUITY OF SECTIONS)**

**092. NOTICE FILING REQUIREMENTS FOR FEDERAL COVERED ADVISERS (RULE 92).**

**01. Notice Filing.** The notice filing for a federal covered adviser pursuant to Section 30-14-405, Idaho Code, shall be filed with IARD on an executed Form ADV which can be found at 17 CFR 279.1. A notice filing of a federal covered adviser shall be deemed filed when the fee required by Section 30-14-410, Idaho Code, and the Form ADV are filed with and accepted by IARD on behalf of the state. (3-24-05)

**02. ~~Portions of Form ADV Not Yet Accepted by IARD When Deemed Filed.~~ ~~Until IARD provides for the filing of Part II of Form ADV,~~** The Administrator will deem filed Part ~~H~~ **2** of Form ADV if a federal covered adviser provides, within five (5) days of a request, Part ~~H~~ **2** of Form ADV to the Administrator. Because the Administrator deems Part ~~H~~ **2** of the Form ADV to be filed, a federal covered adviser is not required to submit Part ~~H~~ **2** of Form ADV to the Administrator unless requested. ~~(3-24-05)~~ **( )**

**03. Renewal.** The annual renewal of the notice filing for a federal covered adviser pursuant to Section 30-14-405, Idaho Code, shall be filed with IARD. The renewal of the notice filing for a federal covered adviser shall be deemed filed when the fee required by Section 30-14-410(e), Idaho Code, is filed with and accepted by IARD on behalf of the state. (3-24-05)

**04. Updates and Amendments.** A federal covered adviser must file with IARD, in accordance with the instructions in the Form ADV, any amendments to the federal covered adviser's Form ADV. (3-24-05)

**093. RECORDS REQUIRED OF INVESTMENT ADVISERS (RULE 93).**

Pursuant to provisions of the Act, every investment adviser registered or required to be registered under the Act shall make and keep true, accurate and current books and records ~~in compliance with~~ **as listed in** 17 CFR 275.204-2 under the Investment Advisers Act of 1940, as currently amended. ~~(3-24-05)~~ **( )**

**094. CLIENT CONTRACTS - INVESTMENT ADVISERS (RULE 94).**

**01. Contract.** As used in this rule, "investment advisory contract" means any contract or agreement whereby a person agrees to act as investment adviser or to manage any investment or trading account for a person other than an investment company, as defined in the Investment Company Act of 1940, as amended. (3-24-05)

**02. Contents of Client Contract.** No investment adviser shall enter into, extend, or renew any investment advisory contract, or in any way perform any investment advisory contract entered into, extended, or renewed, after the effective date of this rule, unless such contract is in writing and contains the following: (3-24-05)

**a.** Provides that an investment adviser shall not receive compensation based on a share of capital gains upon or capital appreciation of funds or any portion of the funds of the client, ~~unless the investment adviser adheres to the provisions set forth~~ **except as exempted** in 17 CFR 275.205-3 under the Investment Adviser Act of 1940; ~~(3-24-05)~~ **( )**

**b.** Provides that no assignment of the contract shall be made by the investment adviser without the written consent of the client; (3-24-05)

**c.** Provides that if the investment adviser is a partnership, the investment adviser shall notify the client of any change in the membership of such partnership within a reasonable time after such change; (3-24-05)

**d.** Provides the investment adviser's policy regarding termination of the contract, in compliance with 17 CFR 275.204-3(b). (3-24-05)

**e.** Detailed description of the services to be provided; (3-24-05)

**f.** Terms of the contract; (3-24-05)

**g.** Amount of the advisory fee, the formula for computing the fee, and the amount of any prepaid fee to be returned in the event of contract termination or non-performance; (3-24-05)

**h.** Discloses whether the contract grants discretionary power to the investment adviser; (3-24-05)

i. A contract may not contain any provision that limits or purports to limit the liability of the investment adviser for conduct or omission arising from the advisory relationship that does not conform to the Act, applicable federal statutes, or common law fiduciary standard of care; or the remedies available to the client at law or equity or the jurisdiction where any action shall be filed or heard. (3-24-05)

**095. INVESTMENT ADVISER BROCHURE RULE (RULE 95).**

An investment adviser registered or required to be registered under the Act shall, in accordance with 17 CFR 275.204-3 under the Investment Advisers Act of 1940, ~~furnish~~ deliver to each advisory client and prospective advisory client with a written disclosure statement that may be either a copy of Part ~~H~~ 2 of its Form ADV which complies with 17 CFR 275.201(b) of the Investment Advisers Act of 1940, or a written document containing at least the information then so required by Part ~~H~~ 2 of Form ADV. (3-24-05)( )

**096. REQUIREMENTS FOR CUSTODY (RULE 96).**

If an investment adviser registered or required to be registered under the Act maintains custody of client funds, it shall be done in accordance with ~~the requirements and standards set forth in~~ 17 CFR 275.206(4)-2 of the Investment Advisers Act of 1940. (3-24-05)( )

**097. INVESTMENT ADVISER AFFILIATION WITH BROKER-DEALERS/ISSUERS/AGENTS (RULE 97).**

If an investment adviser becomes affiliated with a broker-dealer or issuer, he will be under a continuing obligation to make full disclosure of the affiliation to all parties to the affiliation, and must provide written notice to the Administrator of any material changes concerning any affiliation. Compliance with Part ~~H~~ 2 of Uniform Form ADV and delivery of Part ~~H~~ 2 of that form, or of a separate brochure or document containing substantially the same information that meets the requirements of the federal brochure rule, will be deemed to be in compliance with this rule. (3-24-05)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**101. NOTIFICATION OF OPENING, CLOSING OR RELOCATION OF BRANCH OFFICES (RULE 101).**

Any broker-dealer or investment adviser, registered as such with the Department, shall notify the Administrator in writing or through CRD, no later than thirty (30) days after the opening, closing or relocation of any branch office. For purposes of this rule, "branch office" is defined ~~to include any location where any of the broker-dealer's or investment adviser's business is conducted on a regular basis outside the broker-dealer's or investment adviser's main office or principal place of business including, but not limited to, any financial institutions, residences, or seasonal offices used by the broker-dealer or investment adviser and its agents~~ by FINRA. (3-24-05)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**103. EXAMINATION REQUIREMENTS (RULE 103).**

**01. Examination Required.** The following examinations are required for the following applicants: (3-24-05)

a. Broker-dealer agent application. General agents of securities broker-dealers are required to take and pass: (3-24-05)

i. The applicable ~~NASD~~ FINRA examination; and (3-24-05)( )

ii. Either the Series 63 or the Series 66 examination. (3-24-05)

b. Investment adviser representative and investment adviser qualifying officer application. Applicants for registration as investment adviser representatives or as an investment adviser qualifying officer shall take and



pass: (3-24-05)

i. The Series 65; or (3-24-05)

ii. The Series 66 and Series 7 examinations. (3-24-05)

**c.** Specialized agent of a broker-dealer, issuer agent and qualifying officer for non-~~NASD~~ FINRA broker-dealer application. Specialized agents of broker-dealers, issuer agents and qualifying officers for non-~~NASD~~ FINRA broker-dealers application are required to take and pass: ~~(3-24-05)~~ ( )

i. The applicable ~~NASD~~ FINRA examination; and ~~(3-24-05)~~ ( )

ii. Either the Series 63 or the Series 66 examination. (3-24-05)

**d.** Sales of Viaticals. Persons selling viatical investments are required to take and pass the Series 7 examination. (3-24-05)

**02. Specialized Examination Authority.** Any registration granted pursuant to a specialized examination will be restricted, and the registrant will be authorized to effect securities transactions only in securities of the type specified by the conditions of the license. (3-24-05)

**03. Investment Adviser Representatives - Waiver.** An applicant for investment adviser representative or investment adviser qualifying officer registration may qualify for a waiver of the examination requirement if the applicant currently holds one (1) of the following designations: (3-24-05)

**a.** Certified Financial Planner (CFP) awarded by the Certified Financial Planner Board of Standards, Inc.; (3-24-05)

**b.** Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, Pennsylvania; (3-24-05)

**c.** Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts; (3-24-05)

**d.** Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants; (3-24-05)

**e.** Chartered Investment Counselor (CIC) awarded by the Investment Counsel Association of America, Inc.; or (3-24-05)

**f.** Such other professional designation as the Administrator may by rule or order recognize. (3-24-05)

**04. Waiver.** The Administrator, in his sole discretion, may waive any examination required by this rule upon a sufficient showing of good cause and upon any conditions he may impose. (3-24-05)

**104. FRAUDULENT, DISHONEST AND UNETHICAL PRACTICES - BROKER-DEALER, BROKER-DEALER AGENTS, ISSUER AGENTS, INVESTMENT ADVISERS, INVESTMENT ADVISER REPRESENTATIVES (RULE 104).**

**01. Fraudulent, Dishonest and Unethical Practices.** Any broker-dealer, agent, issuer agent, investment adviser or investment adviser representative who engages in one (1) or more of the ~~following~~ practices identified in Subsections 104.02 through 104.47 of this rule shall be deemed to have engaged in one (1) or both of the following: ~~(3-24-05)~~ ( )

**a.** An "act, practice, or course of business that operates or would operate as a fraud or deceit" as used in Section 30-14-501 and Section 30-14-502, Idaho Code; ~~(3-24-05)~~ ( )

**b.** A dishonest and unethical practice as used in Section 30-14-412(d)(13), Idaho Code, and such conduct may constitute grounds for denial, suspension, or revocation of registration or such other action authorized by statute. (3-24-05)

**c.** This rule is not intended to be all-inclusive, and thus, acts or practices not enumerated herein may also be deemed fraudulent, or dishonest and unethical. (3-24-05)

**02. Delivery Delays.** Engaging in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers and/or in the payment upon request of free credit balances reflecting completed transactions of any of its customers. (3-24-05)

**03. Churning.** Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account. (3-24-05)

**04. Unsuitable Recommendations.** ( )

**a.** Recommending to a customer the purchase, sale, or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer, agent, or issuer agent. ~~Subsection 104.04 of this rule may be referred to hereinafter as the suitability rule.~~ (3-24-05)( )

**b.** Recommending to a customer, to whom investment advice is provided, the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer on the basis of information furnished by the customer after reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other information known by the investment adviser or investment adviser representative. ( )

**05. Unauthorized Transactions.** Executing a transaction on behalf of a customer without authorization to do so. (3-24-05)

**06. Discretionary Authority.** Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the executing of orders. (3-24-05)

**07. Margin Accounts.** Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement before or promptly after the initial transaction in the account. (3-24-05)

**08. Segregation of Client Securities.** Failing to segregate customers' free securities or securities held in safekeeping. (3-24-05)

**09. Hypothecating Customer Securities.** Hypothecating a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent before or promptly after the initial transaction, except as permitted by rules of the Securities and Exchange Commission. (3-24-05)

**10. Unreasonable Price, Commission.** Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit. (3-24-05)

**11. Failure to Supervise.** Failure by a broker-dealer or investment adviser to exercise diligent supervision over the securities activities of all its broker-dealer agents, investment adviser representatives and employees as set forth in Section 105 of these rules. (3-24-05)

**12. Unreasonable Fees.** Charging unreasonable and inequitable fees for services performed, including miscellaneous services such as collection of monies due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business.



(3-24-05)

**13. Sales at the Market.** Representing that a security is being offered to a customer “at the market” or a price relevant to the market price unless such broker-dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created, or controlled by such broker-dealer, or by any such person for whom the broker-dealer is acting or with whom the broker-dealer is associated in such distribution, or any person controlled by, controlling, or under common control with such broker-dealer. (3-24-05)

**14. Manipulative, Deceptive or Fraudulent Practices.** Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive, or fraudulent device, practice, plan, program, design, or contrivance, which may include: (3-24-05)

**a.** Effecting any transaction in a security which involves no change in the beneficial ownerships thereof; (3-24-05)

**b.** Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security. However, nothing in Subsection 104.14, of this rule, prohibits a broker-dealer from entering bona fide agency cross transactions for customers; or (3-24-05)

**c.** Effecting, alone or with one (1) or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others. (3-24-05)

**15. Loss Guarantees.** Guaranteeing a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer. (3-24-05)

**16. Bona Fide Price Reports.** Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona fide bid for, or offer of, such security. (3-24-05)

**17. Deceptive or Misleading Advertising.** Using any advertising or sales presentation in such a fashion as to be deceptive or misleading. (3-24-05)

**18. Disclosure of Control.** Failing to disclose that the broker-dealer or investment adviser is controlled by, controlling, affiliated with, or under common control with the issuer of any security before entering into any contract with or for a customer for the purchase or sale of such security, the existence of such control to such customer, and if such disclosure is not made in writing, it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction. (3-24-05)

**19. Bona Fide Distribution.** Failing to make a bona fide public offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member, or from a member participating in the distribution as an underwriter or selling group member by, among other things, transferring securities to a customer, another broker-dealer or a fictitious account with the understanding that those securities will be returned to the broker-dealer or its nominees or parking or withholding securities. (3-24-05)

**20. Customer Communication.** Failure or refusal to furnish a customer, upon reasonable request, information to which the customer is entitled, or to respond to a formal written request or complaint. (3-24-05)

**21. Loans from Customers.** Borrowing money or securities from a customer, unless the customer is a broker-dealer, an affiliate, or a financial institution engaged in the business of loaning funds or securities, or

immediate family. For purposes of this rule, the term “immediate family” means parents, mother-in-law, father-in-law, husband, wife, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, and children. (3-24-05)

~~22. **Loans to Customers.** Loaning money to a customer, other than an immediate family member, unless the broker-dealer or investment adviser is a financial institution engaged in the business of loaning funds or the customer is an affiliate of the broker-dealer or investment adviser. ( )~~

~~23. **Unrecorded Transactions.** Effecting securities transactions not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction. (3-24-05)~~

~~24. **Fictitious Accounts.** Establishing or maintaining an account containing fictitious information in order to execute transactions which would otherwise be prohibited. (3-24-05)~~

~~25. **Profit/Loss Sharing.** Sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which the agent represents. (3-24-05)~~

~~26. **Splitting Commissions.** Dividing or otherwise splitting the agent's commissions, profits, or other compensation from the purchase or sale of securities with any person not also registered in Idaho as an agent for the same broker-dealer, or for a broker-dealer under direct or indirect common control. (3-24-05)~~

~~27. **Unsolicited Transactions.** Marking any order tickets or confirmations as unsolicited when in fact the transaction was solicited. (3-24-05)~~

~~28. **FINRA and NASD Rules Compliance.** Failing to comply with any applicable provision of the NASD Conduct Rules and any other FINRA Rules of Fair Practice of the National Association of Securities Dealers or any applicable fair practice or ethical standard promulgated by the Securities and Exchange Commission or by a self-regulatory organization approved by the Securities and Exchange Commission. (3-24-05)( )~~

~~29. **Contradicting Prospectus Information.** Contradicting or negating the importance of any information contained in a prospectus or other offering materials with intent to deceive or mislead. (3-24-05)~~

~~30. **Inside Information.** In connection with the offer, sale, or purchase of a security, falsely leading a customer to believe that the broker-dealer, agent, investment adviser or investment adviser representative is in possession of material, non-public information which would impact the value of the security, or communicating to customers or other persons bona fide information not generally available to the public that may be used in the person's decision to buy, sell, or hold a security. (3-24-05)( )~~

~~31. **Contradictory Recommendations.** In connection with the solicitation of a sale or purchase of a security, engaging in a pattern or practice of making contradictory recommendations to different investors of similar investment objective for some to sell and others to purchase the same security, at or about the same time, when not justified by the particular circumstance of each investor. (3-24-05)~~

~~32. **Prospectus Delivery.** Failure to comply with any prospectus delivery requirement promulgated under federal law. (3-24-05)~~

~~33. **Penny Stock Sales.** Effect any transaction in, or to induce or attempt to induce the purchase or sale of, any penny stock by any customer except in accordance with the requirements as set forth in the 1934 Securities Exchange Act, Section 15(g) and the rules and regulations prescribed thereunder. (3-24-05)( )~~

~~34. **Unsuitable Recommendations.** Recommending to a client to whom investment management or consulting services are provided the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser. (3-24-05)~~

~~34.~~ ~~**Loans to Clients.** Lending money to a client unless the investment adviser is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser.~~ (3-24-05)

~~354.~~ **Misrepresentations Concerning Advisory Services.** To misrepresent to any advisory client, or prospective advisory client, the qualifications of the investment adviser, investment adviser representative or any employee of the investment adviser, or to misrepresent the nature of the advisory services being offered or fees to be charged for such service, or to omit to state a material fact necessary to make the statements made regarding qualifications, services, or fees, in light of the circumstances under which they are made, not misleading. (3-24-05)

~~365.~~ **Unreasonable Advisory Fees.** Charging a client an unreasonable advisory fee. (3-24-05)

~~376.~~ **Conflicts of Interest.** Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the adviser or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including: (3-24-05)

a. Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; and (3-24-05)

b. Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the adviser or its employees. (3-24-05)

~~387.~~ **Guaranteeing Specific Results.** Guaranteeing a client that a specific result will be achieved (gain or no loss) with advice which will be rendered. (3-24-05)

~~398.~~ **Advertising.** Publishing, circulating, or distributing any advertisement that does not comply with ~~Rule 206(4)-1~~ 17 CFR 275.206(4)-1 under the Investment Advisers Act of 1940. (3-24-05)( )

~~4039.~~ **Disclosure of Private Information.** Disclosing the identity, affairs, or investments of any client unless required by law to do so, or unless consented to by the client. (3-24-05)

~~440.~~ **Advisory Contract Disclosures.** Entering into, extending, or renewing any investment advisory contract unless such contract is in writing and discloses, in substance the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or non-performance, whether the contract grants discretionary power to the adviser and that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract. (3-24-05)

~~421.~~ **Protection of Non-Public Information.** Failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information, or that are contrary to the provisions of Section 204A, and rules associated with it, of the Investment Advisers Act of 1940. (3-24-05)( )

~~432.~~ **Advisory Contract to Comply with Federal Law.** To indicate, in an advisory contract, any condition, stipulation, or provisions binding any person to waive compliance with any provision of the Act or of the Investment Advisers Act of 1940, or any other practice contrary to the provisions of Section 215, and rules associated with it, of the Investment Advisers Act of 1940. (3-24-05)( )

~~443.~~ **Waiver of State or Federal Law Prohibited.** Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative in contrary to the provisions and associated rules of Section 206(4) of the Investment Advisers Act of 1940, notwithstanding the fact that such investment adviser is not registered or required to be registered under Section 203 of the Investment Advisers Act of 1940. (3-24-05)( )

~~454.~~ **Fraudulent, Deceptive or Manipulative Acts.** Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative in contrary to the provisions and associated rules of Section 206(4) of the Investment Advisers Act of 1940, notwithstanding the fact that such investment adviser is not registered or required to be registered under Section 203 of the Investment Advisers Act of 1940. (3-24-05)( )

**465. Outside Business Activities - Selling Away.** Any agent or investment adviser representative associated with a broker-dealer or investment adviser registered under the Act shall not engage in business activities, for which he receives compensation either directly or indirectly, outside the scope of his regular employment unless he has provided prior written notice to his employer firm. (3-24-05)

**476. Third Party Conduct.** Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Act or any rules thereunder, or engaging in other conduct such as nondisclosure, incomplete disclosure, or deceptive practices shall be deemed an unethical business practice. The federal statutory and regulatory provisions referenced herein shall apply to investment advisers and federal covered advisers, to the extent permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290). (3-24-05)

**487. Misleading Filings.** For purposes of Section 30-14-505, Idaho Code, the term “proceeding” includes, but is not limited to, any investigation, examination or other inquiry initiated by the Department. (3-24-05)

**105. SUPERVISION OF AGENTS, INVESTMENT ADVISER REPRESENTATIVES AND EMPLOYEES (RULE 105).**

**01. Supervision Required.** Every broker-dealer, investment adviser, and designated supervisor shall exercise diligent supervision over the securities activities of all of his agents, investment adviser representatives and employees. (3-24-05)

**02. Broker-Dealer Procedures.** Every agent and employee of the broker-dealer shall be subject to the supervision of a supervisor designated by such broker-dealer. The supervisor may be the broker-dealer in the case of a sole proprietor, or a partner, officer, office manager, or any other qualified person. (3-24-05)

**03. Written Compliance Procedure.** Every broker-dealer shall establish, maintain and enforce written procedures, a copy of which shall be kept in each business office, which shall set forth the procedures adopted by the broker-dealer to comply with the following duties imposed by this rule, and shall state at which business office or offices the broker-dealer keeps and maintains the records required by Section 30-14-411, Idaho Code: (3-24-05)

**a.** The review and written approval by the designated supervisor of the opening of each new customer account; (3-24-05)

**b.** The frequent examination of all customer accounts to detect and prevent irregularities or abuses, including a review for churning and switching of securities in customers’ accounts, as well as unsuitable recommendations and sales of unregistered securities; (3-24-05)

**c.** The prompt review and written approval by the designated supervisor of all securities transactions and all correspondence pertaining to the solicitation or execution of all securities transactions; (3-24-05)

**d.** The review of back office operations, i.e., all systems and procedures, including the currency and accuracy of books and records, the status and causes of “Fails to Receive” and “Fails to Deliver.” net capital, credit extensions and financial reports; (3-24-05)

**e.** The review of form, content and filing of all correspondence related in any way to the purchase or sale or solicitation for the purchase or sale of securities; (3-24-05)

**f.** The review and written approval by the designated supervisor of the delegation by any customer of discretionary authority with respect to his account to a stated agent or associate of the broker-dealer and the prompt written approval of each discretionary order entered on behalf of that account; and (3-24-05)

**g.** The prompt review and written approval of the handling of all customer complaints. As used in these rules, “complaint” is considered to be any written statement by a customer or by any person acting for a customer which complains about the activities of the broker-dealer, agent or associate in connection with the solicitation or execution of a transaction or the disposition of funds of that customer. (3-24-05)

**04. Investment Adviser Procedures.** Every investment adviser shall establish, maintain and enforce written procedures, a copy of which shall be kept in each business office, which shall set forth ~~the~~ procedures ~~adopted~~ ~~to reasonably designed to prevent violation of the Idaho Uniform Securities Act and Rules and~~ comply with the following duties as applicable to the business of the investment adviser: (3-24-05)( )

**a.** The review and written approval by the designated supervisor of the opening of each new customer account; (3-24-05)

**b.** The frequent examination of all customer accounts to detect and prevent irregularities or abuses, including a review for unsuitable recommendations and recommendations of unregistered securities; (3-24-05)

**c.** The prompt review and written approval by the designated supervisor of all securities recommendations and all correspondence pertaining to the solicitation or execution of all securities recommendations; (3-24-05)

**d.** The review of form, content and filing of all correspondence related in any way to the recommendation of the purchase of any securities; (3-24-05)

**e.** The prompt review and written approval of the handling of all customer complaints. As used in these rules, a "complaint" is considered to be any written statement by a customer, or by any person acting for a customer, questioning the activities of the investment adviser or representative in connection with recommendations concerning, or disposition of, funds in the account. (3-24-05)

## IDAPA 12 – DEPARTMENT OF FINANCE

### 12.01.10 – RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-1601

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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, 26-31-204(5), 26-31-302(1)(a), and 26-31-302(2), Idaho Code.

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

The pending rule updates references to incorporated federal laws and regulations (Truth in Lending and Regulation Z as well as the Real Estate Settlement Procedures Act and Regulation X).

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016, Idaho Administrative Bulletin, [Vol.16-10, pages 373-374](#).

**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 Mike Larsen at (208) 332-8060.

DATED this 1st day of November 2016.

Michael Larsen  
Consumer Finance Bureau Chief  
Department of Finance  
800 Park Blvd.  
PO Box 83720  
Boise, ID 83720-0031  
Office: (208) 332-8060  
Fax: (208) 332-8099

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
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**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 26-31-103, 26-31-204(5), 26-31-302(1)(a), and 26-31-302(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

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

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

The proposed rule updates references to incorporated federal laws and regulations (Truth in Lending and Regulation Z as well as the Real Estate Settlement Procedures Act and Regulation X).

**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 is simple in nature as it merely updates references to incorporated federal laws and regulations (Truth in Lending and Regulation Z as well as the Real Estate Settlement Procedures Act and Regulation X).

**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:

Section 26-31-102, Idaho Code, defines Regulations X and Z, the Real Estate Settlement Procedures Act, and the Truth in Lending Act for incorporation into the Idaho Residential Mortgage Practices Act and Idaho Mortgage Rules pursuant to that Act. This proposed rule promotes consistency in state and federal mortgage-related laws so that Idaho mortgage licensees are not faced with an untenable requirement of complying with conflicting state and federal laws.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mike Larsen at 208-332-8060.

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, 2016.

DATED this 2nd day of September, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 12-0110-1601**

**005. INCORPORATION BY REFERENCE (RULE 5).**

The "Rules Pursuant to the Idaho Residential Mortgage Practices Act," incorporate by reference the full text of the following: (4-4-13)

**01. The Real Estate Settlement Procedures Act.** As set forth in 12 U.S.C. 2601, et seq., as amended to and including January 1, 2016<sup>7</sup>. The Real Estate Settlement Procedures Act is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/USCODE-2015-title12/html/USCODE-2015-title12-chap27.htm>. ~~(3-25-16)~~( )

**02. Regulation X.** As issued by the federal Bureau of Consumer Financial Protection and codified at 12 CFR 1024, et seq., as amended to and including January 1, 2016<sup>7</sup>. Regulation X is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/CFR-2016-title12-vol8/xml/CFR-2016-title12-vol8-part1024.xml>. ~~(3-25-16)~~( )



**03. The Truth in Lending Act.** As set forth in 15 U.S.C. 1601, et seq., as amended to and including January 1, 201~~6~~<sup>7</sup>. The Truth in Lending Act is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/USCODE-2015-title15/html/USCODE-2015-title15-chap41.htm>. ~~(3-25-16)~~( )

**04. Regulation Z.** As issued by the federal Bureau of Consumer Financial Protection and codified at 12 CFR 1026, et seq., as amended to and including January 1, 201~~6~~<sup>7</sup>. Regulation Z is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/CFR-2016-title12-vol9/xml/CFR-2016-title12-vol9-part1026.xml>. ~~(3-25-16)~~( )

**05. NMLS Policy Guidebook.** The Conference of State Bank Supervisors/American Association of Residential Mortgage Regulators NMLS Policy Guidebook for Licensees, published by the Nationwide Mortgage Licensing System and Registry as of July 23, 2012, and available at <http://mortgage.nationwidelicencingsystem.org/slr/common/policy/Pages/default.aspx>. (4-4-13)

**06. Availability of Documents.** Unless otherwise available, the documents incorporated by reference may be viewed at the central office of the Idaho Department of Finance, as noted in Section 002 of these rules. (4-4-13)



## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### 18.01.10 – PRODUCERS HANDLING OF FIDUCIARY FUNDS

DOCKET NO. 18-0110-1601

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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, 41-1024, and 41-1025, 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 seeks to add language amending a rule concerning insurance producers handling fiduciary funds. The rule specifically relates to bail bonds to provide deposit rules for cash collateral similar to that of other funds that insurance producers receive from clients, namely, to treat cash collateral as fiduciary funds.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2016 Idaho Administrative Bulletin, [Vol. 16-9, pages 138-142](#).

**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 Thomas A. Donovan at (208) 334-4214, or at [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov).

DATED this 5th day of October, 2016.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID 83702-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
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**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, 41-1024 and 41-1025, 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, 2016.

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 AND STATEMENT OF PURPOSE:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The existing rule is proposed to be amended concerning bail to provide deposit rules for cash collateral similar to that of other funds that insurance producers receive from clients, namely, to treat cash collateral as fiduciary funds.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 6, 2016 Idaho Administrative Bulletin, [Volume 16-7, page 70](#).

**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, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Thomas A. Donovan at (208) 334-4214, or at [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the attention of the undersigned and must be delivered either by hard copy or via email to the same email address for questions set forth above on or before Wednesday, September 28, 2016.

DATED this 5th Day of August, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0110-1601**

**000. LEGAL AUTHORITY.**

This rule is promulgated pursuant to authority granted by Sections 41-211, ~~and~~ 41-1024, ~~and 41-1025~~, Idaho Code. ~~(4-11-06)( )~~

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 18.01.10, "Producers Handling of Fiduciary Funds." (4-11-06)

**02. Scope.** This rule will affect "Producers," as defined in Section ~~41-1003, Idaho Code~~ **18.01.10.010 of this rule, including bail agents** who handle funds held in a fiduciary capacity. ~~(4-11-06)( )~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS.**

**01.** **Cash Collateral.** All funds received as collateral by a producer in connection with a bail bond transaction in the form of cash, check, money order, other negotiable instrument, debit or credit card payment, or other electronic funds transfer, given as security to obtain a bail bond, as referenced in Section 41-1043, Idaho Code. ( )

**02.** **Fiduciary Fund Account.** A financial account established to hold fiduciary funds as provided in Section 016. (4-11-06)

**03.** **Fiduciary Funds.** All premiums, return premiums, premium taxes, funds as collateral, and fees received by a producer. Fiduciary funds shall include: (4-11-06) ( )

**a.** All funds paid to a producer for selling, soliciting or negotiating policies of insurance except for those earned fees recognized by statute as earned by the producer upon receipt which are payable to the producer and not the insurance company, pursuant to Section 41-1030, Idaho Code. (4-11-06)

**b.** All funds received by a producer from or on behalf of a client or premium finance company that are to be paid to an insurance company, its agents, or to the producer's employer. (4-11-06)

**c.** All funds provided to a producer by an insurance company or its agents that are to be paid to a policyholder or claimant pursuant to a contract of insurance. (4-11-06)

**d.** All checks or other negotiable instruments collected by the producer that are made payable to the insurer. (4-11-06)

**e.** Cash collateral. ( )

**04.** **Premium.** The consideration for insurance by whatever name called, and as more fully defined by Section 41-1803, Idaho Code. (4-11-06)

**05.** **Producer.** A person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including, without limitation, bail agents as described in Section 41-1039, Idaho Code. (4-11-06) ( )

**06.** **Receive.** To collect or otherwise take actual or constructive possession of fiduciary funds. Receiving, includes but is not limited to, taking possession of money, checks, or other negotiable instruments. If fiduciary funds are in the form of a credit or offset on an account or other liability for the benefit of the consumer, without the producer actually taking possession of the funds, then constructive receipt shall be deemed to have occurred on the due date to the insurer. (4-11-06)

**011. -- 013. (RESERVED)**

**014. FIDUCIARY FUND ACCOUNT.**

**01.** **Payable to an Insurer.** Fiduciary funds that are in the form of a check or another negotiable instrument that is made payable to an insurer as described in Subsection 010.02.d. shall be remitted to the insurer within the time period as set forth in the terms and conditions as required by the insurer, or if not specified, then within twenty one (21) days of receipt. (4-11-06)

**02.** **Payable to a Policyholder.** Fiduciary funds that are in the form of a check or another negotiable instrument that is made payable to a policyholder or claimant as described in Subsection 010.02.c. shall be remitted to the policyholder or claimant within fourteen (14) days of receipt or as required by the terms of the policy of insurance, the insurer, or applicable law. (4-11-06)

**03.** **All Other Fiduciary Funds.** All other fiduciary funds received by the producer, except as described under Subsections 014.01 and 014.02 must be deposited into a fiduciary fund account according to the

following schedule:

(4-11-06)

a. If in the form of cash, within seven (7) days of receipt, except that, when a producer holds fiduciary funds in the form of cash that exceed two thousand dollars (\$2,000), such funds must be deposited within three (3) business days. (4-11-06)

b. If in the form of checks, money orders, ~~or~~ other negotiable instruments, debit or credit card payments, or other electronic funds transfer, received or collected by the producer, within seven (7) days of receipt, except that the producer may remit such funds to the following: (4-11-06)( )

i. Another licensed producer or licensed business entity, subject to the time frames of Subsection 014.03.b.; or (4-11-06)

ii. A person designated by the insurer who has the obligation to remit the fiduciary funds to the insurer subject to the time frames of Subsection 014.03.b. (4-11-06)

**04. Document the Receipt of Fiduciary Funds.** A producer who receives fiduciary funds shall document the receipt of those funds in sufficient detail to determine, at a minimum, the date received, the name of the payee, and the amount received. If the producer receives cash, including cash collateral, the producer shall give the payer a detailed receipt at the time of payment. The receipt shall include an indication that cash was received, the date received, the amount received, the payer's name, the payee's name, the purpose of payment, and any other information important to the transaction. The producer shall maintain the receipt records as records of a transaction, and keep those records for a period of at least five (5) years. (4-11-06)( )

**015. DEPOSIT OF OTHER FUNDS IN ACCOUNT.**

A producer may deposit other additional funds for the sole purpose of:

(4-11-06)

**01. ~~Establishing~~ Reserves for ~~Payment of~~ Return Premiums.** Establishing reserves for payment of return premiums. (4-11-06)( )

**02. ~~Advancing~~ Funds ~~Sufficient~~ to Pay Bank Charges.** Advancing funds sufficient to pay bank charges. (4-11-06)( )

**03. Contingencies.** For any contingencies that may arise in the business of receiving and transmitting premium or return premium funds or cash collateral (any such deposit is hereinafter referred to as "voluntary deposit"). (4-11-06)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**019. PERMISSIBLE DISTRIBUTION OF FIDUCIARY FUNDS.**

Distributions from a fiduciary fund account shall only be made for the following purposes, and in the manner stated:

(4-11-06)

**01. Remit Premiums.** To remit premiums to an insurer or an insurer's designee pursuant to a contract of insurance; (4-11-06)

**02. Return Premiums.** To return premiums to an insured or other person or entity entitled to the premiums; (4-11-06)

**03. Remit Surplus Lines Taxes and Stamping Fees.** To remit surplus lines taxes and stamping fees collected to the appropriate state; (4-11-06)

**04. Reimburse Voluntary Deposits.** To reimburse voluntary deposits made by the producer to the extent that the funds in the fiduciary account exceed the amount necessary to meet all fiduciary obligations, only if the reimbursement can be matched and identified with the previous voluntary deposit. (4-11-06)

**05. Transfer or Withdraw Accrued Interest.** To transfer or withdraw accrued interest to the extent that fiduciary fund account funds exceed the amount necessary to meet all fiduciary obligations, only if the reimbursement can be matched and identified with the previous interest deposit by the financial institution. (4-11-06)

**06. Transfer or Withdraw Actual Commissions.** To transfer or withdraw actual commissions and those earned fees recognized as earned by the producer, upon receipt, which are payable to the producer, only if the commissions and fees can be matched and identified with funds previously deposited in the fiduciary account. (4-11-06)

**07. Pay Charges Imposed.** To pay charges imposed by the financial institution that directly relate to the operation and maintenance of the fiduciary funds account to the extent that fiduciary account funds exceed fiduciary obligations; and (4-11-06)

**08. Transfer Funds.** To transfer funds from one (1) fiduciary fund account to another fiduciary fund account. (4-11-06)

**09. Return Cash Collateral.** To return cash collateral to the person who deposited the cash collateral with the producer within fourteen (14) days of the date notice is received that the obligation, the satisfaction of which was secured by the cash collateral, has been discharged. ( )

**10. Convert Cash Collateral.** To convert cash collateral where the defendant or other responsible party fails to satisfy the obligation of the bail bond and the bail or obligation was not exonerated by the court but instead executed by the court, provided such conversion is compliant with the contract between the producer and the person who deposited the cash collateral. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**022. TIMELY DISBURSEMENT OF FIDUCIARY FUNDS.**

In addition to the requirements of Section 014, after receiving fiduciary funds, a producer shall: (4-11-06)

**01. Remit Premiums.** Remit premiums directly to an insurer or an insurer's designee within the time period as set forth in the terms and conditions as required by the insurer, or if not specified, within fourteen (14) days of receipt; (4-11-06)

**02. Return Money Received.** Return to the payer the money received as a premium deposit which is retained by the producer or returned to the producer by the insurer to the payer by the earlier of: (4-11-06)

**a.** Fourteen (14) days from the date the premium is received by the producer from the insurer, or (4-11-06)

**b.** Fourteen (14) days from the date the insurer notifies the insurance applicant that coverage has been denied if the producer retained the premium deposit. (4-11-06)

**03. Refund Received from the Insurer.** Issue a refund received from the insurer within fourteen (14) days by disbursing money to the insured or other party entitled thereto by notifying the insured that the refund is being applied to an outstanding amount owed or to be owed by the insured. If the producer is applying the refund to an outstanding amount owed by the insured, the producer shall obtain the insured's permission and provide the insured a detailed description of the amount owed to which the refund is being applied. (4-11-06)

**04. Dispute of Entitlement of Funds.** If there is a dispute as to entitlement of funds under Subsections 022.01 or 022.03, notify the parties of the dispute and seek to resolve the dispute and document the steps taken to resolve the dispute. (4-11-06)

**05. Funds Held for More Than Ninety Days.** If fiduciary funds within the scope of Subsections

022.01 or 022.03 are held for more than ninety (90) days, investigate to determine the entitlement to fiduciary funds and pay those fiduciary funds when due to the appropriate person in accordance with this section. (4-11-06)

**06. Return Cash Collateral.** Return cash collateral to the person who deposited the cash collateral with the producer within fourteen (14) days of the date notice is received that the obligation, the satisfaction of which was secured by the cash collateral, is discharged. ( )

## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### 18.01.48 – RULE TO IMPLEMENT THE PRIVACY OF CONSUMER FINANCIAL INFORMATION

DOCKET NO. 18-0148-1601

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 41-1334, 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 are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 513-515](#).

**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 Thomas A. Donovan at (208) 334-4214, or [Tom.Donovan@doi.idaho.gov](mailto:Tom.Donovan@doi.idaho.gov).

DATED this 7th day of November, 2016.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID 83702-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE</b>
--

**EFFECTIVE DATE:** The effective date of the temporary rule is September 1, 2016.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 41-211 and 41-1334, Idaho Code.

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

**Friday, October 28, 2016 at 10:00 a.m.**

**Idaho Department of Insurance**  
**700 W. State Street – 3rd Floor**  
**Boise, ID 83720**

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the 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 provides language that relieves insurers and producers (licensees of the DOI) from having to send their customers an annual privacy notice where they comply with other requirements concerning any disclosure of personally identifiable financial information, and only in situations where the licensee's practices and policies regarding disclosure have not changed since the last notice sent to their customer. The rulemaking will also benefit consumers by relieving them from receiving duplicative annual notices, because only new or changed notices will be received.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1) and 41-1334, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

It will confer a benefit upon insurers, producers, and consumers.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is brought based on a request from multiple industry groups establishing a consensus of support, is not viewed as controversial, and it confers the benefit for 2016 with a goal of a final rule in 2017 rather than waiting for an additional year in the rulemaking process.

**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 Thomas A. Donovan, at [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov) or (208) 334-4214.

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 5:00PM (MST), Friday, October 28, 2016.

DATED this 25th day of August, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0148-1601**



**150. ANNUAL PRIVACY NOTICE TO CUSTOMERS REQUIRED.**

**01. General Rule.** (5-3-03)

a. A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of twelve (12) consecutive months during which that relationship exists. A licensee may define the twelve (12) consecutive-month period, but the licensee shall apply it to the customer on a consistent basis. (5-3-03)

b. Example. A licensee provides a notice annually if it defines the twelve (12) consecutive month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice. For example, if a customer opens an account on any day of year one (1), the licensee shall provide an annual notice to that customer by December 31 of year two (2). (5-3-03)

**02. Exceptions: Termination of Customer Relationship and Duplicate Notices.** ~~(5-3-03)~~ ( )

a. A licensee is not required to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship. (5-3-03)

**b. Examples:** (5-3-03)

i. If the individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee. (5-3-03)

ii. If the individual's policy is lapsed, expired or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive-months, other than to provide annual privacy notices, material required by law or rule, or promotional materials. (5-3-03)

iii. If the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful. (5-3-03)

iv. In the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later. (5-3-03)

**c. Notwithstanding Subsection 150.01.a., a licensee is not required to provide the annual privacy notice to a current customer if the licensee:** ( )

**i. Provides nonpublic personal information to nonaffiliated third parties only in accordance with Sections 450, 451, and 452; and** ( )

**ii. Has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with Section 100 or Section 150.** ( )

**03. Delivery.** When a licensee is required by Section 150 to deliver an annual privacy notice, the licensee shall deliver it according to Section 350. (5-3-03)

## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### 18.01.50 – ADOPTION OF THE INTERNATIONAL FIRE CODE

DOCKET NO. 18-0150-1601

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 41-253, Idaho Code.

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

The pending rule seeks to amend the 2015 International Fire Code to match the anticipated adoption of the 2015 International Building Code by the Division of Building Safety. The pending rule adds new Section 020 (and rennumbers current Section 020 as 019). The new section addresses the subject of sky lanterns by replacing the current prohibition on release of untethered sky lanterns with new language requiring a permit for their release and authorizing the local fire jurisdiction to restrict or place conditions on their release.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2016 Idaho Administrative Bulletin, [Vol. 16-9, pages 143-147](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Knute Sandahl at (208) 334-4377, or at [Knute.Sandahl@doi.idaho.gov](mailto:Knute.Sandahl@doi.idaho.gov).

DATED this 5th Day of October, 2016.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID 83702-0043  
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 41-254, 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 September 21, 2016.

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 AND STATEMENT OF PURPOSE:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The existing rule is proposed to be amended to adopt the 2015 International Fire Code to match the anticipated adoption of the 2015 International Building Code by the Division of Building Safety.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 6, 2016 Idaho Administrative Bulletin, [Volume 16-7, page 72](#).

**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 purpose of this proposed rule is to adopt the 2015 International Fire Code, with any variations noted within the rule text.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Knute Sandahl at (208) 334-4377, or at [Knute.sandahl@doi.idaho.gov](mailto:Knute.sandahl@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the attention of the undersigned and must be delivered either by hard copy or via email to the same email address for questions set forth above on or before Wednesday, September 28, 2016.

DATED this 5th Day of August, 2016.

#### [LSO Rules Analysis Memo](#)

**Italicized red text that is double underscored is new text that has been added to the pending rule.**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0150-1601**

#### **004. INCORPORATION BY REFERENCE.**

**01. 201~~25~~ International Fire Code.** In accordance with Section 67-5229, Idaho Code, and pursuant to the authority provided by Section 41-253, Idaho Code, the State Fire Marshal hereby adopts the 201~~25~~ edition of the International Fire Code as published by the International Code Council. Any revisions, additions, deletions and/or

appendices to the 201~~2~~<sup>5</sup> International Fire Code are included herein.

(3-20-14)( )

**02. Availability of Referenced Material.** Copies of the 201~~2~~<sup>5</sup> edition of the International Fire Code are available for public inspection at the office of the State Fire Marshal. The 201~~2~~<sup>5</sup> International Fire Code and supplements thereto may be purchased by writing the International Code Council, ~~Northwest Resource Center, 2122 112th Ave NE, Suite C, Bellevue, WA 98004~~ 25442 Network Place, Chicago, Illinois 60673 or online through the electronic store on the Council's website at <http://www.iccsafe.org/Pages/default.aspx>.

(3-20-14)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

~~019. (RESERVED)~~

**02019. DEFINITION OF CODE OFFICIAL, SECTION 202, INTERNATIONAL FIRE CODE.**

**01. Fire Code Official.** Add “or as appropriate the Idaho State Fire Marshal” to the end of the definition for FIRE CODE OFFICIAL in Section 202 of the International Fire Code.

(3-20-14)( )

**02. Driveway.** Add “DRIVEWAY. A vehicular ingress and egress route that serves no more than five (5) single family dwellings, not including accessory structures.”

( )

**03. Fire Station.** Add “FIRE STATION. A building, or portion of a building that provides, at a minimum, all weather protection for fire apparatus. Temperatures inside the building used for this purpose must be maintained at above thirty-two (32) degrees Fahrenheit.”

( )

**020. SKY LANTERNS, SECTION 308.1.6.3, INTERNATIONAL FIRE CODE.**

**01. Untethered Sky lanterns.** To section 308.1.6.3 delete the sentence: “A person shall not release or cause to be released an untethered sky lantern.”

( )

**02. Sky lantern permit.** To section 308.1.6.3 add the following: “A person shall not release or cause to be released a sky lantern, tethered or untethered without obtaining a permit, if required by the fire code or jurisdiction. When, in the opinion of the fire code official, the release of sky lanterns, tethered or untethered, constitutes a danger to persons or property, based on the current weather conditions, knowledge of topography, vegetation, or any other reasonable factor, is authorized to require additional safeguards prior to the release of sky lanterns. The fire code official may suspend, revoke, postpone, or prohibit the release of any sky lantern at any time.”

( )

**021. CHAPTER 5 FIRE SERVICE FEATURES.**

Make the following changes within Chapter 5 of the International Fire Code;

(3-20-14)

**01. Section 501.**

(4-7-11)

**a.** To section 501.3 after the phrase, Construction documents for proposed, add the word “driveways.”

(4-7-11)

**b.** To section 501.4 after the phrase, When fire apparatus access roads, add the word “driveways.”

(4-7-11)

**02. Section 502.**

**a.** To section 502, add the following ~~definition in, word~~ “DRIVEWAY. A vehicular ingress and egress route that serves no more than five (5) single family dwellings, not including accessory structures.”

(4-7-11)( )

- b.** To section 502, add the words “FIRE STATION.” ( )
- 03.** Section 503. (4-7-11)
- a.** To section 503, add the following definition, “FIRE STATION, A building, or portion of a building that provides, at a minimum, all weather protection for fire apparatus. Temperatures inside the building used for this purpose must be maintained at above thirty-two (32) degrees Fahrenheit.” (4-7-11)
- b.a.** To section 503 add the words, “AND DRIVEWAYS” to the section heading. (4-7-11)
- b.b.** To section 503.1.1 add the following sentence, “Driveways shall be provided and maintained in accordance with Sections 503.71.1 through 503.143.” (3-20-14)( )
- b.c.** To section 503.6 delete the sentence, The installation of security gates across a fire apparatus access road shall be approved by the fire chief. (4-7-11)
- b.d.** Add the following section, “503.7 Driveways. Driveways shall be provided when any portion of an exterior wall of the first story of a building is located more than 150 feet (45720mm) from a fire apparatus access road. Driveways shall provide a minimum unobstructed width of 12 feet (3658mm) and a minimum unobstructed height of 13 feet 6 inches (4115mm). Driveways in excess of 150 feet (45720mm) in length shall be provided with turnarounds. Driveways in excess of 200 feet (60960mm) in length and less than 20 feet (6096mm) in width may require turnouts in addition to turnarounds.” (4-7-11)
- b.e.** Add the following section, “503.7.1 Limits. A driveway shall not serve in excess of five single family dwellings.” (4-7-11)
- b.f.** Add the following section, “503.7.2 Turnarounds. Driveway turnarounds shall have an inside turning radius of not less than 30 feet (9144mm) and an outside turning radius of not less than 45 feet (13716mm). Driveways that connect with an access road or roads at more than one point may be considered as having a turnaround if all changes of direction meet the radius requirements for driveway turnarounds.” (4-7-11)
- b.g.** Add the following section, “503.7.3 Turnouts. Where line of sight along a driveway is obstructed by a man-made or natural feature, turnouts shall be located as may be required by the fire code official to provide for safe passage of vehicles. Driveway turnouts shall be of an all-weather road surface at least 10 feet (3048mm) wide and 30 feet (9144mm) long.” (4-7-11)
- b.h.** Add the following section, “503.7.4 Bridge Load Limits. Vehicle load limits shall be posted at both entrances to bridges on driveways and private roads. Design loads for bridges shall be established by the fire code official.” (4-7-11)
- b.i.** Add the following section, “503.7.5 Address markers. All buildings shall have a permanently posted address, which shall be placed at each driveway entrance and be visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and maintained thereafter. The address shall be visible and legible from the road on which the road on which the address is located. Address signs along one-way roads shall be visible from both the intended direction of travel and the opposite direction. Where multiple address’s are required at a single driveway, they shall be mounted on a single post, and additional signs shall be posted at locations where driveways divide.” (4-7-11)
- b.j.** Add the following section, “503.7.6 Grade. The gradient for driveways shall not exceed 10 percent unless approved by the fire code official.” (4-7-11)
- b.k.** Add the following section, “503.7.7 Security Gates. Where security gates are installed, they shall have an approved means of emergency operation. The security gates and emergency operation shall be maintained operational at all times.” (4-7-11)
- b.l.** Add the following section, “503.7.8 Surface. Driveways shall be designed and maintained to support the imposed loads of local responding fire apparatus and shall be surfaced as to provide all weather driving

capabilities.”

(4-7-11)

**04. Section 507.** To section 507.2 Type of water supply. delete the existing language and add the following, “A water supply shall consist of water delivered by fire apparatus, reservoirs, pressure tanks, elevated tanks, water mains or other sources approved by the fire code official capable of providing the required fire flow. Exception. The water supply required by this code shall only apply to structures served by a municipal fire department or a fire protection district and within ten miles (16093m) of a responding fire station.” (4-7-11)

**022. -- 026. (RESERVED)**

**027. ALTERNATIVE AUTOMATIC FIRE-EXTINGUISHING SYSTEMS, SECTION 904.1.1, INTERNATIONAL FIRE CODE.**

Add the following language to the beginning of section 904.1.1 of the International Fire Code, “If required by the authority having ~~the~~ jurisdiction,”. ~~(3-20-14)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**052. REFERENCED STANDARDS, CHAPTER 80, INTERNATIONAL FIRE CODE.**

Beginning on Page 439, of the NFPA Referenced Standards, make the following changes to the listed editions:

Delete	Add	Delete	Add
<del>2-2011</del>	<u>2-2016</u>	<del>204-2007</del>	<u>204-2012</u>
<del>10-2010</del>	<u>10-2013</u>	211-2010 <del>03</del>	211-2013 <del>06</del>
<del>11-2010</del>	<u>11-2016</u>	<del>241-2009</del>	<u>241-2013</u>
13-201 <del>03</del>	13-201 <del>06</del>	<del>260-2009</del>	<u>260-2013</u>
13D-201 <del>03</del>	13D-201 <del>06</del>	<del>261-2009</del>	<u>261-2013</u>
13R-201 <del>03</del>	13R-201 <del>06</del>	<u>265-2011</u>	<u>265-2015</u>
14-201 <del>03</del>	14-201 <del>06</del>	<del>289-2009</del>	<u>289-2013</u>
<del>17-2009</del>	<u>17-2013</u>	<u>303-2011</u>	<u>303-2016</u>
<del>17A-2009</del>	<u>17A-2013</u>	318-2009 <del>12</del>	318-20 <del>12</del> <u>15</u>
20-201 <del>03</del>	20-201 <del>06</del>	<u>326-2010</u>	<u>326-2015</u>
<del>22-2008</del>	<u>22-2013</u>	<del>385-2007</del>	<u>385-2012</u>
24-201 <del>03</del>	24-201 <del>06</del>	<u>400-2013</u>	<u>400-2016</u>
<u>30-2012</u>	<u>30-2015</u>	409-201 <del>01</del>	409-201 <del>06</del>
<u>31-2011</u>	<u>31-2016</u>	<u>410-2010</u>	<u>410-2015</u>
<u>32-2011</u>	<u>32-2016</u>	<del>495-2010</del>	<u>495-2013</u>

Delete	Add	Delete	Add
<del>35-2011</del>	<u>35-2016</u>	<del>498-2010</del>	<del>498-2013</del>
<del>40-2011</del>	<u>40-2016</u>	<del>505-2010</del>	<del>505-2013</del>
<del>51-2007</del>	<u>51-2013</u>	<del>654-2011</del>	<del>654-2013</del>
<del>51A-2011</del>	<u>51A-2012</u>	<del>701-2010</del>	<u>701-2015</u>
<del>52-2010</del>	<u>52-2013</u>	<del>720-2005</del>	<del>720-2012</del>
55-201 <del>0</del> <u>3</u>	55-201 <del>3</del> <u>6</u>	<u>750-2014</u>	<u>750-2015</u>
<u>56-2012</u>	<u>56-2014</u>	<u>914-2010</u>	<u>914-2015</u>
59A-20 <del>09</del> <u>13</u>	59A-201 <del>3</del> <u>6</u>	<del>1122-2008</del>	<del>1122-2013</del>
<del>61-2008</del>	<u>61-2013</u>	<del>1124-2012</del>	<del>1124-2013</del>
72-201 <del>0</del> <u>3</u>	72-201 <del>3</del> <u>6</u>	<u>1126-2011</u>	<u>1126-2016</u>
80-201 <del>0</del> <u>3</u>	80-201 <del>3</del> <u>6</u>	<del>1127-2008</del>	<del>1127-2013</del>
<del>99-2010</del>	<u>99-2012</u>	<del>2001-2011</del>	<del>2001-2013</del>
105-201 <del>0</del> <u>3</u>	105-201 <del>3</del> <u>6</u>		
110-201 <del>0</del> <u>3</u>	110-201 <del>3</del> <u>6</u>		
111-201 <del>0</del> <u>3</u>	111-201 <del>3</del> <u>6</u>		
<u>160-2011</u>	<u>160-2016</u>		
170-20 <del>09</del> <u>12</u>	170-201 <del>2</del> <u>5</u>		

~~(3-20-14)~~( )

## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### 18.01.54 – RULE TO IMPLEMENT THE NAIC MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS MODEL ACT

DOCKET NO. 18-0154-1601

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 41-4409, 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 seeks to amend the existing rule to require all Medicare Supplement (aka Medigap) carriers to offer coverage to pre-65 Medicare eligible individuals; clarify the requirement to account for interest in projections; require experience and rate increases to be pooled among all plans offered by a company; and clarify rating/underwriting factors that can be used and when (e.g. smoking and pre-65).

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2016 Idaho Administrative Bulletin, [Vol. 16-9, pages 148-158](#).

**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 Thomas A. Donovan at (208) 334-4214, or at [Tom.Donovan@doi.idaho.gov](mailto:Tom.Donovan@doi.idaho.gov).

DATED this 5th day of October, 2016.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID 83702-0043  
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 41-4409, 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, 2016.

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 AND STATEMENT OF PURPOSE:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The existing rule is proposed to be amended to require all Medicare Supplement (aka Medigap) carriers to offer coverage to pre-65 Medicare eligible individuals; clarify the requirement to account for interest in projections; require experience and rate increases to be pooled among all plans offered by a company; and clarify rating/underwriting factors that can be used and when (e.g. smoking and pre-65).

Twenty-five states now require insurance companies to sell Medigap to all ages enrolled in Part B. Under age 65 Medicare beneficiaries have limited options for payment of Medicare deductible and co-payments. We seek to expand Medicare beneficiaries' options.

The NAIC Medicare Supplement Guidance Manual states: "Interest must be considered in calculating the anticipated lifetime and future loss ratios, otherwise loss ratios will be overstated." Yet, carriers have not included interest because our rule does not state it is required.

In reviewing rate increases, the department has requested that rate increases be applied equally to all of a carrier's plans, rather than varying the increases based on the more variable experience of specific plans. This keeps the premiums more representative of the benefit differences, rather than reflecting the morbidity of the enrollees of specific plans. The proposed changes will require that approach for future rate increases.

Current rule disallows gender and geographic area as rating factors, but other factors are not clearly allowed/disallowed during open enrollment or outside of open enrollment, other than disallowing broad terms of "health status, claims experience, receipt of health care, or medical condition."

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 6, 2016 Idaho Administrative Bulletin, [Volume 16-7, page 73](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Thomas A. Donovan at (208) 334-4214, or at [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the attention of the undersigned and must be delivered either by hard copy or via email to the same email address for questions set forth above on or before Wednesday, September 28, 2016.

DATED this 5th Day of August, 2016.

**LSO Rules Analysis Memo**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0154-1601

026. OPEN ENROLLMENT.

01. Offer of Coverage. ( )

a. An issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this state, nor discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six (6) month period beginning with: ( )

i. ~~The first day of the first month in which an individual is both sixty-five (65) years of age or older and is enrolled for benefits under Medicare Part B.~~ ( )

ii. January 1, 2018 or the first day of the first month of Medicare Part B eligibility due to disability or end stage renal disease, whichever is later, for an individual that is both under sixty-five (65) years of age and enrolled for benefits under Medicare Part B; or ( )

iii. The first day of the first month after the individual receives written notice of retroactive enrollment under Medicare Part B due to a retroactive eligibility decision made by the Social Security Administration. ( )

b. Each Medicare supplement policy and certificate currently available from an issuer shall be made available to all applicants who qualify under ~~this Subsection~~ Paragraph 026.01.a. without regard to age. (3-29-10)( )

02. Treatment of Preexisting Conditions. ( )

a. If an applicant qualifies under Subsection 026.01 and submits an application during the time period referenced in Subsection 026.01 and, as of the date of application, has had a continuous period of creditable coverage of at least six (6) months, the issuer shall not exclude benefits based on a preexisting condition. (3-29-10)

b. If the applicant qualifies under Subsection 026.01 and submits an application during the time period referenced in Subsection 026.01 and, as of the date of application, has had a continuous period of creditable coverage that is less than six (6) months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The Secretary of Health and Human Services shall specify the manner of the reduction under this Subsection. (3-29-10)

c. Except as provided in ~~Subsection Paragraphs~~ 026.01.2.a. and b., and Sections 027 and 038, ~~Subsection 026.01~~ nothing in this rule shall ~~not~~ be construed as preventing the exclusion of benefits under a policy, during the first six (6) months, based on a preexisting condition for which the policyholder or certificateholder received treatment or was otherwise diagnosed during the six (6) months before the coverage became effective. (3-29-10)( )

03. Discrimination in Pricing. An issuer shall not discriminate in the pricing of a Medicare supplement policy or certificate issued pursuant to Subsection 026.01, except on the basis of the following criteria: ( )

a. Issue age; and ( )

b. Smoking or tobacco use. ( )

027. GUARANTEED ISSUE FOR ELIGIBLE PERSONS.

**01. Guaranteed Issue.** (4-5-00)

**a.** Eligible persons are those individuals described in Subsection 027.02 who seek to enroll under the policy during the period specified in Subsection 027.03, and who submit evidence of the date of termination or disenrollment or Medicare Part D enrollment with the application for a Medicare supplement policy. (3-29-10)

**b.** With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in Subsection 027.05 that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy. (3-29-10)

**02. Eligible Persons.** An eligible person is an individual described here in any part of Subsection 027.02: (3-29-10)

**a.** The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual; or the individual is enrolled under an employee welfare benefits plan that is primary to Medicare and the plan terminates or the plan ceases to provide all health benefits to the individual because the individual leaves the plan; (4-5-00)

**b.** The individual is enrolled with a Medicare Advantage organization under a Medicare Advantage plan under Part C of Medicare, and any of the following circumstances apply, or the individual is sixty-five (65) years of age or older and is enrolled with a Program of All-Inclusive Care for the Elderly (PACE) provider under Section 1894 of the Social Security Act, and there are circumstances similar to those described below that would permit discontinuance of the individual's enrollment with such provider if such individual were enrolled in a Medicare Advantage plan: (4-11-06)

**i.** The certification of the organization or plan under this part has been terminated; (4-11-06)

**ii.** The organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides; (4-11-06)

**iii.** The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary of Health and Human Services, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856), or the plan is terminated for all individuals within a residence area; (4-11-06)

**iv.** The individual demonstrates, in accordance with guidelines established by the Secretary of Health and Human Services: (3-29-10)

**(a)** That the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or (3-29-10)

**(b)** The organization, or agent, or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or (3-29-10)

**(c)** The individual meets such other exceptional conditions as the Secretary may provide. (3-29-10)

**c.** The individual is enrolled with: (4-5-00)

**i.** An eligible organization under a contract under Section 1876 of the Social Security Act (Medicare

cost); (5-3-03)

ii. A similar organization operating under demonstration project authority, effective for periods before April 1, 1999; (4-5-00)

iii. An organization under an agreement under Section 1833(a)(1)(A) of the Social Security Act (health care prepayment plan); or (5-3-03)

iv. An organization under a Medicare Select policy; and (4-5-00)

d. The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under Paragraph 027.02.b. (3-29-10)

e. The individual is enrolled under a Medicare supplement policy and the enrollment ceases because: (4-5-00)

i. Of the insolvency of the issuer or bankruptcy of the non-issuer organization; or (4-5-00)

ii. Of other involuntary termination of coverage or enrollment under the policy; (4-5-00)

iii. The issuer of the policy substantially violated a material provision of the policy; or (4-5-00)

iv. The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual. (4-5-00)

f. The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare Advantage organization under a Medicare Advantage plan under Part C of Medicare, any eligible organization under a contract under Section 1876 of the Social Security Act (Medicare cost), any similar organization operating under demonstration project authority, any PACE provider under Section 1894 of the Social Security Act, or a Medicare Select policy; and (4-11-06)

g. The subsequent enrollment under Paragraph 027.02.f. is terminated by the enrollee during any period within the first twelve (12) months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under Section 1851(e) of the federal Social Security Act); or (3-29-10)

h. The individual, upon first becoming eligible for benefits under Part A of Medicare at age sixty-five (65), enrolls in a Medicare Advantage plan under Part C of Medicare, or with a PACE provider under Section 1894 of the Social Security Act, and disenrolls from the plan or program by not later than twelve (12) months after the effective date of enrollment. (4-11-06)

i. The individual enrolls in a Medicare Part D plan during the initial enrollment period and at the time of enrollment in Part D, was enrolled under Medicare supplement policy that covers outpatient prescription drugs and the individual terminates enrollment in the Medicare supplement policy and submits evidence of enrollment in Medicare Part D along with the application for a policy described in Paragraph 027.05.e. (3-29-10)

**03. Guaranteed Issue Time Periods. (5-3-03)**

a. In the case of an individual described in Paragraph 027.02.a., the guaranteed issue period begins on the later of the date the individual receives a notice of termination or cessation of all supplemental health benefits (or, if a notice is not received, notice that a claim has been denied because of a termination or cessation); or the date that the applicable coverage terminates or ceases; and ends sixty-three (63) days thereafter; (3-29-10)

b. In the case of an individual described in Paragraphs 027.02.b., 027.02.c., 027.02.f., or 027.02.h., whose enrollment is terminated involuntarily, the guaranteed issue period begins on the date that the individual receives a notice of termination and ends sixty-three (63) days after the date the applicable coverage is terminated; (3-29-10)

**c.** In the case of an individual described in Paragraph 027.02.e., the guaranteed issue period begins on the earlier of: (3-29-10)

**i.** The date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar notice if any; and (5-3-03)

**ii.** The date that the applicable coverage is terminated, and ends on the date that is sixty-three (63) days after the date the coverage is terminated; (5-3-03)

**d.** In the case of an individual described in Paragraph 027.02.b. and Subparagraph 027.02.e.iii., and Subparagraph 027.02.e.iv., Paragraph 027.02.f., or 027.02.h., who disenrolls voluntarily, the guaranteed issue period begins on the date that is sixty (60) days before the effective date of the disenrollment and ends on the date that is sixty-three (63) days after the effective date; and (3-29-10)

**e.** In the case of an individual described in Paragraph 027.02.i., the guaranteed issue period begins on the date the individual receives notice pursuant to Section 1882(v)(2)(B) of the Social Security Act from the Medicare supplement issuer during the sixty-day (60) period immediately preceding the initial Part D enrollment period and ends on the date that is sixty-three (63) days after the effective date of the individual's coverage under Medicare Part D; and (3-29-10)

**f.** In the case of an individual described in Subsection 027.02 but not described in the preceding provisions of Subsection 027.03, the guaranteed issue period begins on the effective date of disenrollment and ends on the date that is sixty-three (63) days after the effective date. (3-29-10)

**04. Extended Medigap Access for Interrupted Trial Periods. (5-3-03)**

**a.** In the case of an individual described in Paragraph 027.02.f. (or deemed to be so described, pursuant to this Paragraph) whose enrollment with an organization or provider described in Paragraph 027.02.f. is involuntarily terminated within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls with another such organization or provider, the subsequent enrollment shall be deemed to be an initial enrollment described in Paragraph 027.02.f.; (3-29-10)

**b.** In the case of an individual described in Paragraph 027.02.h. (or deemed to be so described, pursuant to this Paragraph) whose enrollment with a plan or in a program described in Paragraph 027.02.h. is involuntarily terminated within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls in another such plan or program, the subsequent enrollment shall be deemed to be an initial enrollment described in Paragraph 027.02.h.; and (3-29-10)

**c.** For purposes of Paragraphs 027.02.f. and 027.02.h., no enrollment of an individual with an organization or provider described in Paragraph 027.02.f. or with a plan or in a program described in Paragraph 027.02.h. may be deemed to be an initial enrollment under this Paragraph after the two-year period beginning on the date on which the individual first enrolled with such an organization, provider, plan or program. (3-29-10)

**05. Products to Which Eligible Persons are Entitled.** The Medicare supplement policy to which eligible persons are entitled under: (4-11-06)

**a.** Paragraphs 027.02.a. through 027.02.e. is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F (including F with a high deductible), K or L offered by any issuer. (3-29-10)

**b.** Subject to Paragraph 027.05.c., Paragraph 027.02.g. is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in Paragraph 027.05.a. (3-29-10)

**c.** After December 31, 2005, if the individual was most recently enrolled in a Medicare supplement policy with an outpatient prescription drug benefit, a Medicare supplement policy described in Subsection 027.05 is: (3-29-10)

- i. The policy available from the same issuer but modified to remove outpatient prescription drug coverage; or (4-11-06)
- ii. At the election of the policyholder, an A, B, C, F (including F with a high deductible), K or L policy that is offered by any issuer; (4-11-06)
- d. Paragraph 027.02.h. shall include any Medicare supplement policy offered by any issuer. (3-29-10)
- e. Paragraph 027.02.i. is a Medicare supplement policy that has a benefit package classified as Plan A, B, C, F (including F with a high deductible), K, or L and that is offered and is available for issuance to new enrollees by the same issuer that issued the individual's Medicare supplement policy with outpatient prescription drug coverage. (3-29-10)

**06. Notification Provisions. (4-5-00)**

a. At the time of an event described in Subsection 027.02 of this rule because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this Section, and of the obligations of issuers of Medicare supplement policies under Subsection 027.01. Such notice shall be communicated contemporaneously with the notification of termination. (3-29-10)

b. At the time of an event described in Subsection 027.02 because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this Section, and of the obligations of issuers of Medicare supplement policies under Subsection 027.01. Such notice shall be communicated within ten (10) working days of the issuer receiving notification of disenrollment. (3-29-10)

**07. Discrimination in Pricing.** With respect to eligible persons, an issuer shall not discriminate in the pricing of a Medicare supplement policy or certificate issued pursuant to Subsection 027.01, except on the basis of the following criteria: ( )

**a.** Issue age; and ( )

**b.** Smoking or tobacco use. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**029. LOSS RATIO STANDARDS AND REFUND OR CREDIT OF PREMIUM.**

**01. Loss Ratio Standards. (4-5-00)**

a. A Medicare supplement policy form or certificate form shall not be delivered or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificateholders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form. (4-5-00)

i. At least seventy-five percent (75%) of the aggregate amount of premiums earned in the case of group policies; or (4-5-00)

ii. At least sixty-five percent (65%) of the aggregate amount of premiums earned in the case of individual policies; (4-5-00)

b. Calculated on the basis of incurred claims experience or incurred health care expenses where

coverage is provided by a managed care organization on a service rather than reimbursement basis and earned premiums for the period and in accordance with accepted actuarial principles and practices. Incurred health care expenses where coverage is provided by a managed care organization shall not include: (4-11-06)

- i. Home office and overhead costs; (4-11-06)
- ii. Advertising costs; (4-11-06)
- iii. Commissions and other acquisition costs; (4-11-06)
- iv. Taxes; (4-11-06)
- v. Capital costs; (4-11-06)
- vi. Administrative costs; and (4-11-06)
- vii. Claims processing costs. (4-11-06)

c. All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this Section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards. Demonstrations shall, at a minimum, account for: ~~(3-29-10)~~ ( )

- i. Lapse rates; ( )
- ii. Medical trend and rationale for trend; ( )
- iii. Assumptions regarding future premium rate revisions; and ( )
- iv. Interest rates for discounting and accumulating. ( )

d. For purposes of applying Paragraphs 029.01.a. and 030.05.b., only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies. (3-29-10)

e. For policies issued prior to July 1, 1992, expected claims in relation to premiums shall meet: (4-5-00)

- i. The originally filed anticipated loss ratio when combined with the actual experience since inception; (4-5-00)
- ii. The appropriate loss ratio requirement from Subparagraphs 029.01.a.i. and 029.01.a.ii. when combined with actual experience beginning with July 1, 1992 to date; and (3-29-10)
- iii. The appropriate loss ratio requirement from Subparagraphs 029.01.a.i. and 029.01.a.ii. over the entire future period for which the rates are computed to provide coverage. (3-29-10)

**02. Refund or Credit Calculation.** (4-5-00)

a. An issuer shall collect and file with the director by May 31 of each year the data contained in the applicable reporting form as defined by NAIC Model Regulation (Attachments) and accessible by the Internet website at <http://www.doi.idaho.gov> for each type in a standard Medicare supplement benefit plan. (4-11-06)

b. If on the basis of the experience as reported the benchmark ratio since inception (ratio one (1)) exceeds the adjusted experience ratio since inception (ratio three (3)), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit

plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded. (4-5-00)

**c.** For the purpose of Section 029, policies or certificates issued prior to July 1, 1992, the issuer shall make the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after July 1, 1992. The first report shall be due by May 31, 1994. (3-29-10)

**d.** A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credit exceeds a de minimis level. The refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of Health and Human Services, but in no event shall it be less than the average rate of interest for thirteen (13) week Treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based. (4-5-00)

**03. Annual Filing of Premium Rates.** An issuer of Medicare supplement policies and certificates issued before or after the effective date of July 1, 1992, in this state shall file annually its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy duration for approval by the director in accordance with the filing requirements and procedures prescribed by the director. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. An expected third-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three (3) years. As soon as practicable, but prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in this state shall file with the director, in accordance with the applicable filing procedures of this state: (4-5-00)

**a.** Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. The supporting documents necessary to justify the adjustment shall accompany the filing. (4-5-00)

**b.** An issuer shall make premium adjustments necessary to produce an expected loss ratio under the policy or certificate to conform to minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for the Medicare supplement policies or certificates. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein shall be made with respect to a policy at any time other than upon its renewal date or anniversary date. (4-5-00)

**c.** If an issuer fails to make premium adjustments acceptable to the director, the director may order premium adjustments, refunds, or premium credits deemed necessary to achieve the loss ratio required by Section 029. (3-29-10)

**d.** Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. The riders, endorsements, or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or certificate. (4-5-00)

**04. Public Hearings.** The director may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form issued before or after the effective date of July 1, 1992 if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for the reporting period. Public notice of the hearing shall be furnished in a manner deemed appropriate by the director. (4-5-00)

### **030. FILING AND APPROVAL OF POLICIES AND CERTIFICATES AND PREMIUM RATES.**

**01. Filing of Policy Forms.** (3-29-10)



**a.** An issuer shall not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the director in accordance with filing requirements and procedures prescribed by the director. (3-29-10)

**b.** An issuer shall file any riders or amendments to policy or certificate forms to delete outpatient prescription drug benefits as required by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 only with the director in the state in which the policy or certificate was issued. (3-29-10)

**02. Filing of Premium Rates.** (3-29-10)

**a.** An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with and approved by the director in accordance with the filing requirements and procedures prescribed by the director. (3-29-10)

**b.** Except as provided in Subsection 029.03, the insured shall not receive more than one (1) rate increase in any twelve (12) month period. (3-29-10)

**03.** Except as provided in Paragraph 030.03.a., an issuer shall not file for approval more than one (1) form of a policy or certificate of each type for each standard Medicare supplement benefit plan. (3-29-10)

**a.** An issuer may offer, with the approval of the director, up to ~~four (4)~~ **three (3)** additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one (1) or each of the following cases: ~~(4-5-00)~~ **(3-29-10)**

i. The inclusion of new or innovative benefits; (4-5-00)

ii. The addition of either direct response or agent marketing methods; (4-5-00)

iii. The addition of either guaranteed issue or underwritten coverage; (4-5-00)

~~iv. The offering of coverage to individuals for Medicare by reason of disability.~~ ~~(4-5-00)~~

**b.** For the purposes of ~~Subsection 030.03~~, "type" means an individual policy, a group policy, an individual Medicare Select policy, or a group Medicare Select policy. ~~(3-29-10)~~ **(3-29-10)**

**04. Availability of Policy Form or Certificate.** Except as provided in Paragraph 030.04.a., an issuer shall continue to make available for purchase any policy form or certificate form issued after the effective date of this rule. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous twelve (12) months. (3-29-10)

**a.** An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the director in writing its decision at least thirty (30) days prior to discontinuing the availability of the form of the policy or certificate. After receipt of this notice by the director, the issuer shall no longer offer for sale the policy form or certificate form in this state. (4-5-00)

**b.** An issuer that discontinues the availability of a policy form or certificate form pursuant to Paragraph 030.04.a. shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five (5) years after the issuer provides notice to the director of the discontinuance. The period of discontinuance may be reduced if the director determines that a shorter period is appropriate. (3-29-10)

**c.** The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of Subsection 030.04. (3-29-10)

**d.** A change in the rating structure or methodology shall be considered a discontinuance under this Subsection 030.04 unless the issuer complies with the following requirements: (3-29-10)

i. The issuer provides an actuarial memorandum, in a form and manner prescribed by the director, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates. (4-5-00)

ii. The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The director may approve a change to the differential which is in the public interest. (4-5-00)

**05. Experience of Policy Forms.** (4-5-00)

a. Except as provided in Paragraph 030.05.b., the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in Section 029. (3-29-10)

b. Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculation. (4-5-00)

c. The experience of all policy forms or certificate forms for standardized Medicare supplement benefit plans of the same type shall be combined for purposes of the rate change filing. Generally, any applicable percentage increase shall be filed and applied uniformly across all standardized plans within the same type, unless doing so would violate the federal lifetime loss ratio standards for specific forms within the same type. ( )

**06. Attained Age Rating Prohibited.** With respect to Medicare supplement policies that conform to the Standard Benefit Plans developed by the National Association of Insurance Commissioners and adopted by the State of Idaho July 1, 1992, under IDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act," sold to residents of this state and all those sold on or after January 1, 1995, it is an unfair practice and an unfair method of competition for any issuer, insurer, or licensee to use the increasing age of an insured, subscriber or participant as the basis for increasing premiums or prepayment charges for policyholders who initially purchase a policy after January 1, 1995. This rule explicitly authorizes both issue age ratings and community ratings consistent with the prohibition of attained age ratings and allows companies to resubmit for approval issue age ratings previously rejected. (3-29-10)

**07. Rating by Area and Gender Prohibited.** With respect to Medicare supplement policies that conform to the Standard Benefit Plans developed by the National Association of Insurance Commissioners and adopted by the State of Idaho, July 1, 1992, under IDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act," sold to residents of this State and all those sold on or after January 1, 1999, it is an unfair practice and an unfair method of competition for any issuee, issuer, or licensee to use area or gender for rating purpose. (3-29-10)

**08. Other Rating Requirements.** With respect to Medicare supplement policies that conform to the Standard Benefit Plans under this rule, sold to residents of this State on or after January 1, 2018: ( )

a. Any rate adjustments will be uniform between 1990 Standardized and 2010 Standardized plans throughout the lifetime of the policies, unless doing so would violate the federal lifetime loss ratio standards for specific forms within the same type. ( )

b. No discount or underwriting factor of less than 1.0 will be available to policies issued outside of open enrollment, per Section 026, or guaranteed issue, per Section 027, unless the greatest discount or lowest underwriting factor is automatically applied to all policies issued under open enrollment and guaranteed issue. ( )

c. For issue-ages sixty-five (65) and greater, the filed rate for any given age must not exceed the rate for any higher issue-age, similarly rated individual. ( )

d. For issue-ages sixty-four (64) or less, the premium shall not exceed one hundred fifty percent (150%) of the premium for an issue-age sixty-five (65), similarly rated individual, while the individual's attained age

is less than sixty-five (65). Upon attaining age sixty-five (65), a policyholder with an issue-age less than sixty-five (65) shall be charged the same premium rate as an issue-age sixty-five (65), similarly rated individual. ( )

**e.** For any given age, the rating by the issuer shall not differentiate on the basis of the reason for eligibility for Medicare Part B. ( )

## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### 18.01.56 – REBATES AND ILLEGAL INDUCEMENTS TO OBTAINING TITLE INSURANCE BUSINESS RULES

DOCKET NO. 18-0156-1601

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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, 41-1314 and 41-2708(3), Idaho Code.

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

This existing rule concerns rebates and illegal inducements in title insurance and provides limits on what items of value may be provided to producers of title business. Changes in technology have increased efficiencies of operations for title agents such that items of value can be produced much more quickly, easily, and therefore inexpensively. Additionally, some of the limitations in the rule have not been changed in many years.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 516-520](#). The following changes are how the pending rule differs from the proposed rule:

- Subsection 010.05 defining social media is being removed.
- Subsection 014.02 clarifying the use of social media is being removed.

The agency is making these changes because there was not consensus. The existing rule provides some guidance on advertising. It is understood that if future issues arise related to any co-branding or co-advertising between title entities and producers of title business or trade associations, the agency may elect to conduct future rulemaking.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Jim Scanlon at (208) 334-4321, or [Jim.Scanlon@doi.idaho.gov](mailto:Jim.Scanlon@doi.idaho.gov).

DATED this 4th day of November, 2016.

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

**THE FOLLOWING NOTICE 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 41-211, 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, 2016.

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 existing rule concerns rebates and illegal inducements in title insurance and provides limits on what items of value may be provided to producers of title business. Changes in technology have increased efficiencies of operations for title agents such that items of value can be produced much more quickly, easily, and therefore inexpensively. Additionally, some of the limitations in the rule have not been changed in many years. The proposed rulemaking makes the following changes:

- \* Subsection 010.05 (Social Media) – define social media.
- \* Subsection 012.02 (Listing Packages) – permit photos to be included in allowed materials if no additional charge is required; paper delivery would have commensurate charge.
- \* Subsection 012.03 (Additional Information That May Be Provided) – permit last deed of record.
- \* Subsection 013.01 (Advertisement) – eliminate the quarterly publication requirement; amend to permit advertising in annual trade association publications.
- \* Subsection 014.01 (Self-Promotional Items) – increase amount spent on self-promotion items from \$10 to \$25/item and from \$50 to \$200/year in cumulative value.
- \* Subsection 014.02 (Social Media) – implement new section that clarifies the use of social media.
- \* Subsection 014.03 (Educational Programs) – increase the expenditure from \$10 to \$20 per person. Also change “solely regarding title and escrow.” The intent is to expand the programs which may be offered while maintaining the integrity of the topics as being “related” to title and escrow.
- \* Section 017 (Escrow Closing Charges and Premium Rates) – remove the reference to Section 41-2706, Idaho Code, which is improper following a legislative change in 2011.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 3, 2016 Idaho Administrative Bulletin, [Volume 16-8, Page 111](#).

**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 Jim Scanlon, at [jim.scanlon@doi.idaho.gov](mailto:jim.scanlon@doi.idaho.gov) or (208)334-4321.

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, 2016.

DATED September 2, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0156-1601**

**012. PERMITTED CONSUMER INFORMATION.**

**01. Information That May Be Provided.** To facilitate the listing and sale of Idaho property, certain consumer information may be provided without charge to licensed real estate agents and brokers or to a person who owns the property for which the request is made, but is limited to the following information: (3-15-02)

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

**a.** A “listing package” shall consist of information relating to the ownership and status of title to real property, and may include a single copy of only the following ~~six~~ seven (67) items: (3-15-02)( )

i. The last deed appearing of record; (7-1-93)

ii. Deeds of trust or mortgages which appear to be in full force and effect; (7-1-93)

iii. A plat map reproduction and/or a locator map; (3-15-02)

iv. A copy of applicable restrictive covenants; (3-15-02)

v. Tax information; ~~and~~ (3-15-02)( )

vi. Property characteristics such as number of rooms, square footage and year built; ~~and~~ (3-15-02)( )

vii. Photographs, including aerial, of the property. ( )

**b.** A “listing package” may include no more than the ~~six~~ seven (67) above described items of information and shall not include market value information, demographics, or additions, addenda, or attachments which may be construed as conclusions reached by the title entity regarding matters of marketable ownership or encumbrances. Photographs may be provided, but only if the title entity does not pay a separate fee or provide any other consideration to a person for that product or service. The title entity may provide any photographs that are acquired through normal subscriptions or licensing fees associated with obtaining access to county records for tax information, property characteristics, or plat maps, as long as there is no additional charge to the title entity for the production, reproduction or delivery of the photographs. A generic cover letter with the printed standard letterhead of the title entity may be attached to the “listing package.” The cover letter may include a brief statement identifying by name only, which of the ~~six~~ seven (67) permitted items of information are attached thereto. The cover letter may also contain a disclaimer as to conclusions of marketable ownership or encumbrances. The content of the cover letter or “listing package” is strictly limited to the foregoing and shall specifically not include any advertising or marketing for the benefit of the recipient. (3-15-02)( )

**c.** Market value information, demographics, ~~or~~ additions, addenda, photographs (other than as described in Paragraph 012.02.b) or other attachments, which attachments may be construed as conclusions reached by the title entity regarding matters of marketable ownership or encumbrances, may be provided, but only upon receipt of a charge commensurate with the actual cost of the work performed and the material furnished (See Exhibit

1, #11).

(3-15-02)( )

**03. Additional Information That May Be Provided.** A title entity may provide to licensed attorneys and licensed appraisers only the following documents without charge; (4-4-13)

a. A plat map reproduction; (4-4-13)

b. A copy of applicable restrictive covenants; (4-4-13)

c. The last deed appearing of record; and ( )

d. A cover letter as described in Paragraph 012.02.b. (4-4-13)

### 013. PERMITTED ADVERTISING WITH TRADE ASSOCIATIONS.

**01. Advertisements.** No advertisement may be placed in a publication that is published or distributed by, or on behalf of, a producer of title business. Advertising in a trade association publication is only permitted if the publication is an official publication, published or distributed by, or on behalf of the trade association with at least regular ~~quarterly~~ annual publications. The publications must be nonexclusive (any title entity must have an equal opportunity to advertise in the publication and at a standard rate). The title entity's ad must be purely self-promotional. (4-26-95)( )

**02. Donations.** A title entity is permitted to donate time to serve on a trade association committee and may also serve as an officer or director for the trade association. A title entity may also donate, contribute or otherwise sponsor a trade association event if the event is a recognized association event that generally benefits all members and affiliated members in an equal manner. The donation cannot benefit selected producer of title business members of the association unless through random process. Solicitation for the donation must be made of all members and affiliated members in an equal manner. Donations are per agent license or insurer and are limited to a cumulative donation value of two thousand dollars (\$2,000) or equivalent things of value collectively to all trade associations per year. In addition, a title entity is allowed to participate in or attend trade association events as long as the title entity pays a fee commensurate with fees paid by other participants in the events. These events include, but are not limited to, conventions, award banquets, symposiums, breakfasts, lunches, dinners, open houses, sporting activities and all other similar activities. (3-30-07)

### 014. PERMITTED SELF-PROMOTIONAL ADVERTISING.

**01. Self-Promotional Items.** A title entity may distribute self-promotional items having an acquisition value of less than ~~ten~~ twenty five dollars (~~\$10~~25) to producers of title business, consumers, and members of the general public. These self-promotional items are limited to novelty gifts, advertising novelties, and generic business forms and specifically do not include food ~~or~~ beverages, or gift certificates, gift cards or other items that have a specific monetary value on their face or that may be exchanged for any other item having a specific monetary value. Self-promotional items shall not contain the name, logo or any reference to a producer of title business, trade association or donee. A recipient of a novelty gift or advertising novelty shall not receive gifts or advertising novelties title entity shall not distribute to any one recipient self-promotional items with in excess of ten dollars (\$10) of cumulative value per month and no more than ~~fifty~~ two hundred dollars (~~\$50~~200) of cumulative value ~~of gifts or advertising novelties~~ per year. A title entity shall also not give novelty gifts, advertising novelties or generic business forms to producers of title business, consumers, members of the general public, or trade associations for redistribution by these entities. (3-30-07)( )

**02. Self-Promotional Functions.** Self-promotional functions are limited to the following two (2) types of functions: (3-30-07)

a. Educational programs - a title entity is permitted to conduct educational programs. The education programs ~~are limited to education solely regarding~~ must only address title insurance and escrow and other topics related thereto. A title entity is permitted to expend no more than ~~ten~~ twenty dollars (~~\$10~~20) per person at an educational program. For purposes of determining the maximum permitted expenditure, all costs associated with the delivery of the educational program shall be considered, including but not limited to, costs paid by the entity for



travel, refreshments, instructor or speaking fees and facility rental. A title entity may participate in or make presentations at educational programs which are conducted or presented by other entities. The title entity is not permitted to expend any money to sponsor or cosponsor these programs, unless the educational program is a trade association event in which case Subsection 013.02 of this chapter will apply. (3-30-07)( )

b. Open houses - a title entity is permitted to have two (2) open houses per year. An open house shall be a self-promotional function at the title entity's owned or occupied facility (i.e. a Christmas party or any party, an open house for remodeling of its facility, an open house for a new building to become the title entity's facility). It shall be nonexclusive (an open invitation to all producers of title business is required). A title entity must not expend more than fifteen dollars (\$15) per guest per open house. A title entity cannot combine permitted expenditures for two (2) open houses to be used for one (1) open house. A title entity also cannot accumulate left over or unused expenditures from one (1) open house and use those expenditures for a second open house. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**017. ESCROW CLOSING CHARGES AND PREMIUM RATES.**

A title entity shall not charge less than the rate as filed with the Department of Insurance for a specified title or escrow service or for a policy of title insurance. A specified title service is any service defined in the title entity's filed schedule of rates and charges or the schedule in use by the title entity. A title entity shall also not waive or offer to waive all or any part of the title entity's established fee or charge for services which are not the subject of rates filed with the Department of Insurance. A filed charge or rate shall not be less than the title entity's cost for providing that service. Rates shall not reflect credits of any kind applicable with regard to different classifications of customers or to types of closings. ~~Rates shall be filed with justification in accordance with Idaho Code, Section 41-2706. Justification shall clearly demonstrate that the title entity's filed rates for escrow services are not less than the title entity's cost to provide the escrow services.~~ Escrow rates shall be refiled on or before December 15, 1988 establishing a title entity's basic rate including a minimum and negotiable rate. However, a title entity shall utilize its basic rate, minimum rate, and negotiable rate with respect to different classifications of customers or to types of closings effective December 1, 1988. Escrow rates shall be filed thereafter on a yearly basis due March 15 reflecting experience based on the calendar year. The first yearly filing will be due March 15, 1990 reflecting experience from January 1, 1989 to December 31, 1989. In addition, rates shall be filed as often as necessary if escrow costs exceed escrow revenues. Rates may also be filed in addition to the yearly filing for filings to increase revenues. Rate filings in these instances shall be filed at least thirty (30) days prior to implementation. All rate filings shall be based on twelve months' experience. (7-1-93)( )



**IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES**  
**24.01.01 – RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS**  
**DOCKET NO. 24-0101-1601**  
**NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 only change to the pending rule from the version originally proposed is a non-substantive one in Subsection 450.03.b. The word “Architect” is changed to “Architectural”. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 610-617](#).

**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 Mitchell Toryanski at (208) 334-3233.

DATED this 3rd day of November, 2016.

Tana Cory, Bureau Chief  
Bureau of Occupational Licenses  
700 W. State Street  
P.O. Box 83720  
Boise, ID 83720-0063  
Tel: (208) 334-3233  
Fax: (208) 334-3945

<b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b>
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**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, 2016.

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 change incorporates the most recent National Council of Architectural Registration Board's (NCARB) Certification Guidelines and Rules of Conduct, defines three new terms, provides the board more flexibility when deciding whom may sit for the Architectural Registration Examination (ARE), clarifies license renewal and reinstatement requirements, and removes the requirement that legal services be provided to the board by the Attorney General.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board.

**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 2015 NCARB Certification Guidelines contain current national standards of certification that protect the health, safety, and welfare of the public. The 2014 NCARB Rules of Conduct contain the latest rules of conduct that architects are required to follow. The Certification Guidelines and Rules of Conduct currently incorporated into the Rules of the Board of Architectural Examiners have been superseded by these publications.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mitchell Toryanski 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, 2016.

DATED this 2nd day of September, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0101-1601**

**004. INCORPORATION BY REFERENCE (RULE 4).**

The document titled ~~2011-2012~~ NCARB ~~Handbook for Interns and Architects~~ Certification Guidelines, dated July 201~~1~~<sup>5</sup>, 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 201~~1~~<sup>4</sup>, 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 website. ~~(3-29-12)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS (RULE 10).**

**01. AXP. Architectural Experience Program.** ( )

- 042.** **Board.** The Board of Architectural Examiners as prescribed in Section 54-312, Idaho Code. (7-1-93)
- 023.** **Bureau.** The Bureau of Occupational Licenses as prescribed in Sections 54-605 and 67-2602, Idaho Code. (3-15-02)
- 034.** **Direct Supervision.** Direct supervision of an unlicensed individual in the practice of architecture means the exercise of management, control, authority, responsibility, oversight and guidance over the unlicensed individuals work, activities and conduct. (3-27-13)

**05.** **NAAB. National Architectural Accrediting Board.** ( )

**06.** **NCARB. National Council of Architectural Registration Board.** ( )

**047.** **Responsible Control.** Responsible control means that amount of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered architects applying the required professional standard of care. Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible control because the reviewer has neither control over nor detailed knowledge of the content of such submissions throughout their preparation. (3-27-13)

**011. -- 099. (RESERVED)**

**100. ORGANIZATION (RULE 100).**

**01. Organization of the Board.** At the ~~last~~ first meeting of each calendar year, the Board shall organize and elect from its members a Chairman and Vice Chairman, who shall assume the duties of their respective offices immediately upon such selection. ~~(3-15-02)~~ ( )

**02. Board Members and Duties.** (7-1-93)

**a.** Chairman. The Chairman shall be a voting member of the Board, and when present preside at all meetings, appoint with the consent of the Board, all committees, and shall otherwise perform all duties pertaining to the office of Chairman. The Chairman shall be an ex-officio member of all committees. (7-1-93)

**b.** Vice Chairman. The Vice Chairman shall, in the absence or incapacity of the Chairman exercise the duties and possess all the powers of the Chairman. (7-1-93)

**c.** Bureau Chief. The Chief of the Bureau of Occupational Licenses shall act as an agent of the Board and shall be the official keeper of all records of the Board. The Bureau shall provide such services as may be authorized by Section 26, Title 67, Idaho Code, and as defined under contract between the Bureau and the Board. (3-15-02)

**(BREAK IN CONTINUITY OF SECTIONS)**

**250. QUALIFICATIONS OF APPLICANTS (RULE 250).**

**01. ARE Applicants.** All applicants for the Architectural Registration Examination (ARE) shall possess ~~the minimum qualifications required by the NCARB Handbook for Interns and Architects, where such handbook does not conflict with Idaho law~~ a professional degree in architecture from a program that is accredited by the National Architectural Accrediting Board (NAAB) or that is approved by the Board. All applicants for the ARE must have started or completed the ~~Intern Development~~ Architectural Experience Program (~~IDA~~ AXP) requirements. ~~(4-7-11)~~ ( )

**02. Experience in Lieu of Degree Applicants.** The Board may allow an applicant without an

architecture degree to sit for the architecture examination upon determining that such applicant has attained the knowledge and skill approximating that attained by graduation from an accredited architecture curriculum including the submission of a record of eight (8) years or more of experience in architecture work of a character deemed satisfactory by the Board. Said experience ~~shall be in addition to~~ **may include** that necessary for completion of the ~~Intern Development Program (IDP) requirements~~ **AXP**. Two (2) years of eight (8) or more years of experience may be accepted if determined that such experience is directly related to architecture under the direct supervision of a registered engineer (practicing as a structural, civil, mechanical or electrical engineer in the field of building construction) or a registered landscape architect. At least six (6) years of such experience must be obtained while working under the direct supervision of a licensed architect. A person is qualified for the examination once they have met the experience requirement and started the ~~Intern Development Program (IDP)~~ **AXP**. ~~(4-7-11)~~ **( )**

**251. – 299. (RESERVED)**

**300. APPLICATION (RULE 300).**

**01. Licensure by Examination. (7-1-93)**

**a.** Application for licensure by examination shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau. **(4-7-11)**

**b.** Applicants shall furnish all information required by the uniform application form and shall include the following: **(3-15-02)**

**i.** Certified transcript of all subjects and grades received for all college courses taken. **(7-1-93)**

**ii.** If graduated from a college or university, furnish certification of graduation and a certified transcript of all work completed. **(7-1-93)**

**iii.** Furnish statement or statements, of all actual architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. **(7-1-93)**

**iv.** A recent passport photograph taken within the previous year for identification purposes. **(3-30-01)**

**v.** In addition to the above required information, an applicant having credits or a degree or degrees from any college or university shall furnish the Board a certified statement from each above institution stating by what accrediting group, if any, such credits or degree or degrees are accredited. **(7-1-93)**

**c.** Application shall not be reviewed by the Board until all required information is furnished and the required fee is paid. **(3-15-02)**

**d.** To be considered by the Board, properly completed applications must be received by the Bureau at least thirty (30) days prior to the first day of the month in which the Board will meet. **(3-15-02)**

**02. Licensure by Endorsement -- Blue Cover. ~~(7-1-97)~~**

~~**a.**~~ General requirements. Application shall be accompanied by a current blue cover dossier compiled by the NCARB certifying that the applicant has satisfactorily passed the standard NCARB examinations, or NCARB authorized equivalent and shall include letters, transcripts, and other documents substantiating all statements relative to education and experience made in said application as required by the Board. ~~**(7-1-97)**~~ **( )**

~~**b.** Seismic knowledge requirements for endorsement applicants. Each applicant for license under endorsement to practice architecture in the state of Idaho shall submit evidence of his skill and knowledge in seismic design and such evidence shall be submitted and signed by the applicants acknowledged before a notary public, and shall contain one of the following statements:~~ ~~**(7-1-97)**~~

~~**i.** "I have passed the examinations in Building Construction and Structural Design of the Western~~

~~Conference of State Architectural Registration Boards in June 1963 or since and/or the NCARB in 1965 or since."~~  
~~(7-1-97)~~

~~ii. "I am registered in the State of \_\_\_\_\_ in 20\_\_\_\_, where competence in seismic was a requirement for registration since \_\_\_\_\_, 20\_\_\_\_."~~  
~~(7-1-93)~~

~~iii. Certification of the successful completion of the seismic seminar approved by the National Conference of Architectural Registration Boards.~~  
~~(7-1-93)~~

~~c. All applicants shall attach to their statement a certification from the State architectural registration agency of the cited state attesting the adequacy of the cited seismic examination.~~  
~~(7-1-93)~~

**03. Licensure by Endorsement -- Equivalency.** (7-1-97)

~~a. Application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau~~ Applicants for licensure by endorsement must submit a complete application, verified under oath, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation.  
~~(3-15-02)(\_\_\_\_)~~

~~b. Applicant shall comply with all requirements set forth in Subsections 300.01, 300.02.b.i., 300.02.b.ii., 300.02.b.iii., and 300.02.c.~~  
~~(7-1-97)~~

~~b.~~ Applicants shall provide proof of holding a current and valid license issued by another state, a licensing authority recognized by the Board.  
~~(7-1-97)(\_\_\_\_)~~

~~c.~~ Applicants shall provide proof of satisfactorily passing the NCARB examinations or NCARB authorized equivalent examination, as determined by the Board.  
~~(7-1-97)(\_\_\_\_)~~

**301. -- 349. (RESERVED)**

**350. REGISTRATION EXAMINATION (RULE 350).**

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

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

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

**03. Passing (ARE).** To pass the ARE, an applicant must achieve a passing grade on each division. ~~Effective July 1, 2006, and s~~Subject to certain conditions, a passing grade for any division of the ARE shall be valid for five (5) years, after which time the division must be retaken unless all divisions have been passed. The Board may allow a reasonable extension of such period in circumstances where completion of all divisions is prevented by a medical condition, active duty in military service, or other like causes. Approval to take the ARE will terminate unless the applicant has passed or failed a division of the ARE within a period of five (5) years. Any applicant whose approval has so terminated must reapply for approval to take the ARE.  
~~(4-11-06)(\_\_\_\_)~~

- ~~04. **Transition.** The transitional rules are as follows: (4-11-06)~~
- ~~a. For applicants who have passed all divisions of the ARE by July, 2006 regardless of the time taken, will have passed the ARE. (4-11-06)~~
- ~~b. For applicants who have passed one (1) or more but not all divisions of the ARE by July 1, 2006, such applicants will have five (5) years to pass all remaining divisions. A passing grade for any remaining division shall be valid for five (5) years, after which time the division must be retaken if the remaining divisions have not been passed. The five (5) year period shall commence after July 1, 2006, on the date when the first passed division is administered. Any division passed prior to January 1, 2006, shall no longer remain valid if all remaining divisions have not been passed by July 1, 2014. (3-27-13)~~
- ~~c. For applicants who have passed no divisions of the ARE by July 1, 2006, such applicants shall be governed by the five (5) year requirement outlined in Subsection 350.04.b of these rules. The five (5) year period shall commence on the date when the first passed division is administered. (3-27-13)~~
- ~~d. After July 1, 2014, approval to take the ARE shall terminate unless the applicant has passed or failed a division of the ARE within a period of five (5) years. Any applicant whose approval has so terminated must reapply for approval to take the ARE. (3-27-13)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**375. ARCHITECTURAL INTERN (RULE 375).**

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

- 01. Supervision.** Each architectural intern shall be employed by and work under the direct supervision of an Idaho licensed architect. (3-15-02)
- 02. ~~IDP~~ AXP Enrollment.** Each architectural intern shall be enrolled in ~~the National Council of Architectural Registration Board's (NCARB's) Intern Development Program (IDP)~~ AXP and shall maintain a record in good standing. (3-15-02)(    )
- 03. Record.** Each architectural intern shall possess either: (3-15-02)
- a.** A record with the NCARB establishing that ~~IDP~~ AXP training ~~units are being earned in any of the IDP training settings A, B, C, D or E~~ has been started; or (3-15-02)(    )
- b.** A record establishing completion of all ~~IDP~~ AXP training regulations as specified by NCARB. (3-15-02)(    )
- 04. Prohibitions.** An architectural intern shall not sign or seal any architectural plan, specification, or other document. An architectural intern shall not engage in the practice of architecture except under the direct supervision of an Idaho licensed architect. (3-15-02)

**(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, e~~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. (3-29-12)( )

~~a. 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. (3-29-12)~~

a. Each licensee will submit to the Board their annual renewal application form and required fees, and will certify that they have complied with annual CE requirements for the previous calendar year. Each licensee will provide to the Board together with their application for reinstatement of an expired license form and required fees, proof of compliance with annual CE requirements for each year that their license was expired. A license that has been canceled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. ( )

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)

~~e. 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. (3-29-12)~~

~~d.~~ A licensee may carryover a maximum of six (6) hours of continuing education to meet the next year's continuing education requirement. (3-29-12)

~~ed.~~ 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 be germane to the practice of architecture. Courses may include the following subject areas: (3-20-04)( )

a. Legal, which includes laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public. (3-29-12)

b. Building systems, which includes structural, mechanical, electrical, plumbing, communications, security, and fire protection. (3-29-12)

c. Environmental, which includes energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, and insulation. (3-29-12)

d. Occupant comfort, which includes air quality, lighting, acoustics, ergonomics. (3-29-12)

e. Materials and methods, which includes construction systems, products, finishes, furnishings, and equipment. (3-29-12)

f. Preservation, which includes historical, reuse, and adaptation. (3-29-12)

**g.** Pre-Design, which includes land use analysis, programming, site selection, site and soils analysis, and surveying. (3-29-12)

**h.** Design, which includes urban planning, master planning, building design, site design, interiors, safety and security measures. (3-29-12)

**i.** Construction documents, which includes drawings, specifications, and delivery methods. (3-29-12)

**j.** Construction contract administration, which includes contracts, bidding, contract negotiations. (3-29-12)

**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 Architectural 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 five (5) years and provided to the Board upon request of the Board or its agent. (3-29-12)

**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 government employee working as an architect and assigned to duty outside the United States. (3-20-04)

**c.** 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)

**(BREAK IN CONTINUITY OF SECTIONS)**



551. -- ~~56~~99. (RESERVED)

~~600. LEGAL ADVICE (RULE 600).~~

~~All legal advice shall be furnished the Board by the Office of the Attorney General of the State of Idaho or such legal advice may be furnished by private legal counsel with the approval of the Board.~~ (7-1-93)

~~601. -- 699. (RESERVED)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

752. -- ~~79~~99. (RESERVED)

~~800. RULEMAKING HISTORY PRIOR TO JULY 1, 1993 (RULE 800).~~

~~ADOPTED DECEMBER 29, 1989~~

~~EFFECTIVE JANUARY 18, 1990~~

~~ADOPTED BY EMERGENCY NOVEMBER 2, 1990~~

~~EFFECTIVE APRIL 4, 1991~~

~~ADOPTED BY EMERGENCY MARCH 1, 1991~~

~~EFFECTIVE JUNE 4, 1991~~

~~SUPERSEDING ALL PREVIOUS RULES~~

(7-1-93)

~~801. -- 999. (RESERVED)~~

## **IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES**

### **24.08.01 – RULES OF THE STATE BOARD OF MORTICIANS**

**DOCKET NO. 24-0801-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-1107, Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2016 Idaho Administrative Bulletin, [Vol. 16-9, pages 178-180](#).

**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 Mitchell Toryanski at (208) 334-3233.

DATED this 2nd day of November, 2016.

Tana Cory, Bureau Chief  
Bureau of Occupational Licenses  
700 W. State Street  
P.O. Box 83720  
Boise, ID 83720-0063  
Tel: (208) 334-3233  
Fax: (208) 334-3945

<p><b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE</b></p>
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**EFFECTIVE DATE:** The effective date of the temporary rule is July 12, 2016.

**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(s) 54-1106 and 54-1107, 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, 2016.

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

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

The 2016 Legislature passed House Bill 367 which extended the length of time a Resident Trainee could practice from two to three years under a permit. Rule 250 is being amended to reflect current law by changing the limit of time that a resident trainee can hold a permit from two (2) years to three (3) years.

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

The 2016 Legislature passed House Bill 367 which extended the length of time a Resident Trainee could practice from two to three years under a permit. The rule is being amended to comply with the new law.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is being amended to comply with the new law. This rule was discussed in a noticed, open meeting of the Board.

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

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2016.

DATED this 2nd Day of August, 2016.

### **LSO Rules Analysis Memo**

<b>THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0801-1601</b>
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**250. RESIDENT TRAINEE (RULE 250).**

A Resident Trainee is a person who is licensed to train, under the direct and immediate supervision of a sponsoring mortician, to become a licensed mortician or funeral director. (4-7-11)

**01. Training Requirements. (4-7-11)**

**a.** Training requires the Resident Trainee's diligent attention to the subject matter in the course of regular and full-time paid employment. Full-time employment requires that the Resident Trainee be employed for at least thirty-six (36) hours per week for fifty (50) weeks per year within the mortuary where the Resident Trainee's

sponsoring mortician is the practicing, resident mortician. (4-7-11)

i. At least three-fourths (3/4) of the Resident Trainee's training must consist of the sponsoring mortician instructing and demonstrating practices and procedures to increase the Resident Trainee's knowledge of the service performed by a mortician or a funeral director as defined in Chapter 11, Title 54, Idaho Code. (4-7-11)

ii. For the balance of the required hours, the sponsoring mortician, or his licensed appointee, must be immediately available to consult with the Resident Trainee. (4-7-11)

b. All training must occur within Idaho. (4-7-11)

c. A Resident Trainee shall not sign a death certificate. (4-7-11)

**02. Sponsoring Mortician.** A sponsoring mortician must: (4-7-11)

a. Be an Idaho-licensed mortician who practices as a full-time resident mortician in Idaho. (4-7-11)

b. Not serve as the sponsoring mortician for more than two (2) "Resident Trainees at any given time." (4-7-11)

c. Supervise and instruct the Resident Trainee, and provide demonstrations for and consultations to the Resident Trainee, as described in Subsection 250.01, of this rule. (4-7-11)

d. Complete and co-sign, with the Resident Trainee, quarterly and final reports. These reports must be completed on forms approved by the Board and document the information described in Subparagraphs 250.04.c. and 250.04.d., of this rule. The sponsoring mortician must promptly submit a report after the period of time covered by the report ends. For example, the sponsoring mortician must promptly submit the first quarter report after the first quarter ends, the second quarter report after the second quarter ends, etc. (4-7-11)

e. Promptly notify the Board in writing if a Resident Trainee's training is terminated, including termination due to interruption as specified in Subsection 250.05, of this rule and submit a final report documenting training up to the termination date. (4-7-11)

**03. Eligibility to Be Licensed.** A person may not be licensed as a "Resident Trainee" if the person has practiced as a Resident Trainee or apprentice for a total cumulative period of more than ~~two (2)~~ three (3) years in Idaho, unless approved by the Board for good cause. For purposes of accounting for total cumulative training as a Resident Trainee, the sponsoring mortician must notify the Bureau at the beginning and termination of the training period. When a Resident Trainee completes training, the Resident Trainee must complete the remaining qualifications for licensure as a mortician or funeral director within the following three (3) years or show good reason for further delay. (4-7-11) ( )

**04. Resident Trainee Applicants to Qualify.** (7-1-93)

a. An applicant for a Resident Trainee license must apply on Board-approved forms and pay the appropriate fee. The applicant must: (4-7-11)

i. Be at least eighteen (18) years of age; (4-7-11)

ii. Be of good moral character; (4-7-11)

iii. Have graduated from an accredited high school or have received an equivalent education as determined by the standards set and established by the state board of education; (4-7-11)

iv. Provide a photo as specified in Section 200 of this rule; and (4-7-11)

v. Identify the sponsoring mortician and the funeral establishment in which the applicant will train. The applicant must promptly notify the Board in writing if this information changes during the training period.

(4-7-11)

**b.** The effective date of the resident training shall be determined by the board at its next meeting. In no case shall it be prior to the date the application, together with the required fees, are received in the office of the Bureau. (4-11-06)

**c.** Resident Trainees pursuing a mortician license must complete and co-sign, with the sponsoring mortician, quarterly and final reports documenting that the applicant has assisted in embalming at least twenty-five (25) dead human bodies and assisted in making at least twenty-five (25) funeral arrangements and in conducting at least twenty-five (25) funerals under supervision. (4-7-11)

**d.** Resident Trainees pursuing a funeral director license must complete and co-sign, with the sponsoring mortician, quarterly and final reports documenting that the applicant has assisted in making at least twenty-five (25) funeral arrangements and in conducting at least twenty-five (25) funerals under supervision. (4-7-11)

**05. Interruption in Training.** An interruption in training of sixty (60) days or more constitutes termination of training. (7-1-93)

## IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

### 24.22.01 – RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD

DOCKET NO. 24-2201-1601

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-5303 and 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 657-658](#).

**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 Mitchell Toryanski at (208) 334-3233.

DATED this 1st day of November, 2016.

Tana Cory, Bureau Chief  
Bureau of Occupational Licenses  
700 W. State Street  
P.O. Box 83720  
Boise, ID 83720-0063  
Tel: (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 Sections 54-5303 and 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 October 19, 2016.

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 is amending the rule to incorporate by reference the 2017 edition of the Liquefied Petroleum Gas Code, NFPA 58, published by National Fire Protection Association (NFPA) to keep abreast of the most current safety standards.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board.

**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 current rules incorporate by reference the 2011 Edition of NFPA 58. The 2017 version includes the latest safety protocols used in most state and referenced by the U.S. Department of Transportation. It includes minimum requirements for safe handling during LP-Gas transfer, including operator qualifications, maximum filling quantity in containers, and pre-transfer inspections to ensure containers are fit for continued service. The most current standards of safety address the latest in LPG technology and protect the public from hazards not covered by previous editions.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mitchell Toryanski 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, 2016.

DATED this 2nd day of September, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-2201-1601**

**004. INCORPORATION BY REFERENCE (RULE 4).**

The document titled Liquefied Petroleum Gas Code, 201~~4~~<sup>7</sup> 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 201~~4~~<sup>7</sup> Liquefied Petroleum Gas Code are available for purchase from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322. ~~(3-29-12)~~(      )

## IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

### 24.25.01 – RULES OF THE IDAHO DRIVING BUSINESSES LICENSURE BOARD

DOCKET NO. 24-2501-1601

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-5403, Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 668-673](#).

**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 Mitchell Toryanski at (208) 334-3233.

DATED this 1st day of November, 2016.

Tana Cory, Bureau Chief  
Bureau of Occupational Licenses  
700 W. State Street  
P.O. Box 83720  
Boise, ID 83720-0063  
Tel: (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 54-5403.

**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, 2016.

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 Driving Businesses is amending its rules to clarify that the list of current instructors must be submitted for original and reinstatement applications. The list must be kept current and made available upon request of the Board. It also clarifies that while a Driving Business is allowed to use a third party provider for on-line classroom instruction, the licensee is responsible for ensuring that the content meets the requirements approved by the Board. The rule outlines when the business licensee will send performance information to the Department of Motor Vehicles (DMV) and it updates language as to who may provide a medical examination and what document must be submitted to the Board to verify it.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board.

**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 Mitchell Toryanski 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, 2016.

DATED this 2nd day of September, 2016.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-2501-1601**

**225. DRIVING BUSINESS LICENSE (RULE 225).**

A driving business license enables a licensee to operate a driver education business at one (1), principal classroom location as designated in the application. The licensee may also utilize secondary locations for classroom instruction, so long as the business does not conduct driver education at any given secondary location for more than sixty (60) days in a one-year period. A driving business license is not transferable. The business licensee must conspicuously display the license at the business's principal classroom location. Each applicant must apply as required by Rule 150. (4-7-11)

**01. Applicant Identity.** The applicant must provide such identifying information as may be requested by the Board including, without limitation, the following: (4-7-11)

**a.** The applicant's legal name (i.e., the name of the natural person or business entity to be issued the license) and assumed business name(s), if any. (4-7-11)

**b.** The applicant's social security number, if the applicant has no employees and is a natural person (including a sole proprietor acting under an assumed business name). If the applicant has employees or is not a natural person (e.g., is a general or limited partnership, corporation, limited liability partnership, or limited liability

company), then the applicant must provide its employer identification number. (4-7-11)

c. The names and addresses of the applicant's officers and shareholders having a twenty-five percent (25%) or greater ownership interest (if a corporation), members and managers (if a limited liability company), and partners (if a partnership). (4-7-11)

d. The applicant's contact information, including its mailing address, physical address, and telephone number. (4-7-11)

**02. Criminal History Background Check.** The applicant, if a natural person, and all persons listed under Paragraph 225.01.c. and Subsection 225.05 of these rules, must submit to a current, fingerprint-based criminal history check conducted by an organization approved by the Board. Each applicant must ensure that such persons submit a full set of their fingerprints, and any relevant fees, to the Bureau which will forward the fingerprints and fees to the organization that conducts the fingerprint based criminal history background check. The application will not be processed until the Bureau has received the completed fingerprint-based criminal history background checks. (3-20-14)

**03. Classroom Locations and Certificates of Occupancy.** Each applicant must list all principal and secondary classroom locations to be utilized by the business. The applicant must provide a certificate of occupancy issued to the building/room by the local fire marshal or the fire marshal's designated agent, for each classroom location other than a location in a public or private school building, government building, church, or synagogue. (4-7-11)

**04. Certificate of Vehicle Insurance.** The certificate of vehicle insurance for each vehicle utilized by the driving business for driver education must accompany the application. The minimum coverage will include: (4-7-11)

a. Medical Payment for each person - five thousand dollars (\$5,000); and either (4-7-11)

b. Limit of liability (Combined single limit) - five hundred thousand (\$500,000) to apply to bodily injury and/or property damage; or (4-7-11)

c. Limit of liability (Split limit). Bodily injury - two hundred-fifty thousand (\$250,000) per person/ five hundred thousand (\$500,000) each accident; Property damage - two hundred-fifty thousand (\$250,000) each accident. (4-7-11)

**05. ~~List of~~ Licensed Instructors.** Before beginning to offer driver education, and at all times while offering driver education, a driving business must employ or have contracted with one (1) or more licensed driving instructors to teach the classroom instruction phase and behind-the-wheel training phase of the driver education to be provided by the business. ~~The~~ A driving business must submit to the Bureau a current list of such licensed instructors with ~~the~~ applications for original licensure and reinstatement, and A driving business must keep such list current ~~after licensure~~ and available for inspection upon request by the board or its authorized agent. The list must be kept at its primary place of business and retained for five (5) years. (4-7-11) ( )

**06. Vehicles.** An applicant for a driving business license must submit to the Bureau a list of the vehicles that the business will utilize when offering driver education. A business licensee may not utilize vehicles that do not appear on the list. Each vehicle must have dual control brake pedals, safety restraints for all passengers, a side view mirror on each side of the vehicle, and an additional rear view mirror or compatible viewing device for the exclusive use of the instructor. A driving business must ensure that students are not allowed in a listed vehicle unless the vehicle is in a safe and proper operating condition. (4-7-11)

a. Initial Inspection. An applicant may not include a vehicle on a business's vehicle list unless the vehicle has passed a vehicle inspection performed by an ASE mechanic or vehicle technician within the two (2) month period preceding the application. The inspection must be documented on the Board-approved inspection form included at Appendix A to these rules, or on such other similar forms as may be approved by the Board. The person who inspected the vehicle must sign the form, certifying that the vehicle generally is in a safe and proper operating condition, and that each inspected item passed inspection or, if found to be in need of repair, was repaired on a given

date. The application must be accompanied by a separate, signed form for each listed vehicle. (4-7-11)

**b. Annual Inspection.** A business licensee must ensure that each vehicle passes an inspection every twelve (12) months, and that the inspection is performed by an ASE mechanic or vehicle technician documented on the Board-approved form referenced in Paragraph 225.06.a. of these rules. If a vehicle fails an annual inspection, the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes a subsequent inspection and the business licensee has submitted to the Bureau the inspection form evidencing that the vehicle has passed. (4-7-11)

**c. Incident Inspection.** If a vehicle incident occurs that requires an investigation and report by law enforcement, or in which the damage exceeds one thousand five hundred dollars (\$1,500), the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes inspection by an ASE mechanic or vehicle technician and the business licensee has submitted to the Bureau the inspection form evidencing that the vehicle has passed. (4-7-11)

**d. Signage.** The business licensee must ensure that the outside of each vehicle is equipped with safely secured signs. Signs must include "Student Driver," "Driver Education," "Driver Training," "Driving School," or similar language that clearly designates the vehicle as a driver training vehicle. (4-7-11)

**07. Course of Instruction.** Each applicant, for an original business license, must provide with its application the course of instruction the applicant will use when instructing students. The applicant must demonstrate, to the Board's satisfaction, that the course of instruction is designed to produce safe and effective drivers and is educationally sound. The course of instruction must be based on the minimum curriculum components outlined in Rule 226, and shall consist of: (4-7-11)

**a.** Not less than thirty (30) hours of classroom instruction; and (4-7-11)

**b.** Not less than six (6) hours of behind-the-wheel practice driving; and (4-7-11)

**c.** Not less than six (6) hours of student, in-vehicle observation of other persons (e.g., parents, other student drivers, etc.) driving the vehicle. (4-7-11)

**08. On-line Instruction.** In addition to, or in lieu of offering classroom instruction at a physical classroom location, a business licensee may offer classroom instruction to students via the internet. ~~if~~ While a business licensee may utilize a third party to offer on-line classroom instruction, the business licensee is responsible for ensuring that the instruction content meets the requirements of these rules and is approved by the Board. (4-7-11)( )

**09. Instructor Apprenticeship Training Program.** A driving business may offer a Board-approved instructor apprenticeship training program under the conditions specified in Rule 275. (4-7-11)

**(BREAK IN CONTINUITY OF SECTIONS)**

**227. DRIVING BUSINESS - COURSE OF INSTRUCTION (RULE 227).**

**01. Student Permit Required.** No enrollee of any class D driver's training course will be allowed to attend classes or participate in driving instruction unless he has obtained a class D driver's training instruction permit, or a class D instruction permit, as provided in Section 49-307(4), Idaho Code. (4-7-11)

**02. In-Car Documentation.** A business licensee must ensure that each listed vehicle contains documentation that identifies each student and the student's permit number. Permits will be given to the students following the completion of the course and used during the required graduate licensing process. (4-7-11)

**03. Maximum Daily Driving and Observation Time.** Neither a business licensee nor an instructor licensee may permit an enrolled student to receive more than two (2) hours of behind-the-wheel driving time per day.

Maximum observation time is two (2) hours per student, per day, and may be completed with a parent or legal guardian. (4-7-11)

**04. Maximum Number of Students In Vehicle.** Neither a business licensee nor an instructor licensee may permit more than three (3) students in a vehicle at one (1) time. (4-7-11)

**05. Grading Criteria.** A business licensee may not permit a student to graduate from the business's driver education program unless the student has achieved an eighty percent (80%) or higher in each of the three (3) course areas described in Subsection 225.07. The business licensee must utilize written grading criteria for each of the minimum components in Rule 226. Criteria may include student attitude and such other criteria as the driving business may deem appropriate. The business licensee must maintain records of the student's grades. (4-7-11)

**06. Driving Log.** Each driving instructor must complete a log for each student's behind-the-wheel driving and each driving business licensee must ensure that its driving instructors complete the log. The log must include, for each student, at least the student's name, birthdate, phone number, driving permit number, class date, instructor's name, lesson objective, total instruction time, total observation time, final grade, and date the student passed. (4-7-11)

**07. Reporting.** A business licensee will send student performance information as prescribed by the Idaho Division of Motor Vehicles (DMV) to the DMV no later than five (5) p.m. on the third business day following completion of the course. ( )

**08. Parental Involvement.** Each business licensee should encourage parental involvement in the education of the student. (4-7-11)

**09. Record Retention.** The business licensee must maintain all logs and other records required under Rule 227 for at least three (3) years from date on which the student completes, or is no longer enrolled in, the business's driver education course. The business licensee may not release these records without written consent from the student and the student's parent or legal guardian. The Board and its agents, however, may inspect these records at any time. (4-7-11)

**(BREAK IN CONTINUITY OF SECTIONS)**

**250. DRIVING INSTRUCTOR LICENSE (RULE 250).**

**01. Application.** Each applicant for a driving instructor license must apply as required by Rule 150. Each applicant is required to provide his name, date of birth, and contact information, including mailing address and telephone number, on the Board-approved application form. (4-7-11)

**02. Age.** An applicant for a driving instructor license must be at least twenty-one (21) years old. (4-7-11)

**03. Driving Record and Drivers License.** Each applicant must submit a copy of a valid driver's license in good standing and a copy of a satisfactory driving record. An unsatisfactory record includes, but is not limited to, two (2) moving violations in the past twelve (12) months, or suspension or revocation of a driver's license in the last thirty-six (36) months, or a conviction involving alcohol or controlled substances within the last thirty-six (36) months. (4-7-11)

**04. Criminal History Background Check.** Each applicant must submit to a current, fingerprint-based criminal history check conducted by an organization approved by the Board. Each applicant must submit a full set of the applicant's fingerprints, and any relevant fees, to the Bureau which will forward the fingerprints and fees to the organization that conducts the fingerprint based criminal history background check. The application will not be processed until the completed fingerprint-based criminal history background check has been received. (3-20-14)

**05. Medical Certificate.** A driving instructor licensee may not provide in-vehicle instruction to

students if the instructor suffers from a medical condition that may impair the instructor's ability to safely instruct student drivers. Accordingly, each applicant for an instructor's license must obtain a medical examination ~~conducted in accordance with the Federal Motor Carriers Safety Regulations (49 CFR 391.41-391.49)~~ performed by a licensed medical professional. The examination must be completed within two (2) years preceding the application. The applicant must submit a medical affidavit or examiner's certificate, issued and signed by a licensed, qualified medical professional documenting that the examination occurred and that the applicant does not suffer from any physical or mental condition or disease that would impair the applicant's ability to safely instruct student drivers. If a medical condition exists, the applicant must re-certify as the medical professional requires and submit that information to the Board. (3-25-16)( )

**06. Education.** Each applicant must submit written evidence, satisfactory to the Board, of having graduated from a high school or a regionally or nationally accredited college or university, or of having obtained a GED. (4-7-11)

**07. Instructor Apprenticeship Training Program.** Applicants for licensure must demonstrate to the Board's satisfaction that they have successfully completed all required classroom instruction and behind-the-wheel training hours from a Board-approved instructor apprenticeship training program or have met the requirements for a waiver of the apprenticeship training program as set forth in these rules. The applicant must have undertaken and completed the apprenticeship training program within the five (5) year period immediately preceding the application. (4-11-15)

**a.** Proof of successful completion must include written certificate from a Board-approved apprenticeship training program certifying that the applicant has satisfactorily completed the program. An applicant need not have completed all required classroom instruction and behind-the-wheel training hours through a single program so long as the last program attended by the applicant ensures itself, and its business licensee certifies to the Board that the applicant has satisfactorily completed all required hours through Board-approved apprenticeship training programs. (4-7-11)

**b.** A person may not enroll in an apprenticeship training program unless the person has applied for, paid for, and obtained an apprenticeship permit from the Board. The applicant must apply on Board-approved forms, which must identify the applicant and the business licensee in whose approved apprenticeship training program the applicant will be enrolled. The individual applicant must establish that they are at least twenty-one (21) years old, hold a valid driver's license and a satisfactory driver license record, have passed a fingerprint based criminal history background check, and have obtained a medical certificate consistent with the requirements of Subsections 250.02 through 250.05. An apprenticeship permit automatically expires one (1) year after issuance. The Board also may suspend or revoke an apprenticeship permit, and refuse to issue another permit, if the permittee engages in any act or omission that would subject the permittee to discipline if the permittee had an instructor's license. No one may be a permittee for more than three (3) years. (3-20-14)

**08. Waiver of Instructor Apprenticeship Training Program.** An applicant shall be entitled to a waiver of the apprenticeship training program if they possess the requisite training and experience as set forth below. (4-11-15)

**a.** An applicant who holds a current active unrestricted equivalent driving instructor license from another state shall qualify for a waiver of the apprenticeship training program requirement. The applicant is responsible to provide proof to the Board that they hold a current unrestricted driving instructor license from another state, and that said license is equivalent to an Idaho driver instructor license in its qualifications and scope of practice; or (4-11-15)

**b.** An applicant who has held an active and unrestricted public driver education instructor license issued by the Idaho State Department of Education for at least two (2) years shall qualify for a waiver of the apprenticeship training program requirement. The applicant is responsible to provide proof to the Board that they hold a current unrestricted Idaho public driver instructor license. (4-11-15)

## **IDAPA 48 – IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION**

### **48.01.01 – RULES OF THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION**

**DOCKET NO. 48-0101-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 54-3605(15) and 54-3610, 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 are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2016 Idaho Administrative Bulletin, [Vol. 16-9, pages 285-287](#).

**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 Moya Dolsby, Executive Director, (208) 332-1538.

DATED this 26th day of October, 2016.

Moya Dolsby, Executive Director  
Grape Growers and Wine Producers Commission  
821 W. State Street  
Boise, ID 83702  
Phone: (208) 332-1538  
Fax: (208) 334-2505

<p><b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE</b></p>
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**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2016.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-3605(15) and 54-3610, 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, 2016.



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

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

The passage of House Bill 456 by the 2016 Idaho Legislature amended Section 54-3610, Idaho Code, and removed statutory assessment language that was inconsistent with and duplicative to the Idaho Grape Growers and Wine Producers Commission's administrative rules that were approved by the Idaho Legislature in 2010 with respect to grapes and grape juice purchased from out-of-state producers for the production of wine in Idaho. Omission of this duplicative language was inadvertently overlooked by industry until prior to the 2016 legislative session. By statute, the Commission is charged with setting forth the assessment calculations in rule for Idaho's grape and wine industry. In reviewing the current assessment structure for grapes and grape juice, Idaho wineries have brought forth the request to simplify the assessment structure for future assessment cycles.

The current assessment structure has proven confusing for industry members and requires them to convert wine grapes purchased in tons into gallons produced before applying assessment payments. In turn, the Commission has to reconvert gallons to tons in order to determine total tons harvested in Idaho for that year. The temporary and proposed rule streamlines the assessment process by requiring both wineries and vineyards to pay assessments based on tons rather than any conversion to gallons, as well as removes the need for the Commission to convert gallons to tons for proper harvest numbers.

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

The changes to Idaho Code section 54-3610 are effective as of July 1, 2016. The assessment cycle is from July 1 to June 30 of each year. A temporary rule is necessary to have the assessment calculation methodology in place for the assessment cycle.

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

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

No change to the assessment rate is proposed and the Commission will not experience a fiscal impact. The rule may allow wineries to reduce the time involved in submitting assessments, reducing costs to the wineries.

**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 June 1, 2016 Idaho Administrative Bulletin, [Vol. 16-6, pages 59-60](#), and in the July 6, 2016 Idaho Administrative Bulletin, [Vol. 16-7, pages 87-88](#).

**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 Moya Dolsby, Executive Director, at (208) 332-1538.

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, 2016.

DATED this 25th Day of July, 2016.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 48-0101-1603

020. TAX AND LATE PAYMENT PENALTY.

01. **Levy and Rate of Tax.** In accordance with Section 54-3610, Idaho Code, a tax is levied and imposed on wineries, ~~and~~ grapes grown, used, ~~grown~~, or purchased, and grape juice purchased for the production of wine in Idaho. The rate of each tax shall be: (3-19-07)( )

a. ~~Four cents (\$.04)~~ Seven dollars (\$7) per gallon ton of ~~wine produced~~ grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho. (3-29-10)( )

b. Seven dollars (\$7) per ton of grapes harvested by growers in Idaho during the previous calendar year for the purpose of ~~vinification during the previous calendar year~~ production of wine in Idaho. (3-29-10)( )

c. Seven dollars (\$7) per ton ~~for~~ of grapes purchased ~~from~~ by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho ~~during the previous calendar year~~. (3-29-10)( )

d. ~~Six dollars and sixty-eight~~ Four cents (\$~~6.68~~04) per ~~one hundred sixty-seven (167)~~ gallons, ~~or any portion thereof,~~ of grape juice purchased ~~from~~ by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho ~~during the previous calendar year~~. (3-29-10)( )

~~e. The tax rates set forth in Paragraphs 020.01.a. through 020.01.d., shall be phased in over a three-year (3-) period as follows:~~ (3-29-10)

~~i. Thirty-three percent (33%) in fiscal year 2010;~~ (3-29-10)

~~ii. Sixty-six percent (66%) in fiscal year 2011; and~~ (3-29-10)

~~iii. One hundred percent (100%) in fiscal year 2012 and all subsequent years, except that the maximum tax levied upon any winery for fiscal year 2010 shall be one thousand dollars (\$1,000).~~ (3-29-10)

02. **Minimum Levy.** The minimum taxes paid by any grower or winery shall be one hundred dollars (\$100) annually. (3-29-10)

03. **Payment of Tax.** The grower harvesting grapes for the production of wine shall pay the tax levied upon the grower. Each winery shall pay the tax levied upon the winery for the production of wine. Purchasers of grapes grown or grape juice produced outside Idaho shall pay taxes levied on such grapes and grape juice. Purchasers of grape juice produced in Idaho shall pay taxes levied on such grape juice. All taxes shall be paid on or before June 30 of each year. (3-29-10)( )

04. **Late Payment Penalty.** Persons making payment of the levied tax after the date set forth in this chapter shall be subject to a late payment penalty of fifteen percent (15%) per annum on the amount due. In addition to the late payment penalty, the Commission shall be entitled to recover all costs, fees, and reasonable attorney's fees incurred in the collection of the tax and penalty provided for in Section 020 of these rules. (3-19-07)

05. **Opt Out Alternative.** A grower or producer may opt out of the levy of tax by submitting a letter to the Commission no later than June 30 of each year stating intent to opt out of the application of the provisions of Title 54, Chapter 36, Idaho Code, for the upcoming fiscal year. The letter shall include the grower or producer's name and address. (3-19-07)