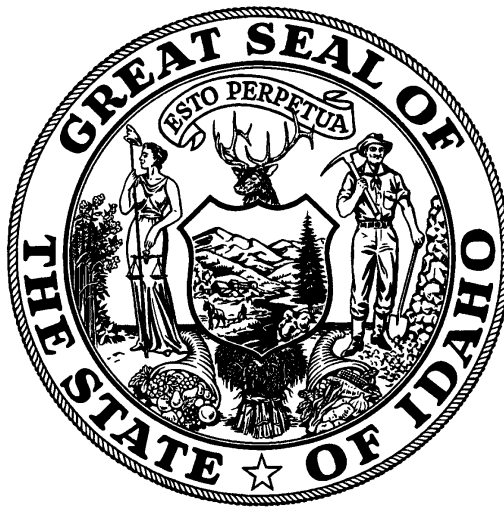


# **PENDING RULES**

## **COMMITTEE RULES**

### **REVIEW BOOK**

**Submitted for Review Before**  
**Senate Commerce &**  
**Human Resources Committee**  
**64th Idaho Legislature**  
**Second Regular Session – 2018**



*Prepared by:*

*Office of the Administrative Rules Coordinator  
Department of Administration*

*January 2018*

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **ADMINISTRATIVE RULES REVIEW**

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

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

**DOCKET NO. 01-0101-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 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:

Amend Rule 004.02 to appropriately date the Statement on Standards for Continuous Professional Education (CPE) which are incorporated by reference. The year notated will be changed from 2012 to 2016.

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 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 16-17](#).

**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 3rd Day of October, 2017.

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 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 20, 2017.

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

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

Amend Rule 004.02 to appropriately date the Statement on Standards for Continuing Professional Education (CPE) that are incorporated by reference. The year notated will be changed from 2012 to 2016.

**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 the Statement on Standards are a joint effort from the National Association of State Boards (NASBA) and the American Institute of Certified Public Accountants (AICPA).

**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 Statement on Standards for Continuing Professional Education (CPE) Programs (Standards) is published jointly by the American Institute of Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy (NASBA) to provide a framework for the development, presentation, measurement, and reporting of CPE programs for the accounting profession. The Standards provide specific information to both program sponsors to help ensure they are providing a rewarding educational experience and to licensees to aid them in choosing a personal and professional educational development plan suited to their development. A solid and consistent set of CPE standards will allow licensees who are licensed in multiple states to be better equipped to adhere to multiple jurisdiction requirements and give the citizens of Idaho the assurance that licensed professionals must adhere to standards as it relates to a licensee's professional development through continuous education.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Kent A. Absec, Executive Director, 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 27, 2017.

DATED this 1st day of August, 2017.

[\*\*LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis\*\*](#)

<p><b>THE FOLLOWING IS THE TEXT OF DOCKET NO. 01-0101-1701</b></p>
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**004. INCORPORATION BY REFERENCE (RULE 004).**

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

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

**02. CPE Standards.** 201~~2~~<sup>6</sup> Statements on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA. (~~4-4-13~~) ( )

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

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

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

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

**DOCKET NO. 01-0101-1702**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 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:

Amend Rule 020.02.b. and 020.03 to bring it in conformity with a recent statute change of Section 54-219(f), Idaho Code. The amended rule will clarify the fact the Board is now permitted to consider a licensee's conviction of or a guilty plea to any crime involving moral turpitude, an element of which is dishonesty or fraud even where the licensee or proposed licensee has obtained a withheld judgment or other order of decree of expungement. The amended rule also clarifies the factors of rehabilitation the Board may consider in evaluating a current licensee or candidate for licensure.

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 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 18-19](#).

**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 3rd day of October, 2017.

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)



<p><b>THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE</b></p>
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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 54-204(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 20, 2017.

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

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

Amend Rule 020.02.b. and 020.03 to bring it in conformity with a recent statute change of Section 54-219(f), Idaho Code. The amended rule will clarify the fact the Board is now permitted to consider a licensee's conviction of or a guilty plea to any crime involving moral turpitude, an element of which is dishonesty or fraud, even where the licensee or proposed licensee has obtained a withheld judgment or other order or decree of expungement. The amended rule also clarifies the factors of rehabilitation the Board may consider in evaluating a current licensee or candidate for licensure.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the change is being made to bring the rule into compliance with a statute change made during the 2017 Idaho Legislative session.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Kent A. Absec, Executive Director, (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 27, 2017.

DATED this 1st day of August, 2017.

**LSO Rules Analysis Memo**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 01-0101-1702

**020. GOOD MORAL CHARACTER (RULE 020).**

**01. Demonstrating Good Moral Character.** Applicants have the burden of demonstrating good moral character as defined by Section 54-206(11), Idaho Code, in the manner specified by the Board in its application forms. (5-8-09)

**02. Evidence.** Prima facie evidence of a lack of good moral character includes, but is not limited to: (5-8-09)

**a.** Any deferred prosecution agreement involving an admission of wrongdoing, or any criminal conviction, including conviction following a guilty plea or plea of nolo contendere, for any felony or any crime, an essential element of which is fraud, dishonesty, or deceit, or any other crime which evidences an unfitness of the applicant to provide professional services in a competent manner and consistent with the public safety; (5-8-09)

**b.** Revocation, suspension or the lapsing in lieu of discipline of any license or other authority to practice by or before any state, federal, foreign or other licensing or regulatory authority; or ~~(5-8-09)~~ ( )

**c.** Any act which would be grounds for revocation or suspension of a license if committed by a licensee of the Board. (5-8-09)

**03. Rehabilitation.** ~~Factors which~~ The applicant may offer, and the Board may consider the following factors in determining ~~rehabilitation of~~ whether the applicant's moral character has been rehabilitated as of the date the applicant is seeking licensure. These factors include, but are not limited to: ( )

**a.** The applicant's completion of criminal probation, restitution, community service, military or other public service; ~~;~~ ( )

**b.** ~~The~~ passage of time without the applicant's commission of further crime or act demonstrating a lack of good moral character; ~~;~~ and ( )

**c.** ~~The~~ entry of an order by any state or federal court expungement ~~of~~ any conviction, ~~or reduction~~ reducing of a conviction from a felony to misdemeanor; ~~or commuting, suspending, or withholding any judgment as provided by law.~~ ~~(5-8-09)~~ ( )

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

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

**DOCKET NO. 01-0101-1703**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 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:

Amend Rule 506.01.b. to provide clarity to a licensee relating to information they will need on documentation to support credit hours they are reporting for their Continuous Professional Education (CPE). This amendment to the rule will also reflect the language and requirements within standards set by the National Association of State Boards (NASBA) and the American Institute of Certified Public Accountants (AICPA) used by most state boards in the regulation of CPE.

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 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 20-21](#).

**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 3rd day of October, 2017.

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 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 20, 2017.

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

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

Amend Rule 506.01.b. to provide clarity to licensees relating to information needed on documentation to support credit hours they are reporting for their Continuous Professional Education (CPE). This amendment to the rule will also reflect the language and requirements within standards set by the National Association of State Boards (NASBA) and the American Institute of Certified Public Accountants (AICPA) used by most state boards in the regulation of CPE. This will provide consistency for an Idaho licensee who may be licensed in multiple states.

**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 change is simple in nature and is a reflection of the standards set by NASBA and the AICPA for the profession.

**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, Executive Director, (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 27, 2017.

DATED this 1st day of August, 2017.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 01-0101-1703**

**506. REPORTING, CONTROLS AND LATE FEES (RULE 506).**

**01. Reporting.** No later than January 31 of each year, individuals renewing their licenses must provide a signed reporting form either: (4-2-03)

- a. Applying for exception, extension, or exemption under Rule 502; or (4-2-03)
- b. Disclosing the following information pertaining to the educational programs submitted for qualification under this rule: (4-2-03)
- i. Sponsoring organization ~~and contact information;~~ ~~(4-2-03)~~( )
  - ii. ~~Participant's name, and~~ ~~Location of program, if applicable;~~ ~~(4-2-03)~~( )
  - iii. ~~Course~~ ~~Title of program or description of content~~ ~~and field of study;~~ ~~(4-2-03)~~( )
  - iv. Dates ~~attended~~ ~~completed;~~ ~~(4-2-03)~~( )
  - v. ~~Hours of credit claimed; and~~ ~~Amount of CPE credit recommended;~~ ~~(4-2-03)~~( )
  - vi. ~~Any other information as may be called for to verify they have met the requirements for participation in a program of CPE as set forth in Rule 503~~ ~~Type of instructional and delivery method used;~~ ~~(4-2-03)~~( )
  - vii. ~~Verification of CPE program sponsor representative; and~~ ( )
  - viii. ~~Any other information as may be called for to verify they have met the requirements for participation in a program of CPE as set forth in Rule 503.~~ ( )

**02. Controls.** The Board shall review the signed reporting forms submitted by licensees, which are subject to formal verification. If a licensee submits a reporting form and it is not approved, the licensee shall be notified and administrative action shall be taken pursuant to Rules 507 through 509. (4-2-03)

**03. Late Fees.** Until the licensee files the reporting form with supporting documentation, pays the fee for late filing as prescribed in Rule 703 and the license renewal fee, and any other penalty the Board may impose, a license will not be issued. (4-2-03)

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

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

**DOCKET NO. 01-0101-1704**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 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:

Amend Rule 602.01, Peer Review Program Participation, to bring it in conformity with a recent statute change of Section 54-206(3), Idaho Code, the definition of Attest. The amended rule will provide consistency between the Accountancy Act and Rules. The rule will now clearly define for a licensee which services are considered as peer reviewable and therefore require a firm who performs these services to participate in a peer review 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 September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 22-23](#).

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: 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 3rd day of October, 2017.

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 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 20, 2017.

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

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

Amend Rule 602.01, Peer Review Program Participation, to bring it in conformity with a recent statute change of Idaho Code 54-206(3), the definition of Attest. The amended rule will provide consistency between the Accountancy Act and Rules. The rule will now clearly define for a licensee which services are considered as peer reviewable and therefore require a firm who performs these services to participate in a peer review program.

**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 change is being made to bring the rule into compliance with a statute change made during the 2017 Idaho Legislative session.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Kent A. Absec, Executive Director, (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 27, 2017.

DATED this 1st day of August, 2017.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 01-0101-1704**

**602. PEER REVIEW PROGRAM PARTICIPATION (RULE 602).**

**01. Participation.** Any firm that issues reports on accounting and auditing engagements, including audits, reviews, compilations, and prospective financial information, engagements performed in accordance with the PCAOB, and any examination, review or agreed-upon procedures engagement performed in accordance with the

statement on standards for attestation engagements shall participate. A licensee who issues compilation reports through any form of business other than a firm shall participate in the peer review program. Such licensees must meet the requirements for registration and peer review as set forth in Subchapter G. ~~(4-2-03)~~ ( )

**02. Practice Privileges.** Individuals with practice privileges in Idaho shall comply with the peer review requirements in the state of their principal place of business. (5-8-09)



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

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

**DOCKET NO. 07-0106-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 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:

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 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 37 through 40](#).

**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 Warren Wing at (208) 332-7147.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-7150  
Fax: (877) 810-2840

**THE FOLLOWING NOTICE 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 September 20, 2017.

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 2016 Idaho Legislature passed HB 643, which established Section 54-1001A, Idaho Code that directs the Idaho Division of Building Safety to promulgate rules governing the use, inspection and safety of submersible well pumps in Idaho's lakes, rivers, ponds and streams. This rulemaking amends the electrical code relating to installation and safety requirements of non-listed submersible well pumps in Idaho's waters where authorized swimming and marine activities take place. The DBS conducted negotiated rulemaking with the pump and electrical industry in order to develop these amendments. Pursuant to the negotiated rule notice, which published in the May 2016 Administrative Bulletin under Docket No. 07-0106-11601, meetings occurred in 2016, which included informal collaborative meetings with industry, and these rule changes were again discussed in the 2017 Electrical Board meetings.

This rulemaking would amend the 2017 National Electric Code (NEC) to add a new section permitting the installation of disconnects grouped in one- and two-family dwelling units where multiple feeders enter the building in certain circumstances. Additionally, the rulemaking provides exceptions to several articles of the NEC addressing the installation of submersible well pumps in swimming and marine areas, and the electrical equipment used therein such installations.

**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 May 4, 2016 Idaho Administrative Bulletin, [Vol. 16-5, pages 38 through 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:

This rulemaking would amend the 2017 National Electric Code (NEC) to add a new section permitting the installation of disconnects grouped in one and two family dwelling units where multiple feeders enter the building in certain circumstances. Additionally, the rulemaking provides exceptions to several articles of the NEC addressing the installation of submersible well pumps in swimming and marine areas, and the electrical equipment used therein such installations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Warren Wing at (208) 332-7147.

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 27, 2017.

DATED this 9th day of August, 2017.

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis](#)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0106-1701**

**011. ADOPTION AND INCORPORATION BY REFERENCE OF THE NATIONAL ELECTRICAL CODE.**

**01. Documents.** Under the provisions of Section 54-1001, Idaho Code, the National Electrical Code, 2017 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, 2017, with the following amendments: (3-29-17)

**a.** Article 110.3(A) and 110.3(B) shall not apply to submersible well pumps installed in swimming and marine areas; provided however, such articles shall apply to all other equipment required in the installation of a submersible well pump in such areas except for the actual submersible well pump itself. ( )

**b.** 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)

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

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

**e.** 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)

**f.** Add a new Article 225.30(F) – One (1)- or Two (2)-Family Dwelling Unit(s). For a one (1)- or two (2)-family dwelling unit(s) with multiple feeders with conductors one aught (1/0) or larger, it shall be permissible to install not more than six (6) disconnects grouped at one (1) location where the feeders enter the building, provided that the feeder conductors originate at the same switchboard, panelboard, or overcurrent protective device location. ( )

**g.** 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)

**h.** 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)

i. Article 682.10 shall not apply to submersible well pumps installed in swimming and marine areas; provided however, such articles shall apply to all other equipment required in the installation of a submersible well pump in such areas except for the actual submersible well pump itself. ( )

j. Article 682.11. Add the following exception to Article 682.11: This article shall not apply to service equipment that is located on or at the dwelling unit and which is not susceptible to flooding. ( )

k. Article 682.13. Add the following exceptions to Article 682.13: ( )

i. Exception No. 1. Wiring methods such as HDPE schedule eighty (80) electrical conduit or its equivalent or greater, and clearly marked at a minimum "Caution Electrical" to indicate that it contains electrical conductors shall be approved. It shall be buried whenever practical, and in accordance with the requirements of the authority having jurisdiction. The use of gray HDPE water pipe rated at 250 PSI (eg. SDR-7 or DR-9) is suitable for use as a chase only when the following conditions are met: ( )

(1) When internal conductors are jacketed submersible pump cable. ( )

(2) When used in continuous lengths, directly buried, or secured on a shoreline above and below the water line. ( )

(3) When submersible pump wiring terminations in the body of water according to 682.13 Exception No. 2 are met. ( )

ii. Exception No. 2. Any listed and approved splices required to be made at the submersible well pump itself, outside of a recognized submersed pump sleeve or housing, when wires are too large to be housed inside such sleeve, shall be covered with a non-metallic, impact resistant material, no less than .25 (one quarter) inches thick, such as heavy duty heat shrink or other equivalent method approved by the authority having jurisdiction. (Eg. install a heat shrink over the sleeve or housing that the submersible well pump is installed in, and then recover (apply heat) the heat shrink over both the HDPE and the water line). At least six (6) inches shall be over the sleeve and at least twelve (12) inches over the HDPE and water line. ( )

iii. Exception No. 3. Pipe, conduit, PVC well casing, or other electrically unlisted tubing may be used as a chase, but not as a raceway, to protect conductors or cables from physical damage. Conductors or cables within a chase shall be rated for the location. ( )

l. Article 682.14. Add the following additional exception to Article 682.14: For installations of submersible well pumps installed in public swimming and marine areas, submersible well pumps shall be considered directly connected and shall be anchored in place. Ballast is an acceptable form of anchoring. ( )

m. Article 682.14(A). Add the following exception to Article 682.14(A): For installations of submersible well pumps installed in public swimming and marine areas, motor controller circuits such as remotely located stop pushbutton/s, disconnect/s, relay/s or switches shall be permitted as a required disconnecting means. Such circuits shall be identified at a minimum as "Emergency Pump Stop", or "Emergency Stop" with other obvious indications on the visible side of the enclosure, that it controls a submersible pump in the body of water. ( )

n. Article 682.15. Add the following exceptions to Article 682.15: ( )

i. Exception No. 1. Submersible pumps, and their motor leads, located in bodies of water, and that are rated sixty (60) amperes maximum, two hundred fifty (250) volts maximum of any phase, shall have GFCI or Ground Fault Equipment Protection designed to trip at a maximum of thirty (30) milliamps or less, protected by means selected by a licensed installer, meeting listing or labeling requirements, and inspected by the AHJ prior to submersion in bodies of water. ( )

ii. Exception No. 2. Installations or repair and replacement of submersible pumps located in bodies of water, that are rated over sixty (60) amperes, and rated at any voltage, shall be evaluated by a qualified designer or experienced licensed contractor, or involve engineering or be engineered, for each specific application, with the goal

of public safety. Whenever possible, GFCI or Ground Fault Equipment Protection designed to trip at a maximum of thirty (30) milliamps or less, meeting listing or labeling requirements, shall be installed, and inspected by the AHJ prior to submersion in bodies of water. ( )

**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-way fuse holder accessible from the hand hole. Any poles supporting or incorporating utilization equipment or exceeding the prescribed number of luminaires, or in excess of forty (40) feet, shall be considered structures, and an appropriate service disconnecting means shall be required per the NEC. All luminaire-supporting poles shall be appropriately grounded and bonded per the NEC. (4-6-05)

**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. (3-29-17)

**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**  
**07.02.04 – RULES GOVERNING PLUMBING SAFETY INSPECTIONS**  
**DOCKET NO. 07-0204-1701**  
**NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 54-2601, 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 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 41 through 42](#).

**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 John Nielsen at (208) 332-7112.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-7150  
Fax: (877) 810-2840

**THE FOLLOWING NOTICE 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, 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 20, 2017.

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 Cross Connection Control Manual published by the American Water Works Association (AWWA) has previously been used as the standard for the installation of cross connection control and back flow prevention devices. However, the Idaho State Plumbing Code (ISPC) already contains provisions related to backflow installations. The plumbing industry would prefer to reference only one book – the ISPC. This rulemaking creates clarity by eliminating the need for plumbers and inspectors to reference the Cross Connection Control Manual. It also saves the industry and the state money inasmuch as plumbers and inspectors will no longer need to reference and purchase two code books.

**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 April 5, 2017 Idaho Administrative Bulletin, [Vol. 17-4, pages 12 through 13](#).

**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 John Nielsen at (208) 332-7112.

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 27, 2017.

DATED this 3rd day of August, 2017.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0204-1701**

012. REQUIREMENTS IN ADDITION TO THE PLUMBING CODE.

~~01. Cross Connection Control Manual. The "Cross Connection Control Manual" published by the Pacific Northwest Section of the American Water Works Association (April, 2012 7th Edition) is hereby adopted as the standard for cross connection control and back flow prevention devices. (4-11-15)~~

**021. Jurisdiction/Septic Systems.** Septic tank and drain fields: Under the definition of a plumbing system as set forth in Section 54-2604(h), Idaho Code, the plumbing contractor's interest and responsibility ceases with the "connection" to the septic tank. (11-14-85)

**032. Waste Disposal.** The Department of Environmental Quality is the inspection authority on waste disposal. (6-4-76)



**IDAPA 07 – DIVISION OF BUILDING SAFETY**  
**07.02.06 – RULES CONCERNING IDAHO STATE PLUMBING CODE**  
**DOCKET NO. 07-0206-1701**  
**NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 Section 54-2601, 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 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 43 through 48](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact John Nielsen at (208) 332-7112.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-7150  
Fax: (877) 810-2840

<p><b>THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE</b></p>
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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 54-2601, 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 20, 2017.

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

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

Amendment to Section 603.5.7 of the 2017 Idaho State Plumbing Code would eliminate freezing issues the industry is currently having because code currently requires installing hose bibb-type vacuum breaker on freeze resistant sanitary yard hydrants. Amendment to Section 604.10.1 is expected to assist homeowners and contractors in saving money by not requiring a tracer wire for non-metallic pipe if the electrical wiring for the well is contained in the same trench from the well to the structure.

This rulemaking would amend the Idaho State Plumbing Code (ISPC) to remove a requirement that sanitary yard hydrants be protected by a non-removable hose bibb-type backflow preventer and to eliminate the need for installing an additional tracer wire in a trench in situations where the electrical wiring for the pump is also installed in the same trench.

**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 April 5, 2017 Idaho Administrative Bulletin, [Vol. 17-4, pages 14 through 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:

This rulemaking would amend the 2017 Idaho State Plumbing Code (ISPC) to remove a requirement that sanitary yard hydrants be protected by a non-removable hose bibb-type backflow preventer, and to eliminate the need for installing an additional tracer wire in a trench in situations where the electrical wiring for the pump is also installed in the same trench.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact John Nielsen at (208) 332-7112.

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 27, 2017.

DATED this 9th day of August, 2017.

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis](#)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0206-1701**

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

The Idaho State Plumbing Code published in 2017, 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 2015 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/>. (3-29-17)

**01. Section 105.3 Testing of Systems.** (3-29-17)

**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. (3-29-17)

**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. (3-29-17)

**02. Section 218 Definitions.** Delete definition of “Plumbing System.” Incorporate definition of “Plumbing System” as set forth in Section 54-2604, Idaho Code. (3-29-17)

**03. Section 314.4 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. (3-29-17)

**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. (3-29-17)

**05. Section 403.3 Exposed Pipes and Surfaces.** Delete. (3-29-17)

**06. Section 407.4 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. (3-29-17)

**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).

(3-29-17)

**08. Section 408.7.5 Tests for Shower Receptors.** Delete. (3-29-17)

**09. Section 409.4 Limitation of Hot Water in Bathtubs and Whirlpool Bathtubs.** Delete. (3-29-17)

**10. Section 503.1 Inspection of Chimneys or Vents.** Add the following to the end of section 503.1: 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. (3-29-17)

**11. Section 507.2 Seismic Provisions.** Delete. (3-29-17)

**12. Section 507.13 Installation in Garages.** Replace 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. (3-29-17)

**13. Table 603.2 Backflow Prevention Devices, Assemblies and Methods.** (3-29-17)

**a.** Delete from the table the entire row related to freeze resistant sanitary yard hydrant devices. (3-29-17)

**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). (3-29-17)

**14. Section 603.5.7 Outlets with Hose Attachments.** Delete and replace with the following: Potable water outlets with hose attachments, other than water heater drains, boiler drains, freeze resistant yard hydrants and clothes washer connections, shall be protected by a nonremovable hose bibb-type backflow preventer, a nonremovable hose bibb-type vacuum breaker, or by an atmospheric vacuum breaker installed not less than six (6) inches (one hundred fifty-two (152) mm) above the highest point of usage located on the discharge side of the last valve. In climates where freezing temperatures occur, a listed self-draining frost-proof hose bibb with an integral backflow preventer or vacuum breaker shall be used. ( )

**15. 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. (3-29-17)

**16. Section 603.5.17 Potable Water Outlets and Valves.** Delete. (3-29-17)

**17. 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: (3-29-17)

**a.** Air gap; (3-29-17)

**b.** Atmospheric vacuum breaker (AVB); (3-29-17)

**c.** Pressure vacuum breaker backflow prevention assembly (PVB); (3-29-17)

**d.** Spill-resistant pressure vacuum breaker (SVB); or (3-29-17)

- e. Reduced-pressure principle backflow prevention assembly (RP). (3-29-17)

**18.** **Section 604.10.1 Tracer Wire.** Add the following exception: Where the electrical wiring for the pump is installed in the same trench as the water line, from the point of origin to the structure, a tracer wire shall not be required. ( )

**1-79.** **Section 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. (3-29-17)

**4820.** **Section 609.1 Installation.** Delete the following sentence: 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. (3-29-17)

**4921.** **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)

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

**243.** **Section 609.11 Pipe Insulation.** Delete. (3-29-17)

**224.** **Table 610.3 and Appendix Table 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. (3-29-17)

**235.** **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. (3-29-17)

**246.** **Table 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. (3-29-17)

**257.** **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). (3-29-17)

**268.** **Table 702.1 Drainage Fixture Unit Valves (DFU).** Change fixture unit loading value for clothes washers, domestic for private to two (2) fixture units. (3-29-17)

**279.** **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. (3-29-17)

**2830.** **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. (3-29-17)

**2931.** **Section 704.3 Commercial Sinks.** Delete. (3-29-17)

**302.** **Table 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. (3-29-17)

**343.** **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. (3-29-17)

**324. Section 707.4 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. (3-29-17)

**335. Section 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). (3-29-17)

**346. 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. (3-29-17)

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

**368. Section 717.0 Size of Building Sewers.** Add the following to the end of section 717.1: 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. (3-29-17)

**379. Section 723.0 General.** Delete the following sentence: “Plastic DWV piping systems shall not be tested by the air test method.” (3-29-17)

**3840. Section 801.3.3 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). (3-29-17)

**3941. Section 805.41 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. (3-29-17)

**402. Section 807.3 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. (3-29-17)

**413. Section 906.1 Roof Termination.** Delete the existing provision and replace with the following: (3-29-17)

**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)

**424. Section 908.1 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. (3-29-17)

**435. Section 909.0 Special Venting for Island Fixtures.** Add: Parameters for the limited use of Air Admittance Valves (A.A.V.). (3-29-17)

- 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)

**446. 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. (3-29-17)

**457. Section 1007.0 Trap Seal Protection.** Delete section 1007.1 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. (3-29-17)

**468. Section 1016.1 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. (3-29-17)

**479. Section 1502.1 General.** Add to this section the following paragraph: 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. (3-29-17)



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

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

**DOCKET NO. 07-0301-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 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:

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 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 49 through 59](#).

**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 Arlan Smith at (208) 332-7123.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-7150  
Fax: (877) 810-2840



**THE FOLLOWING NOTICE 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 September 20, 2017.

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 2012 International Residential Code (IRC) is currently utilized by building jurisdictions throughout the state; however, it does not provide adequate guidance related to the construction of “Tiny Homes.” The construction of tiny homes in Idaho has increased significantly in the past several years and there is a need to establish specific residential code provisions to properly address some of the unique characteristics of tiny homes. The tiny home provisions contained in this rulemaking would be added as an appendix to the IRC, and may be adopted by building code jurisdictions to address the installation of such homes. Additionally, because of increases to allowable design stresses in the 2012 International Building Code (IBC), masonry allowable stress design (ASD) lap lengths could exceed strength design laps. Placing a limit on the required lap length corrects this problem and provides consistency between masonry design methods.

This rulemaking adds several provisions to the residential code (IRC) in the form of a new appendix addressing certain aspects of “Tiny Homes.” These include key definitions, as well as provisions related to ceiling height, lofts, stairways and ladders, and escape and rescue roof access windows. This rulemaking will also add an amendment that will place a limit on the required length of reinforcement lap splices for allowable stress design (ASD) of masonry. It will make the allowable stress maximum lap length equivalent to the current strength design maximum lap length.

**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 March 1, 2017 Idaho Administrative Bulletin, [Vol. 17-3, pages 16 through 17](#).

**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 adds several provisions to the 2012 International Residential Code (IRC) in the form of a new appendix addressing certain aspects of “Tiny Homes.” This rulemaking also add an amendment to the 2015 International Building Code (IBC) that will place a limit on the required length of reinforcement lap splices for allowable stress design (ASD) of masonry.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Arlan Smith at (208) 332-7123.

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 27, 2017.

DATED this 9th day of August, 2017.

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis](#)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0301-1701**

**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. 2015 Edition with the following amendments: (3-29-17)**

**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: (3-29-17)

- 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. (3-29-17)

**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.** Delete the last paragraph of section 2107.2.1 Lap Slices, and replace with the following: In regions of moment where the design tensile stresses in the reinforcement are greater than eighty percent (80%) of the allowable steel tension stress, FS, the lap length of splices shall be increased not less than fifty percent (50%) of the minimum required length, but need not be greater than 72 db. Other equivalent means of stress transfer to accomplish the same fifty percent (50%) increase shall be permitted. Where epoxy coated bars are used, lap length shall be increased by fifty percent (50%). ( )

**e.f** Add footnote (f) in the header row of the table column labeled “Drinking Fountains” of Table 2902.1 Minimum Number of Required Plumbing Fixtures, and 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. (3-29-17)

**f.g.** Delete footnote (e) 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. (3-29-17)

**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

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
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)
- q.** Add an Appendix R, titled Tiny Homes to include the following provisions: ( )
- i.** Section AR101 Scope. This appendix shall be applicable to tiny houses used as single dwelling units. Tiny houses shall comply with this code except as otherwise stated in this appendix. ( )
- ii.** Section AR102 Definitions. The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of this code for general definitions. ( )
- (1)** Tiny House. A dwelling that is four hundred (400) square feet (thirty-seven (37) m) or less in floor area excluding lofts. ( )
- (2)** Escape and Rescue Roof Access Window. A skylight or roof window designed and installed to

satisfy the emergency escape and rescue opening requirements in Section R310. ( )

(3) Landing Platform. A landing provided as the top step of a stairway accessing a loft. ( )

(4) Loft. A floor level located more than thirty (30) inches (762 mm) above the main floor and open to it on at least one (1) side with a ceiling height of less than six (6) feet eight (8) inches (2032 mm), used as a living or sleeping space. ( )

(iii) Section AR103 Minimum Ceiling Height. Habitable space and hallways in tiny houses shall have a ceiling height of not less than six (6) feet eight (8) inches (2032 mm). Bathrooms, toilet rooms, and kitchens shall have a ceiling height of not less than six (6) feet four (4) inches (1930 mm). Obstructions shall not extend below these minimum ceiling heights including beams, girders, ducts, lighting and other obstructions. Exception: Ceiling heights in lofts are permitted to be less than six (6) feet eight (8) inches (2032 mm). ( )

iv. Section AR104 Lofts. ( )

(1) AR104.1 Minimum loft area and dimensions. Lofts used as a sleeping or living space shall meet the minimum area and dimension requirements of Sections AR104.1.1 through AR104.1.3. ( )

(a) AR104.1.1 Minimum area. Lofts shall have a floor area of not less than thirty-five (35) square feet (3.25 m). ( )

(b) AR104.1.2 Minimum dimensions. Lofts shall be not less than five (5) feet (1524 mm) in any horizontal dimension. ( )

(c) AR104.1.3 Height effect on loft area. Portions of a loft with a sloping ceiling measuring less than three (3) feet (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft. Exception: Under gable roofs with a minimum slope of 6:12, portions of a loft with a sloping ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft. ( )

(2) AR104.2 Loft Access. The access to and primary egress from lofts shall be any type described in Sections AR104.3 through AR104.6. ( )

(3) AR104.3. Stairways. Stairways accessing lofts shall comply with this code or with Sections AR104.3.1 through AR104.3.5. ( )

(a) AR104.3.1 Width. Stairways accessing a loft shall not be less than seventeen (17) inches (432 mm) in clear width at or above the handrail. The minimum width below the handrail shall be not less than twenty (20) inches (508 mm). ( )

(b) AR104.3.2 Headroom. The headroom in stairways accessing a loft shall be not less than six (6) feet two (2) inches (1880 mm), as measured vertically, from a sloped line connecting the tread or landing platform nosings in the middle of their width. Exception: The headroom for a landing platform, where stairways access lofts, shall be not less than four (4) feet six (6) inches (1372 mm). ( )

(c) AR104.3.3 Treads and Risers. Risers for stairs accessing a loft shall be not less than seven (7) inches (178 mm) and not more than twelve (12) inches (305 mm) in height. Tread depth and riser height shall be calculated in accordance with one of the following formulas: ( )

(i) The tread depth shall be twenty (20) inches (508 mm) minus 4/3 of the riser height, or ( )

(ii) The riser height shall be fifteen (15) inches (381 mm) minus 3/4 of the tread depth. ( )

(d) AR104.3.4 Landing Platforms. The top tread and riser of stairways accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than six (6) feet two (2) inches (1880 mm) where the stairway meets the loft. The landing platform shall be eighteen (18) inches to twenty-two (22) inches (457

to 559 mm) in depth measured from the nosing of the landing platform to the edge of the loft, and sixteen (16) to eighteen (18) inches (406 to 457 mm) in height measured from the landing platform to the loft floor. ( )

(e) AR104.3.5 Stairway Handrails. Handrails shall comply with Section R311.7.8. ( )

(f) AR104.3.6 Stairway Guards. Guards at open sides of stairways shall comply with Section R312.1. ( )

(4) AR104.4 Ladders. Ladders accessing lofts shall comply with Sections AR104.4.1 and AR104.4.2. ( )

(a) AR104.4.1 Ladder Size and Capacity. Ladders accessing lofts shall have a rung width of not less than twelve (12) inches (305 mm) and ten (10) inches (254 mm) to fourteen (14) inches (356 mm) spacing between rungs. Ladders shall be capable of supporting a two hundred (200) pound (75 kg) load on any rung. Rung spacing shall be uniform within 3/8-inch (9.5 mm). ( )

(b) AR104.4.2 Ladder Incline. Ladders shall be installed at seventy (70) to eighty (80) degrees from horizontal. ( )

(5) AR104.5 Alternating Tread Devices. Alternating tread devices accessing lofts, and handrails of alternating tread devices shall comply with sections 1011.14.1 and 1011.14.2 of the International Building Code, excluding the exception. The clear width at and below the handrails shall be not less than twenty (20) inches (508 mm). ( )

(6) AR104.6. Ships Ladders. Ships ladders accessing lofts, and treads and handrails of ships ladders shall comply with sections 1011.15.1 and 1011.15.2 of the International Building Code. The clear width at and below handrails shall be not less than twenty (20) inches (508 mm). ( )

(7) AR104.7 Loft Guards. Loft guards shall be located along the open side of lofts. Loft guards shall not be less than thirty-six (36) inches (914 mm) in height or one (1)-half of the clear height to the ceiling, whichever is less. ( )

v. SECTION AR105. Emergency Escape and Rescue Openings. Tiny houses shall meet the requirements of Section R310 for emergency escape and rescue openings. Exception: Escape and rescue roof access windows in lofts used as sleeping rooms shall be deemed to meet three (3) requirements of Section R310 where installed such that the bottom of the opening is not more than forty-four (44) inches (1118 mm) above the loft floor, provided the escape and rescue roof access window complies with the minimum opening area requirements of Section R310. ( )

**03. International Existing Building Code. 2015 Edition.** (3-29-17)

**04. International Energy Conservation Code. 2015 Edition with the following amendments:** (3-29-17)

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. (3-29-17)

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. (3-29-17)

**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:

<b>TABLE R402.1.1 INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT</b>										
<b>Climate Zone</b>	<b>Fenestration U- Factor</b>	<b>Skylight U-factor</b>	<b>Glazed Fenestration SHGC</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>Slab R-Value</b>	<b>Crawlspace Wall R-Value</b>
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)

**g.** 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
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.	



<b>TABLE R402.2.6</b> <b>STEEL-FRAME CEILING, WALL AND FLOOR INSULATION</b> <b>(R-VALUE)</b>	
<b>Wood Frame</b> <b>R-value Requirement</b>	<b>Cold-formed Steel Equivalent R-value<sup>a</sup></b>
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)

**h.** 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)

**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)

**j.** 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)

**k.** 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)
- l.** 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)
- m.** 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)
- n.** 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)

**o.** 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**

### **07.03.11 – RULES GOVERNING MANUFACTURED/MOBILE HOME INDUSTRY LICENSING**

**DOCKET NO. 07-0311-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 Section 44-2104, 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 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 60 through 63](#).

**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 Ron Whitney, Deputy Administrator, at (208) 332-7150.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-7150  
Fax: (877) 810-2840

**THE FOLLOWING NOTICE 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 44-2104, 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 20, 2017.

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 name of the Manufactured Housing Board was statutorily changed to the Factory Built Structures Board in 2016. This rulemaking changes the name of the Manufactured Housing Board to the Factory Built Structures Board. Additionally, individuals licensed in the Manufactured Housing industry as installers, and retailers who are installers, are required to perform continuing education in order to renew their licenses. The Division and Board desire to establish the amount of continuing education credits in an amount consistent with the federal licensing requirements, which is eight (8) hours of continuing education during the three-year period prior to licensure renewal. This new requirement reflects a more practical and valuable schedule for licensees to acquire necessary education. The rulemaking also modifies the requirement that installers of manufactured homes, or retailers who are also installers, complete eight (8) hours of continuing education during the three-year period prior to licensure renewal in lieu of twelve (12) hours of education that is currently in the rule.

**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 April 5, 2017 Idaho Administrative Bulletin, [Vol. 17-4, pages 20 through 21](#).

**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 Ron Whitney, Deputy Administrator, at (208) 332-7150.

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 27, 2017.

DATED this 4th day of August, 2017.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0311-1701**

**000. LEGAL AUTHORITY.**

The administrator of the Idaho Division of Building Safety and the Idaho ~~Manufactured Housing~~ **Factory Built Structures** Board are authorized to promulgate rules necessary to implement the provisions of Title 44, Chapters 21 and 22, Idaho Code, including the establishment of a mandatory statewide manufactured home setup code, as well as to define and prohibit deceptive practices, and to establish administrative penalties. (3-29-10)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS.**

For the purposes of these rules, the following terms will be used, as defined below: (5-25-94)

- 01. Administrator.** The administrator of the Division of Building Safety of the state of Idaho. (3-24-05)
- 02. Board.** The ~~Manufactured Housing~~ **Factory Built Structures** Board. The composition and duties of the Board are set forth at Section 44-2104, Idaho Code. (3-29-10)( )
- 03. Bond.** The performance bond required by Section 44-2103, Idaho Code. (5-25-94)
- 04. Branch Office.** An enclosed structure accessible and open to the public, at which the business of the manufactured/mobile home retailer is conducted simultaneously with and physically separated from his principal place of business. There shall be displayed on the exterior a sign permanently affixed to the land or building with letters clearly visible to the major avenue of traffic. The sign shall provide the business name of the retailer. (3-29-10)
- 05. Business.** Occupation, profession, or trade. (5-25-94)
- 06. Deceptive Practice.** Intentionally publishing or circulating any advertising concerning mobile or manufactured homes which: (5-25-94)
- a.** Is misleading or inaccurate in any material respect; (3-29-10)
- b.** Misrepresents any of the products or services sold or provided by a manufacturer, manufactured/mobile home retailer, salesman, or installation company. (3-20-14)
- 07. Division.** The Division of Building Safety for the state of Idaho. (5-25-94)
- 08. Installer.** A person who owns a business which installs manufactured/mobile homes at the sites where they are to be occupied by the consumer. The term does not include the purchaser of a manufactured/mobile home or a manufactured/mobile home retailer who does not install manufactured/mobile homes. A retailer who does install manufactured/mobile homes is an installer. The term also does not include concrete contractors or their employees. (3-29-10)
- 09. Installation.** The term includes “setup” and is the complete operation of fixing in place a manufactured/mobile home for occupancy. (5-25-94)
- 10. Manufactured Home.** A structure, constructed after June 15, 1976, in accordance with the HUD manufactured home construction and safety standards, and is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which

the manufacturer voluntarily files a certification required by the secretary of Housing and Urban Development and complies with the standards established under 42 U.S.C. Section 5401, et seq. (3-20-14)

- 11. Manufactured Home Retailer.** Except as otherwise provided in these rules: (3-29-10)
  - a.** Any person engaged in the business of selling or exchanging new and used units; or (5-25-94)
  - b.** Any person or who buys, sells, lists, or exchanges three (3) or more new and used units in any one (1) calendar year. (5-25-94)
- 12. Manufactured/Mobile Home Salesman.** Any person employed by a manufactured/mobile home retailer or resale broker for a salary, commission, or compensation of any kind to sell, list, purchase, or exchange or to negotiate for the sale, listing, purchase, or exchange of new, used, brokered, or third-party owned units, except as otherwise provided in Title 44, Chapter 21, Idaho Code. (3-20-14)
- 13. Manufacturer.** Any person engaged in the business of manufacturing manufactured homes that are offered for sale, lease, or exchange in the state of Idaho. (3-20-14)
- 14. Mobile Home.** A factory-assembled structure or structures generally constructed prior to June 15, 1976, the date of enactment of the Federal Manufactured Housing and Safety Standards Act (HUD Code), and equipped with the necessary service connections and made so as to be readily movable as a unit or units on their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation. (3-20-14)
- 15. Person.** A natural person, corporation, partnership, trust, society, club, association, or other organization. (5-25-94)
- 16. Principal Place of Business.** The primary physical location at which the business of a manufactured home retailer or resale broker is lawfully conducted. Each of the following requirements shall be met to qualify as the principal place of business: (3-20-14)
  - a.** The business of the manufactured or mobile home retailer or resale broker is lawfully conducted here; (3-20-14)
  - b.** The office or offices of the retailer or resale broker is or are located here; (3-20-14)
  - c.** The public may contact the retailer, resale broker, or salesman here; (3-20-14)
  - d.** The offices are accessible and open to the public; and (3-20-14)
  - e.** The greatest portion of the retailer's business is conducted here. The books and other records of a retailer must be kept and maintained at the retailer's principal place of business and be open to inspection during normal business hours by any authorized agent of the Division. Moreover, there shall be displayed on the exterior a sign permanently affixed to the land or building with letters clearly visible to the major avenue of traffic. The sign shall provide the business name of the retailer. (3-29-10)
- 17. Responsible Managing Employee (RME).** The person designated by the employer to supervise other employees, either personally or through others. (5-25-94)
- 18. Unit.** A mobile or manufactured home. (5-25-94)
- 19. Used Manufactured Home or Mobile Home.** A manufactured home or mobile home, respectively, which has been: (5-25-94)
  - a.** Sold, rented, or leased and occupied prior to or after the sale, rental, or lease; or (5-25-94)
  - b.** Registered with or been the subject of a certificate of title issued by the Idaho Department of Transportation or the appropriate authority of any state, the District of Columbia, or foreign state or country.

(5-25-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**014. PROOF OF EDUCATION REQUIRED.**

**01. Satisfactory Proof for Initial Application Submission.** An application for a license as a manufactured/mobile home installer must include proof satisfactory to the Division that the applicant has completed the following number of hours of initial education in order to be approved: (4-7-11)

**a.** Installers and retailers who are installers: eight (8) hours. (3-20-14)

**b.** The course of initial education must be approved by the Division and shall include information relating to the provisions of these rules, Title 44, Chapters 21 and 22, Idaho Code, and the Manufactured Housing Construction Safety Standards Act of 1974. (4-7-11)

**02. Satisfactory Proof for License Renewal.** The Division shall not renew any installer license, or retailer license of any dealer who is also an installer, issued pursuant to Title 44, Chapters 21 or 22, Idaho Code, or these rules until the licensee has submitted proof satisfactory to the Division that he has, during ~~the one~~ three (+3) years immediately preceding the renewal of the license, completed at least ~~four~~ eight (+8) hours of continuing education. (~~3-20-14~~)(      )

**03. Continuing Education Course.** The course of continuing education must be approved by the Division and shall include information relating to the following: (4-7-11)

**a.** Manufactured housing or mobile home parks which will enable a person to give better service to the members of the general public and tenants of manufactured/mobile home parks; (4-7-11)

**b.** The construction, including components and accessories, rebuilding, servicing, installation, or sale of manufactured/mobile homes; (4-7-11)

**c.** Legislative issues concerning manufactured/mobile home housing and manufactured/mobile home parks, including pending and recently enacted state or federal legislation; and (4-7-11)

**d.** These rules, Title 44, Chapters 21 or 22, Idaho Code, and the Manufactured Housing Safety Standards Act of 1974. (4-7-11)



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

### **07.03.12 – RULES GOVERNING MANUFACTURED OR MOBILE HOME INSTALLATIONS**

**DOCKET NO. 07-0312-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 44-2201 and 44-2104, 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 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 64 through 65](#).

**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 Ron Whitney, Deputy Administrator, at (208) 332-7150.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-7150  
Fax: (877) 810-2840

<p><b>THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE</b></p>
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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 44-2201 and 44-2104, 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 20, 2017.

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:

Pursuant to Section 44-2201, Idaho Code, all used mobile and manufactured homes shall be installed in accordance with the Idaho Manufactured Home Installation Standard, as provided by rule. The Idaho Manufactured Home Installation Standard has not been updated since 2004. Through the negotiated rulemaking process the Division and Board have established a newer and updated edition of the standard reflecting installation requirements and safety considerations currently applicable to the industry. Additionally, the Division is seeking to modify the training requirements for manufactured home installation inspectors to reflect a more practical and valuable schedule for inspectors to acquire necessary education. This rulemaking updates the Idaho Manufactured Home Installation Standard and adopts the 2018 edition for application to the installation of used manufactured homes in the state. The rulemaking also modifies the annual training requirements for inspectors of manufactured home installations from an annual four (4) hour training requirement to eight (8) hours of training every three (3) years.

**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 April 5, 2017 Idaho Administrative Bulletin, [Vol. 17-4, pages 18 through 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:

Pursuant to Section 44-2201, Idaho Code, all used mobile and manufactured homes shall be installed in accordance with the Idaho Manufactured Home Installation Standard, as provided by rule. The Idaho Manufactured Home Installation Standard has not been updated since 2004. Through the negotiated rulemaking process, the Division and Board have established a newer and updated edition of the standard reflecting installation requirements and safety considerations currently applicable to the industry – Idaho Manufactured Home Installation Standard, January 1, 2018 edition.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ron Whitney, Deputy Administrator, at (208) 332-7150.

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 27, 2017.

DATED this 7th day of August, 2017.

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis](#)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0312-1701**

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

The Idaho Manufactured Home Installation Standard (January 1, 20~~04~~<sup>18</sup> edition), as adopted by the administrator, is hereby adopted and incorporated by reference into these rules. A current copy is available for review or copying at the office of the Division of Building Safety, 1090 E. Watertower Street., Suite 150, Meridian, Idaho 83642, 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho, 83814, and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. ~~(3-29-10)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**018. MINIMUM TRAINING REQUIREMENTS FOR INSPECTORS.**

**01. Annual Training or Instruction.** All installation inspectors employed by the Division of Building Safety or a city or county shall complete ~~four~~ eight (~~4~~<sup>8</sup>) hours of ~~annual~~ training or instruction every three (3) years ~~(3-27-13)~~( ) dedicated to the installation and inspection of manufactured and mobile homes.

**02. Division Approval.** All training and instruction shall be approved by the Division in order to qualify and satisfy the requirements in Subsection 018.01 of these rules. (3-27-13)

**03. Revocation of Approval.** Training or instruction approval is subject to revocation by the Division if in its discretion it determines that for any reason the training or instruction fails to meet the intent of furthering the education of manufactured home installation inspectors including, but not limited to, inadequacies in course content or methods of delivery. (3-27-13)

**IDAPA 07 – DIVISION OF BUILDING SAFETY**  
**07.04.01 – RULES GOVERNING SAFETY INSPECTIONS – GENERAL**  
**DOCKET NO. 07-0401-1701**  
**NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 Section 67-2601A, 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 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 66 through 69](#).

**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 Gary Barnes, Industrial Safety Program Manager, Division of Building Safety at (208) 332-8974.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-7150  
Fax: (877) 810-2840

**THE FOLLOWING NOTICE 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, 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 20, 2017.

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:

Many of the statutory references, as well as certain provisions related to other programs and authorities in the current rules are very outdated, and do not apply. Additionally, statutory authority to administer the safety program for state facilities was transferred solely to the Division in 2015. Accordingly, other applicable rules related to the inspections thereof, which were previously administered by the Idaho Industrial Commission, have been updated. This rule amends outdated statutory provisions, and updates the adopted safety standards applicable to the safety inspections the Division conducts on state-owned buildings, or those it may conduct for a political subdivision. It also eliminates unnecessary references to programs that are no longer administered through this particular Division safety program such as elevators and boilers. Finally, the rulemaking updates certain requirements for public employers to ensure a safe workplace, as well as the annual inspection process the Division currently engages in when inspecting state facilities.

**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 April 5, 2017 Idaho Administrative Bulletin, [Vol. 17-4, pages 20 through 21](#).

**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 Gary Barnes, Industrial Safety Program Manager, Division of Building Safety at (208) 332-8974.

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 27, 2017.

DATED this 4th day of August, 2017.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0401-1701**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to the authority granted the administrator of the Division of Building Safety by Sections ~~39-4104, 39-4130, and 39-4131~~ 67-2601A and 67-2311 through 67-2318, Idaho Code. (7-1-97)( )

**001. TITLE AND SCOPE.**

These rules shall be cited as IDAPA 07.04.01, "Rules Governing Safety Inspections - General." These rules prescribe the criteria for enforcement of Sections ~~39-4130, 39-4131, 67-2601A and 67-2311, 67-2312, 67-2313, 67-2314, 67-2316, 67-2317, 72-720, 72-721, 72-722, and 72-723~~ through 67-2318, Idaho Code. (7-1-97)( )

**002. WRITTEN INTERPRETATIONS.**

This agency has no written interpretations of this chapter ~~in the form of legal memoranda~~. (7-1-97)( )

**003. ADMINISTRATIVE APPEALS.**

There are no provisions for administrative appeal of these rules. (7-1-97)

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

The principal place of business of the Industrial Safety Program is at the Division of Building Safety office located at 1090 E. Watertower Street, Suite 150, Meridian, ID 83642. The Industrial Safety Program may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d'Alene, Idaho 83814, and at 2055 Garrett Way, Building 1, Suite 4, Pocatello, ID 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 Division's website is <http://dbs.idaho.gov>. ( )

**005. 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. ( )

**006. INCORPORATION BY REFERENCE.**

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

**00~~4~~7. -- 010. (RESERVED)**

**011. SAFETY INSPECTIONS.**

~~**01. Safety and Occupational Health Inspections.**~~ (7-1-97)

~~**a.** Safety advisors for the Division of Building Safety, Bureau of Logging and Industrial Safety, Industrial Safety Section, will make periodic inspections in places of employment covered by Sections 39-4130 and 39-4131, Idaho Code, to ascertain whether there exists any violation of any law of this state relating to safety or sanitary conditions or practices, or whether there is a violation of any safety standards adopted by the Industrial Commission of the state of Idaho.~~ (7-1-97)

**b01. Safety Advisors.** Safety advisors for the Division of Building Safety, ~~Bureau of Logging and Industrial Safety~~, Industrial Safety Section, will shall make periodic inspections of public buildings covered by Sections 67-2311, ~~67-2312, 67-2313, 67-2314, 67-2316, and 67-2317~~ through 67-2318, and 67-2601A, Idaho Code, and the immediate environs thereof, for the purpose of ascertaining unsafe or hazardous conditions not only to the state's employees but to inmates therein, attendants thereat, and to the general public. (7-1-97)( )

~~**c.** Safety Advisors for the Division of Building Safety, Bureau of Logging and Industrial Safety, Industrial Safety Section, will make periodic inspections of employment covered by Sections 72-720, 72-721, 72-722, and 72-723, Idaho Code, in support of the Industrial Commission of the state of Idaho to ascertain whether there exists any violation of any law of this state relating to safety or sanitary conditions or practices, or whether there is a violation of any safety standards adopted by the Industrial Commission of the state of Idaho.~~ (7-1-97)

**#02. Inspection Standards.** Safety and occupational health inspections shall be conducted using ~~IDAPA~~

~~17.10.01, “Safety and Health Rules for Places of Public Employment,” and as the primary standards, the rules contained herein; Idaho Code, as the primary standards applicable; and applicable provisions, as determined by the division, of 29 CFR 1910, Occupational Safety and Health Standards, and 29 CFR 1926, Safety and Health Regulations for Construction, with the following standards used as a basis for appraisals of other hazards: Uniform the International Building Code (UBC) as adopted by the Building Code Board, and as amended and in effect pursuant to IDAPA 07.03.01; Uniform the International Fire Code (IFC), as adopted by the Department of Insurance, and as amended and in effect pursuant to IDAPA 18.01.50; Uniform the Mechanical Codes (UMC), as adopted by the Idaho Heating, Ventilation and Air Conditioning Board, and as amended and in effect pursuant to IDAPA 07.07.01; Uniform the Idaho State Plumbing Code (IPC), as adopted by the Idaho Plumbing Board, and as amended and in effect pursuant to IDAPA 07.02.06; the National Electric Code (NEC), as adopted by the Idaho Electrical Board, and as amended and in effect pursuant to IDAPA 07.01.06; the most current edition of the Life Safety Code; the most current standards of the American National Standards Institute (ANSI); the most current standards of the National Fire Protection Association (NFPA); the most current standards of the Consumer Product Safety Commission (CPSC); the most current standards of the National Institute for Occupational Safety and Health (NIOSH); 29 CFR 1910, General Industry Standards; 29 CFR 1926, Construction Standards; nationally recognized industry standards; and other nationally recognized standards and codes.~~ (7-1-97)( )

~~**02. Elevator Inspections.**~~ (7-1-97)

~~**a.** Safety Advisors for the Division of Building Safety, Bureau of Logging and Industrial Safety, Industrial Safety Section, will witness the testing of elevators and related installations.~~ (7-1-97)

~~**b.** The inspection and testing of elevators and related installations shall be conducted in accordance with the provisions of Title 39, Chapter 86, Idaho Code; ANSI A17.1 Safety Code for Elevators and Escalators; ANSI A17.1 Handbook; ANSI A17.2.1 Inspector’s Manual for Electric Elevators; ANSI A17.2.2 Inspector’s Manual for Hydraulic Elevators; ANSI A17.2.3 Inspector’s Manual for Escalators and Moving Walks; ANSI A17.3 Existing Elevators and Escalators; ANSI A117.1 Accessible and Usable Building and Facilities; the Uniform Building Code; and the National Electric Code.~~ (7-1-97)

~~**03. Boiler and Pressure Vessel Inspections.**~~ (7-1-97)

~~**a.** Boiler and pressure vessel inspections will be conducted by boiler and pressure vessel inspectors who work for an insurance company authorized to write insurance in Idaho, who are currently certified by the National Board of Boiler and Pressure Vessel Inspectors, and have a current Idaho Commission.~~ (7-1-97)

~~**b.** The inspection of boilers and pressure vessels shall be conducted in accordance with the provisions of IDAPA 17.06.01, “Boiler and Pressure Vessel Safety Rules – General Requirements”; National Board Inspection Code; and the ASME Boiler and Pressure Vessel Code.~~ (7-1-97)

**012. REQUIREMENTS.**

**01. Safe Workplace.** Every public employer shall furnish a place of employment free from recognized hazards which may cause serious injury or death to employees. Recognized hazards are those addressed by codes adopted by the state. ( )

**02. Safety Devices.** Every public employer shall furnish and use appropriate safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are adequate to render the place of employment safe and free of occupational health hazards. ( )

**03. Posted Warnings.** Every public employer shall post warning signs in areas where employees are exposed to injury hazards and shall ensure that employees comply with the posted warnings. ( )

**04. Training and Equipment.** No public employer shall require an employee to go or be in any place of employment which is unsafe unless that employee has the appropriate training, is properly equipped, and is authorized to go or be in such place. ( )

**05. Minimum Construction Standards.** No public employer, owner, or lessee of any real property

shall construct or cause to be constructed any place of employment which does not meet the minimum safety requirements identified by codes adopted by the state, or other nationally recognized codes and standards as listed in Section 007 of these rules. ( )

**06. Training.** ( )

**a.** It shall be the responsibility of the public employer to establish and ensure a safe and healthful working environment, and to establish an accident-prevention program and training program to improve the skill and competency of all employees in the area of safety and occupational health. ( )

**b.** Such training shall include on-the-job instruction in the safe use of powered materials-handling equipment, machine tool operations, use of hazardous/toxic materials, and operation of utility systems prior to assignment to jobs involving such exposures. ( )

**013. ADMINISTRATION.**

**01.** **Annual Inspections.** All safety inspections of places of public employment conducted pursuant to these rules shall be performed by personnel of the Division of Building Safety, Industrial Safety Section, on an annual basis in accordance with Section 67-2313, Idaho Code. Such inspection shall be conducted in accordance with the standards and codes set forth herein. ( )

**02.** **Public Employer Responses.** An employer shall respond within twenty (20) days of receipt of any inspection report containing findings. The response shall be made to the Division of Building Safety, Industrial Safety Section, 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. If additional time is needed to respond, the administrator is authorized to grant an extension when a written request is received from the agency. ( )

**03.** **Inapplicability of Penalties.** Any provisions contained in the Occupational Safety and Health Administration regulations, including but not limited to 29 CFR 1910 and 29 CFR 1926, which relate to or provide for civil penalties for violations of the standards contained therein, shall not apply and shall not be enforced by the Division of Building Safety in the administration of the state's safety and occupational health program. ( )

**0124.** -- 999. (RESERVED)



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

### **07.04.02 – SAFETY RULES FOR ELEVATORS, ESCALATORS, AND MOVING WALKS**

**DOCKET NO. 07-0402-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 Section 39-8605, Idaho Code.

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

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 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 70 through 71](#).

**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 Gary Barnes at (208) 332-8974.

DATED this 4th day of October, 2017.

Ron Whitney  
Deputy Administrator  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-7150  
Fax: (877) 810-2840

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

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

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2017.

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 most recent editions of the codes enables the companies installing elevators and other conveyances and the building owners and operators the ability to use the most current and safest products and technology in their buildings. This rulemaking adopts updates and the most recent editions of the safety codes governing the installation and inspection of elevators, escalators, moving walks, and other conveyances in the state of Idaho.

**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 April 5, 2017 Idaho Administrative Bulletin, [Vol. 17-4, pages 22 through 23](#).

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

Adoption of the most recent editions of the codes enables the companies installing elevators and other conveyances and the building owners and operators the ability to use the most current and safest products and technology in their buildings. This rulemaking adopts and incorporates by reference updates and the most recent editions of the safety codes below:

ANSI/ASME A17.1 2016, Safety Code for Elevators and Escalators.  
ANSI/ASME A17.2 2014 Guide for Inspection of Elevators, Escalators, and Moving Walks.  
ANSI/ASME A17.3 2015 Safety Code for Existing Elevators and Escalators.  
ANSI/ASME A17.5 2014 Elevator and Escalator Electrical Equipment.  
ANSI/ASME A17.7 2012 Performance-based Safety Code for Elevators and Escalators.  
ICC/ANSI A117.1 2009 Accessible and Usable Buildings and Facilities.  
ANSI/ASME A18.1 2014 Safety Standards for Platform Lifts and Chairlifts.  
ASME QE-1 2013 Standard for the Qualification of Elevator Inspectors.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Gary Barnes at (208) 332-8974.

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 27, 2017.

DATED this 3rd day of August, 2017.

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis](#)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0402-1701**

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

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

**a.** ANSI/ASME A17.1 201~~06~~, Safety Code for Elevators and Escalators with the following exceptions: ~~(3-29-12)~~( )

**i.** Compliance with section 2.8.3.3.2 shall require that the means for disconnecting the main power as required by this section to be within sight of controller for all conveyances with an elevator machine room or control room. ~~(3-29-10)~~( )

**ii.** Compliance with section 8.11.2.1.5(c) Car and Counterweight Buffer testing shall be conducted at slow speed in accordance with Item 5.9.2.1(a) in ANSI/ASME A17.2 20~~07~~14. ~~(3-29-12)~~( )

**iii.** Compliance with Section 2.2.2.5, which requires a sump pump or drain in the elevator pit, shall be optional. If a sump pump or drain is installed, it shall meet the requirements of this section. A sump with a cover shall be provided in each elevator pit. (3-29-12)

**b.** ANSI/ASME A17.2 20~~07~~14 Guide for Inspection of Elevators, Escalators, and Moving Walks. ~~(3-29-10)~~( )

**c.** ANSI/ASME A17.3 20~~08~~15 Safety Code for Existing Elevators and Escalators. ~~(3-29-10)~~( )

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

**e.** ANSI/ASME A17.5 20~~01~~14 Elevator and Escalator Electrical Equipment. ~~(5-8-09)~~( )

**f.** ANSI/ASME A17.6 2010 Standard for Elevator Suspension, and Governor Systems. (3-29-12)

**g.** ANSI/ASME A17.7 20~~07~~12 Performance-based Safety Code for Elevators and Escalators. ~~(3-29-12)~~( )

**h.** ICC/ANSI A117.1 200~~39~~ Accessible and Usable Buildings and Facilities. ~~(4-2-08)~~( )

**i.** ANSI/ASME A18.1 20~~08~~14 Safety Standards for Platform Lifts and Chairlifts. ~~(3-29-10)~~( )

**j.** ASME QE-1 201~~03~~ Standard for the Qualification of Elevator Inspectors. ~~(3-29-12)~~( )

**02. Copies.** Copies of the codes, amendments, and updates listed in Subsection 004.01 of these rules are available for review at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150, Meridian, Idaho 83642; 1250 Ironwood Dr., Suite 220, Coeur d'Alene, Idaho 83814; and 2055 Garrett Way, Building 1, Suite ~~74~~, Pocatello, Idaho 83201. ~~(3-29-12)~~( )

## **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. 07-0701-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 54-5001 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:

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 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 72 through 74](#).

**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 John Nielsen at (208) 332-7112.

DATED this 4th day of October, 2017.

Ron Whitney  
Deputy Administrator  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-7150  
Fax: (877) 810-2840

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-5001 and 54-5005, 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 20, 2017.

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 current edition of the International Residential Code requires mechanical ventilation and details how to design the systems to achieve the required flowrate of air as expressed in cubic feet per minute (CFM). This is based on the number of bedrooms and square footage of the dwelling. The existing administrative rule provision does not improve or help administer this requirement beyond that which is already contained in the code itself. Accordingly, the code amendment in the rules is not needed. This rulemaking deletes an amendment to a mechanical provision (section M1502.4.2) of the International Residential Code related to System Design that is no longer necessary.

**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 rule is simple in nature. The International Residential Code (IRC) currently adopted for the State of Idaho already contains provisions related to designing mechanical systems to achieve the required flowrate of air in residences. This rulemaking merely deletes an unnecessary amendment to the IRC that is already adequately covered elsewhere therein. Additionally, the proposed rulemaking was discussed at several HVAC board meetings over the course of the last year, without opposition from mechanical contractors or the public.

**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 deletes an amendment to a mechanical provision (section M1502.4.2) of the International Residential Code related to System Design that is no longer necessary.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact John Nielsen at (208) 332-7112.

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 27, 2017.

DATED this 11th day of August, 2017.

[\*\*LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis\*\*](#)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0701-1701**

**006. ADOPTION AND INCORPORATION BY REFERENCE OF PART V (MECHANICAL) AND PART VI (FUEL GAS) OF THE INTERNATIONAL RESIDENTIAL CODE FOR ONE (1)- AND TWO (2)-FAMILY DWELLINGS, 2012 EDITION.**

**01. Part V (Mechanical) and Part VI (Fuel Gas) of the International Residential Code for One (1)- and Two (2)-Family Dwellings.** The 2012 Edition, including appendixes “A, B, C, and D,” (herein IRC) is adopted and incorporated by reference with the following amendments: (3-20-14)

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

**b.** All references to the International Plumbing Code (IPC) shall be construed as referring to the 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. (4-7-11)

**d.** Add the following as section M1201.3 and section G2402.4 (201.4): Alternative materials, design and methods of construction equipment. The provisions of this part of the code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the authority having jurisdiction finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code. Compliance with the specific performance-based provisions of this part of the code in lieu of specific requirements of this code shall also be permitted as an alternate. (4-4-13)

**e.** Add the following as section M1201.3.1 and section G2402.4.1 (201.4.1): Tests. Whenever there is insufficient evidence of compliance with the provisions of this part of the code, or evidence that a material or method does not conform to the requirements of this part of the code, or in order to substantiate claims for alternative materials or methods, the authority having jurisdiction shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the authority having jurisdiction shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the authority having jurisdiction for the period required for retention of public records. (4-4-13)

**f.** Add the following as section M1203.1: Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages. (4-4-13)

**g.** Add the following as section M1203.2: Where required in existing dwellings. Where work requiring a permit occurs in existing dwellings that have attached garages or in existing dwellings within which fuel-fired appliances exist, carbon monoxide alarms shall be provided in accordance with Subsection 006.01.f. of these rules. (4-4-13)

**h.** Add the following as section M1203.3: Alarm requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer’s installation instructions. (4-4-13)

i. Section M1502.4.1 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)

j. Delete Section M1502.4.2 Duct Installation and replace with the following: Exhaust ducts shall be supported at four (4) foot (1,219 mm) intervals and secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Ducts shall not be joined with screws or similar fasteners that protrude into the inside of the duct. (3-20-14)

~~k. Section M1507.3.1 System Design. Add the following to the end of the section: Outdoor air shall be ducted predominantly horizontal to avoid chimney effect. Outdoor air ducts will contain an accessible back draft damper and be designed to have an open cross section of twenty (20) square inches per one thousand (1,000) square feet of conditioned space. (3-20-14)~~

~~k.~~ Table M1601.1.1 (2) Gauges of Metal Ducts and Plenums Used for Heating or Cooling. Add the following exception: 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)

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

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

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

~~o.~~ Add a new section G2427.4.1.2 as follows: Testing. All plastic pipe within a dwelling used for venting flue gases shall be tested at five (5) psi for fifteen (15) minutes. (4-4-13)

**02. Availability of the International Residential Code for One (1)- and Two (2)-Family Dwellings.** 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**

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

**DOCKET NO. 07-0701-1702**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 54-5005 and 54-5021, 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 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 75 through 76](#).

**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 John Nielsen at (208) 332-7112.

DATED this 4th day of October, 2017.

Ron Whitney  
Deputy Administrator  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-7150  
Fax: (877) 810-2840



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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-5005 and 54-5021, 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 20, 2017.

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

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

Section 54-5021, Idaho Code, requires that HVAC inspectors are to be appropriately certified for the type of HVAC work that they are inspecting in accordance with administrative rule. This rulemaking identifies two entities currently available that certify mechanical inspectors, and allows the HVAC Board the flexibility to approve any other professional certifying body.

This rule specifies that all mechanical inspectors in Idaho employed by the state or a local government shall hold an inspector certification as either a commercial or residential mechanical inspector, as required depending on the type of mechanical work being inspected. It also provides that mechanical inspectors shall obtain such certification from the International Association of Plumbing and Mechanical Officials (IAPMO), the International Code Council (ICC), or another professional certifying body as approved by the HVAC Board.

**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 rule is simple in nature. Idaho Code requires that HVAC inspectors be certified as commercial or residential mechanical inspectors. The large majority of mechanical inspectors with the Division and local jurisdictions attain certification through two organizations – International Code Council (ICC), and the International Association of Plumbing and Mechanical Officials (IAPMO). This rulemaking would only establish in rule what is largely occurring already among mechanical inspectors. Additionally, the proposed rulemaking was discussed at numerous HVAC board meetings over the course of several years, without opposition from mechanical inspectors or the public.

**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 John Nielsen at (208) 332-7112.

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 27, 2017.

DATED this 11th day of August, 2017.

**LSO Rules Analysis Memo**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0701-1702

**061. INSPECTOR QUALIFICATIONS.**

In accordance with Section 54-5021, Idaho Code, all mechanical inspectors in Idaho employed by the state or a local government shall hold an inspector certification as a commercial or residential mechanical inspector, as required depending on the type of mechanical work being inspected. Mechanical inspectors shall obtain the requisite certification from either the International Association of Plumbing and Mechanical Officials (IAPMO), the International Code Council (ICC), or other professional certifying body as approved by the board. ( )

~~0642~~. -- 069. (RESERVED)

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

### **07.08.17 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING – CABLE-ASSISTED LOGGING SYSTEMS**

#### **DOCKET NO. 07-0817-1701 (NEW CHAPTER)**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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, 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 June 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, pages 23 through 27](#).

**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, and is not expected to have any significant effect on the funding for the program or the logging industry. The positive effect on the logging industry will be to enable those acquiring equipment for this type of logging operation the predictability they need to make informed investments in equipment that will likely meet industry standards into the future.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Larry Jeffres at (208) 332-4014 or by email at [larry.jeffres@dbs.idaho.gov](mailto:larry.jeffres@dbs.idaho.gov).

DATED this 31st day of July, 2017.

Larry Jeffres  
Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-4014  
Fax: (877) 810-2840

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

**EFFECTIVE DATE:** The effective date of the temporary rule is May 1, 2017.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-2601A, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 21, 2017.

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 Associated Logging Contractors, in collaboration with major forest land owners, requested the implementation of these rules for the primary purpose of ensuring the safety of those involved in logging operations. Entities within the industry are expected to be conducting cable-assisted (tethered) logging operations beginning in spring 2017. Conducting these operations safely requires specialized equipment. The safety provisions contained in these rules are intended to ensure industry participants understand best practices and deploy equipment that meets accepted industry safety standards. This will help ensure the safety of loggers, encourage investment in appropriate equipment, and maintain high standards of care and credibility within the industry.

Pursuant to Section 67-2601A, Idaho Code, the Administrator of the Idaho Division of Building Safety has the authority to promulgate rules adopting minimum logging safety standards and procedures for conducting logging inspections and safety training. The Division desires to establish a new chapter of rules related to cable-assisted (or tethered) logging systems, through the negotiated rulemaking process. Specifically, the Division seeks to establish machine and equipment, tether line, and planning and operational safety standards applicable to the practice of cable-assisted logging in Idaho.

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

The Idaho logging community, including loggers and landowners, has indicated their intent to engage in the relatively new practice of cable-assisted (tethered) logging operations in the spring of 2017. Typically, the commencement of busy logging operations in Idaho occurs in May each year. A temporary rule will establish important safety requirements related to the use of certain logging machinery and tether lines, as well as various planning and operational practices. Temporary rules will help ensure the safety of those operating logging equipment, as well as offer more certainty about the required safety practices for those who seek to invest in specialized 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:

This rulemaking is not expected to impact the General Fund, and is not expected to have any significant effect on the funding for the program or the logging industry. The positive effect on the logging industry will be to enable those acquiring equipment for this type of logging operation the predictability they need to make informed investments in equipment that will likely meet industry standards into the future.

**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 1, 2017 Idaho Administrative Bulletin, [Vol. 17-3, pages 18 through 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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Larry Jeffres at (208) 332-4014 or by email at [larry.jeffres@dbs.idaho.gov](mailto:larry.jeffres@dbs.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 June 28, 2017.

DATED this 16th day of May, 2017.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0817-1701**

**IDAPA 07**  
**TITLE 08**  
**CHAPTER 17**

**07.08.17 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING –**  
**CABLE-ASSISTED LOGGING SYSTEMS**

**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 rules for affecting the purposes therein. ( )

**001. TITLE AND SCOPE.**

These rules shall be cited as IDAPA 07.08.17, “Idaho Minimum Safety Standards and Practices for Logging – Cable-Assisted Logging Systems,” and shall be applicable to the logging industry in the state of Idaho. ( )

**002. WRITTEN INTERPRETATIONS.**

There are no written statements which pertain to the interpretation of these rules. ( )

**003. ADMINISTRATIVE APPEALS.**

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. ( )

**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 additional definitions to those contained herein, this chapter may 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." ( )

**01. Cable-Assisted Logging Systems.** Logging systems, including but not limited to, winch-assisted, cable-assisted, tethered and traction-assisted systems, that enable ground-based timber harvesting machines including but not limited to feller bunchers, harvesters, loaders and shovels to be operated on slopes. ( )

**02. Competent Person.** An individual who is capable of identifying existing and predictable hazards in the work site surroundings or working conditions which are unsanitary, hazardous or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate such. ( )

**03. Qualified Person.** An individual who, by possession of a recognized degree, certificate or professional standing, or who by extensive knowledge, training and experience, has successfully demonstrated the ability to solve or resolve problems relating to the subject matter, the work or the project. ( )

**010. MACHINE SAFETY REQUIREMENTS.**

**01. Harvesting Machines.** Harvesting machines for cable-assisted logging operations shall comply with each of the following: ( )

- a.** Meet the protective structure requirements set forth in IDAPA 07.08.10.010; ( )
- b.** Be equipped with a certified roll-over protective structure (ROPS); and ( )
- c.** Be equipped with at least a four (4)-point restraint system approved by the machine's manufacturer or a qualified person. ( )

**02. System Approval.** The cable-assisted logging system shall be designed and constructed for cable-assisted logging applications by the original equipment manufacturer, or approved for cable-assisted logging applications in writing by the original equipment manufacturer or a registered professional engineer. ( )

**03. Operation of System.** The cable-assisted logging system shall be operated, inspected and maintained in accordance with the manufacturer's recommendations, specifications and limitations, or if no manufacturer's recommendations exist, then by the recommendations of a registered professional engineer. Cable-assisted logging systems not in safe operating condition shall be removed from service until repaired by a qualified person. ( )

**011. TETHERED LINE SAFETY REQUIREMENTS.**

**01. Inspection of Tethered Lines.** Tether lines shall be new wire rope and have a rated breaking load according to the cable-assisted logging system manufacturer's recommendations and specifications. At a minimum, a competent person shall inspect the entire length of each tether line and drum connection prior to the startup of each

cable-assisted logging operation, and thereafter on a monthly basis. A competent person shall also inspect the first fifty (50) feet of each tether line daily prior to use. These inspections shall be documented in writing. Tether lines must not be spliced and shall be replaced if there is evidence of chafing, sawing, crushing, kinking, crystallization, bird-caging, significant corrosion, heat damage, other damage that has weakened the tether line, or if the tether line reaches two thousand (2,000) hours of use. ( )

**02. Line Tension.** The tether line tension and machine travel shall be synchronized to ensure tether line tension is continuously provided and does not exceed thirty-three percent (33%) of the rope's rated breaking load. The operator shall have an immediate and self-reliant or automated method to identify tether line tension, winch rotation and speed, amount of line on and off the drum, and anchor movement. ( )

**03. Tether Line Components.** All tether line assembly components shall be rated with a greater safe working load than the wire rope. Tether line attachment points and hitches shall be engineered and certified to maintain a safety factor equal to or greater than the recommendations and specifications of the cable-assisted logging system manufacturer. Inspections of tether line assembly components (except drum connection as specified in Subsection 011.01 of these rules), hitches, winches, machines, and anchors shall be performed daily by a competent person prior to use. ( )

## **012. OPERATION AND SAFETY REQUIREMENTS.**

**01. General.** Cable-assisted logging systems shall be operated, inspected and maintained in accordance with the manufacturer's recommendations and specifications. Inspections shall be documented in writing. ( )

**02. Planning.** All cable-assisted logging operations shall be planned by the operator and a competent person who has the knowledge, training or experience to identify existing and predictable hazards in the work site surroundings or working conditions, which could be hazardous to employees, and has been authorized by the employer or employer representative to eliminate the hazard or take corrective action therefrom. Items to consider during site-specific planning must include, but are not limited to, the following: ( )

- a. Experience of the operator; ( )
- b. Limitations of the equipment; ( )
- c. Soil and terrain conditions; ( )
- d. Environmental conditions; ( )
- e. Poor visibility and lighting conditions; ( )
- f. Weather conditions; ( )
- g. Direction of travel; ( )
- h. Requirements for turning the machine on slopes; ( )
- i. Load sizes; ( )
- j. Method and adequacy of anchorage; and ( )
- k. Any other condition that may adversely affect operations. ( )

**03. Operator Qualifications.** Cable-assisted logging operators shall have documented training or adequate experience to safely operate the equipment on slopes. ( )

**04. Operating Plans.** A cable-assisted logging system operator shall have a written operating plan on site detailing the following: ( )

- a. Tether line replacement criteria; ( )
- b. Cable size, type and breaking strength, and method of assurance that tensions do not exceed one-third (1/3) of breaking strength to maintain a 3:1 safety factor or greater; ( )
- c. Inspection and maintenance to be performed on tether lines, end connectors, machines and winches; ( )
- d. How the operator will use tension limiting controls to maintain desired tension; ( )
- e. How the winch cable tension and machine travel are synchronized; ( )
- f. How the operator will monitor machine slope, anchor movement, winch tension, amount of line on and off drum, and winch function; ( )
- g. How the tether line attachment points to the harvesting machine are engineered to withstand potential loads; ( )
- h. All harvesting machine modifications that allow it to operate on steep slopes, including operator harness or restraint system; ( )
- i. How pre-operations planning and daily assessments will identify hazards for soil and terrain conditions; ( )
- j. How the operator will determine if soil and terrain conditions are unsafe during operations; ( )
- k. How operators will report new hazards identified during operations; ( )
- l. Operating guidance given to the operator; and ( )
- m. How emergencies are handled by the system, including line failure, machine failure, winch failure, anchor failure, winch machine movement or anchor movement, and whether there is an emergency stop for the operator or at the anchor. ( )

**05. Unsafe Conditions.** The employer shall establish and use procedures for operators to report unsafe conditions to a supervisor or qualified person. Such conditions must be corrected prior to resuming cable-assisted logging operations. Procedures shall also include steps to take in the event of equipment breakdown and for upset conditions. ( )

**06. Warning Signs.** Effective signage shall be affixed to all remotely operated equipment warning employees and others that lines and machines may start, stop, or move without warning. All employees working in close proximity of cable-assisted logging operations must receive training that enables them to recognize the potential hazards involved and to maintain safe distances. ( )

**013. -- 999. (RESERVED)**



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

### **07.09.01 – SAFETY AND HEALTH RULES FOR PLACES OF PUBLIC EMPLOYMENT**

#### **DOCKET NO. 07-0901-1701 (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 2018 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 Section 67-2601A, 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 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, page 78](#).

**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 Gary Barnes, Industrial Safety Program Manager, Division of Building Safety at (208) 332-8974.

DATED this 4th day of October, 2017.

Ron Whitney  
Deputy Administrator  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-7150  
Fax: (877) 810-2840

**THE FOLLOWING NOTICE 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, 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 20, 2017.

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 rules of the Division of Building Safety, Safety and Health Rules for Places of Public Employment, IDAPA 07, Title 09, Chapter 01, are being repealed in their entirety. Statutory authority to administer the safety and health program for state facilities was transferred solely to the Division in 2015. Consequently, applicable rules contained herein this chapter will be updated and incorporated into a different chapter of the IDAPA code (07.04.01), which is already administered by the Division. As a result, this chapter of the rules is unnecessary.

**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 as a result of this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted in an open, public meeting on May 2, 2017. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 5, 2017 Idaho Administrative Bulletin, [Vol. 17-4, pages 24 through 25](#).

**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 Gary Barnes, Industrial Safety Program Manager, Division of Building Safety at (208) 332-8974.

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 27, 2017.

DATED this 11th day of August, 2017.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0901-1701**

**IDAPA 07.09.01 IS BEING REPEALED IN ITS ENTIRETY**

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

### **07.10.01 – RULES GOVERNING THE DAMAGE PREVENTION BOARD, DIVISION OF BUILDING SAFETY**

**DOCKET NO. 07-1001-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 55-2203, 55-2208 and 55-2211, 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 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, pages 79 through 84](#).

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

There will be no fiscal impact to the state General Fund. It is expected that there will be a positive impact on the Damage Prevention Board dedicated fund as civil penalties are collected; however that may be offset by a negative impact to the Division as a result of the need to perform investigative activities in response to complaints received. Civil penalties will only adversely affect those stakeholders who do not comply with legal requirements. A positive and necessary economic result will be the reduction of underground facility damages throughout the State of Idaho, as well as reinforcement of public safety through the protection of life and property. The fiscal impact to the various stakeholders providing such assurance may be significant - up to hundreds of thousands of dollars spent in some cases on additional staffing and supporting resources to effectively reduce damage to underground facilities. Such expenses to facilities owners are expected to be offset by the reduction of actual damages when the damage prevention program begins to operate effectively.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ron Whitney, Deputy Administrator, at (208) 332-7150.

DATED this 4th day of October, 2017.

Ron Whitney, Deputy Administrator  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83642  
Phone: (208) 332-7150  
Fax: (877) 810-2840

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

**EFFECTIVE DATE:** The effective date of the temporary rule is September 1, 2017.

**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 55-2203, 55-2208 and 55-2211, 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 20, 2017.

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:

During the 2016 session, the Idaho Legislature established the Damage Prevention Board and amended the statutory scheme in Title 55, Chapter 22, Idaho Code, related to the prevention of damage of underground facilities throughout the state. Several statutory sections within Title 55, Chapter 22, Idaho Code, require the Board to adopt rules governing various aspects of the Board's authority to regulate safe practices, and the conduct of those involved in the industry in order to prevent damage to underground facilities. These statutory Sections include 55-2203, 55-2208 and 55-2211. The rules required pursuant to these statutes relate to the adoption of training programs, improving technology and facility owners' internal performance measures, the adoption of processes for filing claims and complaints related to damaged facilities and excavator downtime, and the establishment of civil penalties for violations of the Damage Prevention Board statutes and rules.

This rulemaking provides several definitions of key terms including "hand digging" and "soft digging;" it establishes the adoption process and accessibility of educational and training materials for use by stakeholders; as well as processes for the review of the adequacy of facility owners' ability to locate their facilities, and reviewing technology to improve communication and locating capabilities. The rulemaking also establishes procedural requirements for filing complaints and claims related to underground facility damage or excavator downtime. Finally, it establishes the civil penalties that may be imposed for certain violations of the statutes and rules.

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

The 2016 Legislature amended Title 55, Chapter 22, Idaho Code related to the prevention of damage to underground facilities throughout the state. Several statutory sections within Title 55, Chapter 22, Idaho Code, require the Board to adopt rules governing various aspects of the industry to ensure safe practices and the protection of underground facilities. Because the statutes require much of the detail about administering the program to be set forth in rule, it is difficult for the Board to actually implement an effective damage prevention program. Additionally, the Pipeline and Hazardous Materials Safety Administration (PHMSA) within the U.S. Department of Transportation conducts an annual evaluation of the State's excavation and underground damage prevention program to determine if it meets federal requirements.

In 2016, PHMSA found that the State of Idaho's program was inadequate largely due to the State's inability to enforce safe practices related to the protection of underground facilities, including the imposition of penalties and other sanctions. Establishing the authorities and policies provided in this rulemaking will be a critical step toward obtaining approval from PHMSA when it performs its 2017 evaluation of the State's program. In the absence of a state-approved program, PHMSA exercises jurisdiction over all pipelines and hazardous materials facilities, which is not preferred by those within the industry.

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

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

There will be no fiscal impact to the state General Fund. It is expected that there will be a positive impact on the Damage Prevention Board dedicated fund as civil penalties are collected; however that may be offset by a negative impact to the Division as a result of the need to perform investigative activities in response to complaints received. Civil penalties will only adversely affect those stakeholders who do not comply with legal requirements. A positive and necessary economic result will be the reduction of underground facility damages throughout the State of Idaho, as well as reinforcement of public safety through the protection of life and property. The fiscal impact to the various stakeholders providing such assurance may be significant - up to hundreds of thousands of dollars spent in some cases on additional staffing and supporting resources to effectively reduce damage to underground facilities. Such expenses to facilities owners are expected to be offset by the reduction of actual damages when the damage prevention program begins to operate effectively.

**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 1, 2017 Idaho Administrative Bulletin, [Vol. 17-3, pages 20 through 21](#).

**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 Ron Whitney, Deputy Administrator, at (208) 332-7150.

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 27, 2017.

DATED this 9th day of August, 2017.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-1001-1701**

**007. DEFINITIONS.**

**01. Hand Digging.** Any excavation involving non-mechanized tools or equipment that when used properly will not damage underground facilities. Hand digging includes but is not limited to hand shovel digging, manual post hole digging, vacuum excavation, or soft digging. ( )

**02. Soft Digging.** Any excavation using tools or equipment that utilize air or water pressure as the direct means to break up soil or earth for removal by vacuum excavation. ( )

**0078. FUNDING OF BOARD ACTIVITIES.**

Each owner of an underground facility shall pay a fee of ten cents (\$.10) each time such owner receives notice from a one-number notification service as required by Section 55-2205, Idaho Code. The fee assessed upon the underground facility owner shall be collected by the one-number notification service, and shall be payable to the board in accord with the following schedule: (3-24-17)

**01. Fee Assessed.** The fee shall be assessed on an underground facility owner for each notification issued by the one-number notification service to the underground facility owner, with the one-number notification service required to submit a summary of the number of notices issued in a given month to the board no later than fifteen (15) days following the end of the month in which the notices were issued. (3-24-17)

**02. Payment Submission.** The one-number notification service shall submit payment to the board for all payments received from underground facility owners no later than seventy (70) days following the end of the month in which the notices were issued to the facility owners. In those cases where the payment from the underground utility owner is received after the seventy-day (70) period, the one-number service shall include late payments in its next payment to the board. (3-24-17)

**03. Notices Issued.** The one-number notification service shall also submit a detailed list of notices issued, including the facility owner's contact information, for which payment has not been received within the seventy (70) day period following the end of the month in which the notices were issued. Such list shall be updated on a monthly basis to reflect the status of all past-due payments due from underground utility owners that have not been received. (3-24-17)

**04. Civil Penalties.** Underground facility owners failing to submit payment to the one-number notification service in a timely manner shall be subject to the imposition of civil penalties and other remedies referenced in Title 55, Chapter 22, Idaho Code. (3-24-17)

**~~0089.~~ AUDIT OF ONE-NUMBER SERVICE RECORDS.**

The board shall have the right to review and audit the payment records of any one-number notification service relating to the collection of the ten cent (\$.10) fee imposed on underground facility owners. In the event the board wishes to conduct a review and/or audit of a one-number notification service, the board shall provide no less than a five (5) business day advance notice of the intended action. The board may delegate any responsibilities contained herein in this chapter to the Division of Building Safety. (3-24-17)

**~~00910.~~ -- ~~999014.~~(RESERVED)**

**015. EDUCATIONAL AND TRAINING MATERIALS.**

**01. Approval of Training and Educational Programs.** The Damage Prevention Board shall approve and provide public notice through the Division of Building Safety acceptable training courses or programs and educational materials on relevant underground facility damage prevention topics pertaining to safe excavation, locating and marking of facilities, determining facility damage, emergency procedures, excavator downtime, pre-marking of intended excavation areas, and appropriate procedures when encountering unmarked facilities. ( )

**02. Scope of Training and Educational Programs.** Such training programs and educational materials shall relate to various aspects of underground facility damage prevention, and shall contain practices, information, and standards generally accepted and recognized among stakeholders in Idaho. ( )

**03. Accessibility of Training and Educational Programs.** The Division of Building Safety shall maintain a database of approved educational materials and training programs, and periodically update such as may be required by the board. The Division of Building Safety shall cause such educational materials and the identity of such training programs to be placed on its website so that interested persons may view it online. ( )

**04. Purposes of Training and Educational Programs.** Such programs may be used for general educational use by stakeholders or for remedial training that may be ordered by the board or the administrator pursuant to Section 55-2211, Idaho Code. Should completion of a training course by a stakeholder be required as a result of a violation of this chapter in accordance with Section 55-2211, Idaho Code, The Division of Building Safety shall record and maintain validation of successful completion of any such required training for two (2) years from date of completion. ( )

**016. ADEQUACY OF FACILITY OWNERS LOCATING UNDERGROUND FACILITIES.**

The board shall review all stakeholder complaints of violations related to underground facility line locating, as well

as generally accepted practices and procedures related to locating. Stakeholders shall take remedial actions to improve line-locating performance and shall monitor and report performance improvements to the board. ( )

**017. IMPROVEMENT OF TECHNOLOGY AND COMMUNICATIONS BY STAKEHOLDERS.**

**01. Adoption of Technology and Communications Materials.** On an annual basis the board shall review and adopt any available technology and communications materials which promote effective underground facility locating. The board shall make available any such appropriate technology and communications materials as it may determine to all stakeholders on the Division of Building Safety website at <http://dbs.idaho.gov>. ( )

**02. Availability of Technology and Communications Materials.** The board may request that stakeholders provide it with information or data related to procedures, methods, or technologies utilized by such stakeholders to enhance communications among other stakeholders, or that enhances underground facility locating capabilities, or enhances the stakeholder's ability to gather and analyze data related to underground facility damage. The board shall review such technologies, methods, or materials adopted by stakeholders to ensure that such use is adequate, as well as to provide stakeholders with best practices. The Division of Building Safety shall maintain an approved database of such referenced stakeholder data for public viewing and analysis on its website. ( )

**018. DAMAGE PREVENTION COMPLAINTS.**

**01. Complaint Forms.** Persons may submit written complaints to the administrator regarding an alleged violation of Title 55, Chapter 22, Idaho Code, on such forms as required by the Division of Building Safety. Forms are 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. They may also be accessed electronically on the Division of Building Safety's website at <http://dbs.idaho.gov/>. Notice of the complaint shall be served concurrently on the alleged violator by the person submitting the complaint. Verifiable proof of such notification of a complaint provided to the alleged violator shall also be provided to the administrator. ( )

**02. Contents.** Complaints shall include the name and address of the complainant and the alleged violator, the date and location of the alleged violation, as well as a complete description of the nature of the violation alleged, including whether it resulted in damage to an underground facility or an excavator downtime event. Complainants may also provide additional documentation in support of a complaint. Complaints shall be accompanied by a sworn declaration from the complainant declaring that the information contained therein is true and accurate. The administrator may request additional information or documents in support of the complaint. Complaint forms shall be subject to Title 74, Chapter 1, Idaho Code. ( )

**03. Complaint Procedures and Timelines.** The following timelines and procedure shall govern the process of filing and administering complaints related to violations of Title 55, Chapter 22, Idaho Code, and the rules of the Damage Prevention Board. ( )

**a. Initial Filing.** Complaints shall be filed with the administrator not later than thirty (30) days from the date of the alleged violation giving rise to the complaint or from the date the violation should have reasonably been discovered by the complainant, whichever is later. ( )

**b. Response.** The administrator shall notify the alleged violator of the complaint and request a response and any additional information from the alleged violator as may be necessary. The alleged violator may provide a response to the administrator within thirty (30) days from the date they are notified of the complaint by the administrator. ( )

**c. Recommendation.** Within thirty (30) days of receipt of the response, or if no response is received, within fifteen (15) days from the deadline for filing a response, the administrator shall notify the complainant and the alleged violator of his recommended course of action. The administrator may extend the period of time in which to determine a recommended course of action, and so notify the parties, if he determines it is necessary to further review or investigate the complaint. ( )

**d. Contest.** In accordance with Section 55-2211, Idaho Code, the alleged violator shall have the right



to contest the imposition of a civil penalty before the damage prevention board. Notice of such contest shall be provided by the alleged violator not more than thirty (30) days after receipt of the administrator's recommended course of action. Recommendations of the administrator regarding complaints may be reviewed by the board at its next regularly scheduled meeting. ( )

**019. CLAIMS AND REPORTS OF DAMAGE OR EXCAVATOR DOWNTIME.**

**01. Claims.** Claims for the cost of repairs for damaged underground facilities shall be enforced by the affected underground facility owner in accordance with procedures as may be established by the facility owner, and in accordance with applicable law. Underground facility owners shall provide notice to excavator contractors of such procedures, along with sufficient information supporting the basis for the amount of a claim within six (6) months from the date of the event giving rise to the claim or from the date the event should have reasonably been discovered by the underground facility owner, whichever is later. ( )

**02. Reports.** Underground facility owners and excavators who observe, suffer or cause damage to an underground facility or observe, suffer or cause excavator downtime related to a failure of one (1) or more stakeholders to comply with applicable damage prevention statutes or regulations shall report such information to the board on forms or by such method adopted for such by the board. Forms are 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. They may also be accessed electronically on the Division's website at <http://dbs.idaho.gov/>. ( )

**020. CIVIL PENALTIES.**

The Idaho Damage Prevention Board is authorized under Section 55-2203(17), Idaho Code, to establish by administrative rule the fines to be paid for civil penalties issued for violations of Title 55, Chapter 22, Idaho Code. To the extent authorized by Section 55-2211, Idaho Code, the acts described in this section shall subject the violator to a civil penalty of not more than one thousand dollars (\$1,000) for a second offense and a civil penalty of not more than five thousand dollars (\$5,000) for each offense that occurs thereafter within eighteen (18) months from an earlier violation, and where facility damage has occurred. ( )

**01. Violations of Title 55, Chapter 22, Idaho Code.** The following acts shall subject a person to civil penalties: ( )

**a. Pre-marking Excavation Site.** Any person who fails to adequately pre-mark onsite the path of proposed excavation as reasonably required under the circumstances in accordance with Section 55-2205(1)(b), Idaho Code, shall be subject to a civil penalty. ( )

**b. Notice of Excavation.** Any person who fails to provide notice of the scheduled commencement of excavation to any underground facility owner through a one-number notification service, or directly to a facility owner, as applicable within the prescribed time as required by Section 55-2205(1)(c), Idaho Code, shall be subject to a civil penalty. ( )

**c. One-Number Notification to Facility Owner.** A one-number notification service that fails to provide notice of a scheduled excavation upon notification from an excavator shall be subject to a civil penalty. ( )

**d. Failure to Locate or Mark.** An underground facility owner who fails to locate or mark its underground facilities in accordance with Section 55-2205(2), Idaho Code, or within the prescribed time provided therein shall be subject to a civil penalty. ( )

**e. Failure to Wait for Locate or Maintain Markings.** An excavator who commences excavation prior to waiting the time prescribed by Section 55-2205(2), Idaho Code, for all known facilities to be located and marked, or an excavator who fails to maintain the markings of underground facilities previously so marked subsequent to the commencement of excavation in accordance with Section 55-2205(2), Idaho Code, shall be subject to a civil penalty. ( )

**f. Failure to Cease Excavation or Report Unidentified Facilities.** An excavator who does not cease excavation in the immediate vicinity upon the discovery of underground facilities therein, whether such facilities be



active or abandoned, which were not previously identified or located with reasonable accuracy, or does not notify the owner or operator of the facilities, or a one-number notification service in accordance with Section 55-2205(4), Idaho Code, shall be subject to a civil penalty. ( )

**g.** Failure to Identify Facilities in Contract Documents. Project owners who fail to indicate in bid or contract documents the existence of underground facilities known by the owner to be located within the proposed area of excavation in accordance with Section 55-2207, Idaho Code, shall be subject to a civil penalty. ( )

**h.** Precautions to Avoid Damage. An excavator who does not engage in any of the activities required by Section 55-2207(2), Idaho Code, or use reasonable care to avoid damage to underground facilities shall be subject to a civil penalty. ( )

**i.** Reporting of Damage to Facility. An excavator who fails to report to a facility owner and a one-number notification service any contact or damage to an underground facility caused by such excavator in the course of excavation, or fails to alert an appropriate authority upon an actual breach of a facility which causes the release of gas or hazardous liquids as required by Section 55-2208(1), Idaho Code, shall be subject to a civil penalty. ( )

**j.** Reporting to the Board. An excavator or underground facility owner who observes, suffers or causes damage to an underground facility or excavator downtime related to the failure of one (1) or more stakeholders to comply with the damage prevention regulations and fails to report such information to the board as required by Section 55-2208(5), Idaho Code, shall be subject to a civil penalty. ( )

**k.** Failure to Participate. Any person who fails to participate or cooperate with a one-number notification service as required by Section 55-2206, Idaho Code, shall be subject to a civil penalty. ( )

**02.** Second Offense. For the purpose of this section, a second offense shall be deemed to be any violation of Title 55, Chapter 22, Idaho Code, for which a civil penalty may be imposed in accordance with this section which occurs within eighteen (18) months of a previous violation of any provision. ( )

**03.** Multiple Violations. Each day that a violation of Title 55, Chapter 22, Idaho Code, occurs for which a civil penalty may be imposed as provided herein shall constitute a separate offense. ( )

**04.** Judicial Review. Any party aggrieved by the final action of the Idaho Damage Prevention Board shall be entitled to a judicial review thereof in accordance with the provisions of Title 67, Chapter 52, Idaho Code. ( )

**021. -- 999.** (RESERVED)

## IDAPA 09 – IDAHO DEPARTMENT OF LABOR

### 09.01.30 – UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES

DOCKET NO. 09-0130-1701

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 Section 72-1333(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 adoption of the pending rule is necessary to clarify the misconception that leads unemployment insurance claimants to believe that in order to file for unemployment insurance benefits they must call a Boise telephone number; and the pending rule provides the department greater flexibility in the event the state needs to relocate its claims processing center for budgetary reasons or due to a natural disaster such as fire or flooding.

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 July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7, pages 34-41](#).

**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 Josh McKenna, Benefits Bureau Chief, (208) 332-3577.

DATED this 4th day of December, 2017.

Josh McKenna  
Benefits Bureau Chief  
Unemployment Insurance, Idaho Department of Labor  
317 W. Main Street  
Boise, ID 83735  
Phone: (208) 332 3577  
Fax: (208) 334-6400

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

**EFFECTIVE DATE:** The effective date of the temporary rule is June 2, 2017.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 72-1333, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 19, 2017.

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:

**A. The Proposed / Temporary Rule Change:**

1. Clarifies the misperception that leads unemployment insurance claimants to believe in order to file for unemployment insurance benefits they must call a Boise telephone number; and
2. Provides the department greater flexibility in the event the state needs to relocate its claims processing center for budgetary reasons or due to a natural disaster such as fire or flooding.

**B. Supporting Reasons for Adopting a Temporary Rule:**

1. The current language leaves a misperception that in order to file benefits a claimant:
  - a. Cannot access the claim center through their nearest Idaho Department of Labor office; and
  - b. Must contact a facility in Boise.
2. Should the need arise to move the Idaho Unemployment Insurance claims center for budgetary reasons or due to a natural disaster such as fire or flood, the department will have the flexibility to relocate the claims center outside of Boise.

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

**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 temporary.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Josh McKenna, Benefits Bureau Chief, (208) 332-3577.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2017.

DATED this 26th day of May, 2017

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-1701**

**010. DEFINITIONS.**

Unless the context clearly requires otherwise, these terms shall have the following meanings when used in these Rules, in interpretations, in forms, and in other official documents issued by the Director of the Department of Labor. (3-19-99)

**01. Additional Claim.** An initial claim made after a period of employment subsequent to a new claim in the same benefit year. (3-19-99)

**02. Administrative Office.** The main office in Boise, Idaho, wherein the administrative functions of the Department of Labor are performed. (3-19-99)

**03. Appealed Claim.** An interested party's appeal to the Appeals Bureau of a claims examiner's decision on a claim or a request for review by the Industrial Commission of a decision made by an appeals examiner. (3-19-99)

**04. Average Annual Wage.** For the purpose of determining the taxable wage base, under Section 72-1350(1), Idaho Code, the average annual wage shall be computed by dividing that calendar year's total wages in covered employment, excluding State government and cost reimbursement employers, by the average number of workers in covered employment for that calendar year as derived from data reported to the Department of Labor by covered employers. (3-19-99)

**05. Average Weekly Wage.** For the purpose of establishing the maximum weekly benefit amount, under Section 72-1367(2)(a), Idaho Code, the average weekly wage shall be computed by dividing the total wages paid in covered employment (including State government and cost reimbursement employers) for the preceding calendar year, as computed from data reported to the Department of Labor by covered employers, by the monthly average number of workers in covered employment for the preceding calendar year and then dividing the resulting figure by fifty-two (52). (4-11-06)

**06. Benefit Balance.** The unpaid portion of the total benefits payable with respect to a claimant's unemployment during a given benefit year. (3-19-99)

**07. ~~Boise Central~~ Claims Office.** ~~The central~~ A claims office ~~located in Boise, Idaho;~~ designated by the director, where unemployment claims throughout the state are processed. (3-29-17)( )

**08. Chargeability Determination.** A determination issued by the Director or his authorized agent with respect to whether a covered employer's account shall be charged for benefits paid on a claim. (3-19-99)

**09. Claim.** An application for unemployment insurance or "benefits." (3-19-99)

**10. Combined Wage Claim.** A claim filed under any interstate agreement whereby an unemployed worker with covered wages in more than one (1) state may combine such wages. (3-19-99)

11. **Compensable Claim.** An application for benefits which certifies to the completion of a benefit period (one (1) or more weeks). (3-19-99)
12. **Contested Claim.** A claim in which an interested party disputes the claimant's right to benefits. (3-19-99)
13. **Continued Claim.** An application for waiting-week credit or for benefits for specific compensable weeks. (3-19-99)
14. **Corporate Officer.** Any individual empowered in good faith by stockholders or directors in accordance with the corporation's articles of incorporation or bylaws to discharge the duties of a corporate officer. (4-4-13)
15. **Employment.** For the purpose of the personal eligibility conditions of Section 72-1366(5), Idaho Code, "employment" means that employment subsequent to which a claimant has not earned fourteen (14) times his weekly benefit amount. (4-11-06)
16. **Full-Time Employment.** A week of full-time employment for a claimant is one in which he has worked what are customarily considered full-time hours for the industry in which he has been employed that week or in which the earnings are more than one and one half (1-1/2) times his weekly benefit amount. (4-5-00)
17. **Initial Claim.** The first claim for benefits made by an unemployed individual during a continuous period of unemployment. An initial claim may be either new or additional. (3-19-99)
18. **Interstate Claim.** A claim filed by a worker who resides in a state other than the state (or states) in which he has earned wages in covered employment. (3-19-99)
19. **Intrastate Claim.** A claim filed by a worker who has earned wages within that state or who has federal wages assigned to that state. (3-19-99)
20. **Itinerant Point.** A place where claims-taking services are regularly provided for less than four (4) days a week by a local office which carries on its primary operations at another point. (3-19-99)
21. **Liability Determination.** A determination issued by the Director or his authorized agent with respect to whether a cost reimbursement employer shall be charged for benefits paid on a claim. (3-19-99)
22. **Local Office.** A community office of the Department of Labor at which claims are taken and job placement services are provided to applicants and employers. (3-19-99)
23. **Monetary Determination.** A determination of eligibility which lists a claimant's base period employer(s) and wages and establishes, if the claimant is eligible, his benefit year, his weekly benefit amount, and his total benefit amount. (3-19-99)
24. **New Claim.** The first initial claim made in a benefit year. (3-19-99)
25. **Non-Monetary Determination.** A determination issued by a claims examiner with respect to the personal eligibility conditions of a claimant. (3-19-99)
26. **Personal Identification Number (PIN).** A confidential number or other electronic method of verification unique to a claimant or an employer that is required for such persons to perform certain transactions with the Department by electronic or telephonic means. A PIN has the same force and effect as a manual signature. (4-6-05)
27. **Regular Claim.** A claim based on wages earned during a base period, excluding extended benefit claims. (3-19-99)

**28. Signature, Signed.** The Personal Identification Number (PIN) is considered the same as a manual signature and has the same force and effect when a claimant or an employer uses Department-approved electronic or telephonic means to submit information to or engage in transactions with the Department. (4-6-05)

**29. Telephone Claim.** A claim filed by telephone rather than in person at a local office. (3-19-99)

**30. Total Benefit Amount.** The full amount of benefits to which a claimant may be entitled during a benefit year on his regular claim. (3-19-99)

**31. Unemployment.** An individual shall be deemed “unemployed” in any week during which he performs no services and with respect to which no wages are allocable, or in any week in which the total wages payable to him for less than full-time work performed in such week amounted to less than one and one half (1-1/2) times his weekly benefit amount. (3-19-99)

**32. Weekly Benefit Amount.** The full amount of benefits to which a claimant may be entitled for one (1) week of total unemployment. (3-19-99)

**(BREAK IN CONTINUITY OF SECTIONS)**

**425. NEW CLAIMS/ADDITIONAL CLAIMS.**

Ref. Sec. 72-1308, Idaho Code.

(3-19-99)

**01. Claims for Benefits, Delayed Filing.** When the [Boise Central](#) Claims Office has determined that a claimant’s attempt to file an initial claim was delayed due to problems with the Department’s telephone or electronic filing system, the claim may be backdated if the claimant reported the access problem to the [Boise Central](#) Claims Office within seven (7) days of the date the problem occurred. When a claim is backdated, the continued claim report for the period of time involved will be considered timely if filed during the same week or the next week after the claim is filed. ~~(3-29-17)~~( )

**02. Effective Date of Backdated Claims.** When the filing of an initial claim for benefits is backdated due to a Department system malfunction, the effective date shall be the Sunday of the week in which the claimant first reported to the [Boise Central](#) Claims Office to file the claim or attempted to access the telephone or electronic claim filing system and there were problems with the system. ~~(3-29-17)~~( )

**03. Filing of New Claims.** New intrastate and interstate claims may be filed electronically or by telephone at the Department’s discretion. (3-29-17)

**a. Electronically Filed Claims.** Claimants may file claims electronically by accessing Idaho’s Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department’s Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the application process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. A claim filed electronically will automatically be assigned to the local office that services the zip code for the mailing address provided by the claimant. (3-30-01)

**b. Interstate Claims.** Any claim filed by an interstate claimant shall be accepted in the same manner and under the same conditions for which claims are accepted from intrastate claimants. Interstate claimants may also file claims by calling the Department’s interstate claims unit. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the interstate claims unit to initiate the claim. (3-30-01)

**c. Itinerant Locations.** Claims may be filed at itinerant points established by the Department for the taking of claims. A claim filed at an itinerant point on the first regular itinerant visit after the claimant’s separation will be effective as of the Sunday preceding the first business day of the period of unemployment. If the claimant has filed the claim on a date later than the first regular itinerant visit, the claim shall be effective as of the Sunday preceding the date the claim is actually filed. (3-30-01)

**04. Itinerant Claims.** Itinerant points for the taking of unemployment insurance claims may be established, changed, or discontinued at administrative discretion. Where itinerant service is being inaugurated, changed, or discontinued for a particular community, public notice of such inauguration, change, or discontinuance shall be conspicuously posted and public notification placed in a daily or weekly newspaper of general distribution for the affected community two (2) weeks prior to such inauguration, change or discontinuance. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

**05. Registration for Work.** All claimants who cannot demonstrate a firm attachment to an employer, industry, or union will be required to register for employment. Unless otherwise requested by the claimant, such registration should apply only to the days or parts of the days that the claimant is in fact unemployed and available for employment. The work history of each claimant shall be recorded, and a work application completed and filed. Ref. Sec. 72-1366(2), Idaho Code. (3-19-99)

**06. Registration/Reporting Requirements -- Interstate Claimants.** Interstate claimants shall be required to register for work in the State in which they reside and to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants. Ref. Sec. 72-1366(1), (2), Idaho Code. (4-11-06)

**07. Requirement to Provide Information.** If a claimant fails to provide the Department with all necessary information pertinent to eligibility, the claimant may be denied benefits until the information is provided. Any individual making a claim for benefits shall provide the Department with: (3-15-02)

- a. The claimant's legal name; (3-15-02)
- b. The claimant's Social Security Number; (3-15-02)
- c. The address where the claimant's mail is delivered; (3-15-02)
- d. The claimant's place of last employment; (3-15-02)
- e. The name, correct mailing address, and the reason for separation from all of the claimant's most recent and base-period employers; (3-15-02)
- f. If requested by the Department, a list of all other employment in the past twenty-four (24) months; (3-15-02)
- g. The claimant's plans for finding other employment at the earliest possible time; and (3-15-02)
- h. Other information necessary for the proper processing of the claim. (3-15-02)
- i. Once a claim has been established, the claimant must provide, upon request, a record of the claimant's work search, in order for the Department to assess the claimant's compliance with personal eligibility requirements. (3-15-02)
- j. If the claimant's identifying information does not match with data provided by the Social Security Administration, the Division of Motor Vehicles, or other public entities for identity verification purposes, the claimant will be provided notice and an opportunity to provide proof of identity before benefits may be denied for failure to provide proof of identity. A claimant notified by telephone of the need to provide proof of identity must provide the information to the Department within two (2) business days. A claimant notified by mail of the need to provide proof of identity must provide the information to the Department within five (5) business days of the date of mailing of the notice. (4-11-06)

**08. Right to Claim Benefits.** In no instance, under any circumstances or conditions, shall an individual be denied the right to file a claim and to receive in writing a decision regarding his eligibility. Ref. Sec. 72-1366(1), Idaho Code. (3-19-99)

**09. Separation Information.** Unless separation information has been provided by other means, such

as a mass layoff list, a notice of the filing of a claim and a request for separation information must be completed and mailed to the claimant's last employer and each next preceding employer until the wages received by the claimant equal or exceed fourteen (14) times his weekly benefit amount. For all such employers, the claimant must provide the Department with the employer's name and correct mailing address, the claimant's dates of employment, the type of employment performed, and the claimant's gross earnings from each employment. Ref. Sec. 72-1366 (1), (5) and (14), Idaho Code. (4-11-06)

**10. Separation Notice.** (3-19-99)

**a.** Notice to Employer of Separation. At the time a claim for benefits is filed, the Department will review the claimant's employment subsequent to which the claimant has not earned fourteen (14) times his weekly benefit amount. The Department will mail a separation notification letter to each employer within that period. A Department representative will then contact the employer within seven (7) business days for a response, unless the claimant indicated he quit the job for reasons not attributable to the employer. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), when contacted by a Department representative for a response, shall respond to the Department with the reasons for the separation whenever the claimant: (3-30-07)

- i. Left his employment voluntarily; (3-19-99)
- ii. Was discharged from his employment due to misconduct; (3-19-99)
- iii. Is unemployed due to a strike, lockout, or other labor dispute; (3-30-07)
- iv. Is not working due to a suspension; or (3-30-07)
- v. Was separated for any other reason except lack of available work. (3-19-99)

**b.** Employer Response. The employer's response shall be given by the employer or on the employer's behalf by someone having personal knowledge of the facts concerning the separation. The employer should provide to the Department, via electronic media or mail, copies of any documentation supporting their position. (3-30-07)

**11. Filing of an Additional Claim or Reopening a Claim.** A claim series may be reestablished electronically or by telephone at the Department's discretion. The additional or reopened claim (AC/RO) must be filed during a week in which the claimant becomes unemployed and/or wants to reestablish the claim. (3-29-17)

**a.** Electronic Filing. A claimant may file an AC/RO electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the AC/RO process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. (3-30-01)

**b.** Telephone Filing. A claimant may file an AC/RO by telephone by calling the ~~Boise Central~~ Claims Office. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the local office to initiate the claim. ~~(3-29-17)~~ ( )

**c.** Reestablished Claim. A claim must be reestablished after a claimant has failed to report or has reported excessive earnings for two (2) or more consecutive weeks. If the break in the claim series is two (2) weeks or longer, the claim must be reestablished by filing a reopen or additional claim. (3-29-17)

**12. Use of Wage Credits.** All unemployment insurance wage credits from any source which are assignable to the state of Idaho shall be used in establishing a claim and determining the claimant's monetary eligibility. Ref. Sec. 72-1367(1), Idaho Code. (3-19-99)

**13. Valid Claim.** To be a valid claim for benefits, a claim must be filed during a week of no work, a week of less than full-time work in which the total wages payable to the claimant for work performed in such week amount to less than one and one-half (1-1/2) times the claimant's weekly benefit amount, or a week in which the



claimant is separated from employment. Ref. Sec. 72-1327A, Idaho Code.

(3-19-99)

**(BREAK IN CONTINUITY OF SECTIONS)**

**575. SEEKING WORK.**

Ref. Sec. 72-1366(4), (6), Idaho Code.

(3-19-99)

**01. Attitude and Behavior.** A claimant's attitude and behavior must be conducive to a positive reaction by employers to his job search. (3-19-99)

**02. Effort to Secure Employment.** A claimant will be expected to do what is normally done by unemployed persons that are seeking work. (3-19-99)

**03. Employer's Hiring Practices.** An employer's reluctance to hire a claimant because of his appearance or physical condition is not a determining factor in ruling on the claimant's eligibility. (3-19-99)

**04. Job Attachment Classifications.** For the purpose of administering the work search requirements of Section 72-1366(4) and (6), Idaho Code, a claimant will be classified according to his attachment to an employer or industry, as follows: (3-19-99)

**a.** Code R-Recall, U-Union or X-Both. A claimant who has a firm attachment to an employer, industry or union, or who is temporarily or seasonally unemployed, and expects to return to his former job or employer in a reasonable length of time not to exceed a maximum of sixteen (16) weeks. If during the sixteen (16) weeks the claimant returns to work temporarily for the job attached employer, the claimant's period of job attachment shall be extended by one (1) week for each week of verified full-time employment as defined by Section 72-1312, Idaho Code. (3-25-16)

**b.** Code B. A claimant who possesses marketable skills in an occupation, but has no immediate prospects for reemployment, and whose employment expectations (i.e., wages, hours, etc.) are realistic in relation to the normal labor market supply and demand in his area of availability. (3-19-99)

**c.** Code C. A claimant who has no marketable skills or whose skills have become obsolete and who is unable to return to his former occupation, or who has a special need for employment-related services. (3-19-99)

**d.** Code D. A claimant who is assigned to a training course under the provisions of Section 72-1366(8), Idaho Code. (3-19-99)

**05. Jobs Availability.** A claimant will not be required to make useless employer contacts if there are no jobs available in the area due to seasonal factors. (3-19-99)

**06. No Employment Prospects.** A claimant shall apply for and accept a lower or beginning pay rate for employment if he has no prospects for a better paying job in the locality. (3-19-99)

**07. Registering and Reporting on Work-Seeking Activity.** A claimant must register for work and report as required to be eligible for benefits. Ref. Sec. 72-1366(1), (2), Idaho Code. (4-11-06)

**08. Seasonal Availability.** A claimant who is regularly employed on a seasonal basis shall be available for other types of work in the off-season to be eligible for benefits. (3-19-99)

**09. Work-Seeking Requirement Categories.** A claimant shall seek work in accordance with the following categories of work-seeking activity, as instructed by a Department representative or as notified by the Department via electronic claims messaging. A claimant must meet the requirements of the code to which the claimant is assigned. A claimant's category of work-seeking activity will be determined and modified based on the claimant's prevailing local labor market conditions and/or the average county unemployment rates. A claimant that has not registered for work when filing his claim and that is required to secure employment must register with the local office within two (2) weeks of filing an initial claim for benefits. Failure to comply with work-seeking

requirements may result in a denial of benefits. (4-11-06)

a. Code O claimant must maintain regular contact with their employer(s) or union. (3-29-17)

b. Code 1 claimant will be required to engage in one (1) or more of the following activities to increase their prospects of securing employment: (3-15-02)

i. Make at least one (1) employer contact each week in the manner prescribed by the Boise Central Claims Office; ~~(3-29-17)~~ ( )

ii. Attend a Job Search Workshop; (3-15-02)

iii. Expand work search efforts to surrounding areas or states; (3-15-02)

iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)

v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-15-02)

vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)

c. Code 2 claimant will be required to engage in one (1) or more of the following activities to increase his prospects of securing employment: (3-15-02)

i. Make at least two (2) employer contacts per week in the manner prescribed by the Boise Central Claims Office; ~~(3-29-17)~~ ( )

ii. Attend a Job Search Workshop; (3-15-02)

iii. Expand work search efforts to surrounding areas or states; (3-15-02)

iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)

v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-15-02)

vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)

d. Code 3 claimant will be required to engage in one (1) or more of the following activities to increase his prospects of securing employment: (3-15-02)

i. Make at least three (3) employer contacts per week in the manner prescribed by the Boise Central Claims Office; ~~(3-29-17)~~ ( )

ii. Attend a Job Search Workshop; (3-15-02)

iii. Expand work search efforts to surrounding areas or states; (3-15-02)

iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)

v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-15-02)

vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)

# **IDAPA 10 – BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS**

## **10.01.01 – RULES OF PROCEDURE**

### **DOCKET NO. 10-0101-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 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 rule change clarifies the intent of the board. The amendments will add a new provision clarifying the Board's website is used for informational and legal purposes; correct grammar and code citations; and remove the Washington Accord from the list of unconditionally approved international engineering programs.

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 2, 2017 Idaho Administrative Bulletin, [Vol. 17-8, page 22-29](#).

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

There is no fiscal impact to the state general fund or the agency dedicated fund because the amendment displays the intent of the Board's website which is already developed and used for the purposes stated, and the corrected words and citations are housekeeping in nature. International applicants for professional engineering licensure may incur costs for and independent review of their education credential if the Board is unable to determine whether the engineering coursework meets the engineering education requirements stated in the existing rule.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Keith Simila at (208) 373-7210.

DATED this 11th day of September, 2017.

Keith Simila, P.E.  
Executive Director  
1510 Watertower Street  
Meridian, Idaho 83642  
Telephone: (208) 373-7210  
Fax: (208) 373-7213  
E-mail: [keith.simila@ipels.idaho.gov](mailto:keith.simila@ipels.idaho.gov)

**THE FOLLOWING NOTICE 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:

**PUBLIC HEARING**  
**Wednesday, August 30, 2017 – 10:00 a.m.**

**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 add a new provision clarifying the Board's website is used for informational and legal purposes; correct grammar and code citations; and remove the Washington Accord from the list of unconditionally approved international engineering education accrediting organizations.

**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 as a result of this rulemaking:

There is no fiscal impact to the state general fund or the agency dedicated fund because the amendment displays the intent of the Board's website which is already developed and used for the purposes stated, and the corrected words and citations are housekeeping in nature. International applicants for professional engineering licensure may incur costs for and independent review of their education credential if the Board is unable to determine whether the engineering coursework meets the engineering education requirements stated in the existing rule.

**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 7, 2017 Idaho Administrative Bulletin, [Volume 17-6, page 33](#).

**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 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 30, 2017.

DATED this 3rd day of July, 2017.

[LSO Rules Analysis Memo](#)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0101-1701**

**013. PUBLICATIONS.**

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

**02. Roster.** A roster of professional engineers, professional land surveyors, engineer interns, land surveyor interns, and engineering and land surveying business entities in good standing and licensees and certificate holders in the retired status as provided in these rules shall be maintained in an electronic format available to the public. Those licensees who choose to place their license in retired status shall be listed as retired in the roster. (3-25-16)

**03. News Bulletins and Online Information.** News bulletins shall be published at least two (2) times each year. The news bulletins and other news postings may be made available online to all licensees and certificate holders for the purpose of sharing information on board activities and actions. (3-25-16)

**04. Website and Outreach.** The Board will maintain a website providing online information to current and prospective licensees and certificate holders including, but not limited to, applications, laws and rules, guidelines, publications, calendar, forms and outreach information for students and prospective licensees. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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 the Canadian Engineering Accrediting Board, or those engineering programs that are accredited by official organizations signatory to the "Washington Accord." recognized by the U.K. Engineering Council. 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 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: (3-29-17)

i. 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;

(3-29-17)

ii. 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; (3-29-17)

iii. 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. (3-29-17)

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~~ the Board. (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)~~ three (3) 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, and the third is the Idaho specific professional land surveying examination. All examinations are required 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 Board. 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. Having passed the Principles and Practice of Surveying examination, applicants will be required to pass the Idaho specific professional land surveying examination, which tests for knowledge of the laws and rules of Idaho, and the legal and technical aspects of land surveying in Idaho. (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 the Canadian Engineering Accrediting Board, or official organizations ~~in countries signatory to the Washington Accord, recognized by the U.K. Engineering Council,~~ 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 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: (3-29-17)

i. 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; (3-29-17)

ii. 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; (3-29-17)

iii. 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. (3-29-17)

**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~~ when qualified by the Board 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 the Canadian Engineering Accrediting Board, or official organizations ~~in countries signatory to the Washington Accord~~ recognized by the U.K. Engineering Council, 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~~ who 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**

## **10.01.02 – RULES OF PROFESSIONAL RESPONSIBILITY**

**DOCKET NO. 10-0102-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 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 54-1208, 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 follow the Qualifications Based Selection statute Section 67-2320, Idaho Code. The intent is to clarify this statute applies to both consultants and subconsultants.

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 July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7, page 42-43](#).

**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 fund or the agency dedicated fund because the amendment is a clarification of a process already required by law and rule.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Keith Simila at (208) 373-7210.

DATED this 7th day of August, 2017.

Keith Simila, P.E.  
Executive Director  
1510 Watertower St.  
Meridian, Idaho 83642  
Telephone: (208) 373-7210  
Fax: (208) 373-7213  
E-mail: [keith.simila@ipels.idaho.gov](mailto:keith.simila@ipels.idaho.gov)

**THE FOLLOWING NOTICE 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:

**Tuesday, July 19, 2017 – 10:00 a.m.**

**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 follow the Qualifications Based Selection statute Section 67-2320, Idaho Code. The intent is to clarify this statute applies to both consultants and subconsultants.

**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 because the amendment is a clarification of a process already required by law and rule.

**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 November 2, 2016 Idaho Administrative Bulletin, [Volume 16-11, page 23](#).

**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 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 July 27, 2017.

DATED this 22nd day of May, 2017.

[LSO Rules Analysis Memo](#)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0102-1701**

**009. SOLICITATION OF WORK.**

**01. Commissions.** A Licensee or Certificate Holder shall not pay or offer to pay, either directly or indirectly, any commission, gift or other valuable consideration in an effort to secure work, except to bona fide employees or bona fide established business enterprises retained by a Licensee or Certificate Holder for the purpose of securing business or employment. (5-8-09)

**02. Representation of Qualifications.** A Licensee or Certificate Holder shall not falsify or permit misrepresentation of his or his associates' academic or professional qualifications, and shall not misrepresent or exaggerate the degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint-venturers or his or their past accomplishments with the intent and purpose of enhancing qualifications for the work. The Licensee or Certificate Holder shall not indulge in publicity that is misleading. (5-8-09)

**03. Assignment on Which Others Are Employed.** A Licensee or Certificate Holder shall not knowingly seek or accept employment for professional services for an assignment which another Licensee or Certificate Holder is employed, or contracted to perform without the currently employed or contracted entity being informed in writing. (5-8-09)

**04. Contingency Fee Contracts.** A Licensee or Certificate Holder shall not accept an agreement, contract, or commission for professional services on a "contingency basis" which may compromise his professional judgment and shall not accept an agreement, contract or commission for professional services which includes provisions wherein the payment of fee involved is contingent on a "favorable" conclusion, recommendation or judgment. (5-8-09)

**05. Selection on the Basis of Qualifications.** A Licensee or Certificate Holder should seek professional employment or professional service work on the basis of qualifications and competence for proper accomplishment of the work assignment. On selections for professional engineering and land surveying services that are required pursuant to Section 67-2320, Idaho Code, a licensee or certificate holder, in response to solicitations described in Section 67-2320, Idaho Code, shall not submit information that constitutes a bid for services requested either as a consultant or subconsultant. ~~(4-11-15)~~( )

**IDAPA 10 – BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

**10.01.04 – RULES OF CONTINUING PROFESSIONAL DEVELOPMENT**

**DOCKET NO. 10-0104-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 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 rule change clarifies the intent of the board. The amendments repeals a section of the rule that exempts engineers and land surveyors residing in other countries from the requirements of completing continuing professional development. With the advent of online professional development offerings, this exemption is no longer needed.

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 2, 2017 Idaho Administrative Bulletin, [Vol. 17-8, page 30-31](#).

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

There is no fiscal impact to the state general fund or the agency dedicated fund because the amendment does not increase or decrease the workload of the agency. The rule change will require more effort for licensees residing in other countries to obtain the required continuing professional development offerings of 30 professional development hours every two years.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Keith Simila at (208) 373-7210.

DATED this 10th day of October, 2017.

Keith Simila, P.E.  
Executive Director  
1510 Watertower Street  
Meridian, Idaho 83642  
Telephone: (208) 373-7210  
Fax: (208) 373-7213  
E-mail: [keith.simila@ipels.idaho.gov](mailto:keith.simila@ipels.idaho.gov)



**THE FOLLOWING NOTICE 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:

**PUBLIC HEARING**  
**Wednesday, August 30, 2017 – 10:00 a.m.**

**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 repeals a section of the rule that exempts engineers and land surveyors residing in other countries from the requirements of completing continuing professional development. With the advent of online professional development offerings, this exemption is no longer needed.

**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 as a result of this rulemaking:

There is no fiscal impact to the state general fund or the agency dedicated fund because the amendment does not increase or decrease the workload of the agency. The rule change will require more effort for licensees residing in other countries to obtain the required continuing professional development offerings of 30 professional development hours every two years.

**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 7, 2017 Idaho Administrative Bulletin, [Volume 17-6, page 34](#).

**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 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 30, 2017.

DATED this 3rd day of July, 2017.

[LSO Rules Analysis Memo](#)



**THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0104-1701**

**009. EXEMPTIONS.**

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

**01. First Renewal Period.** New Licensees by way of examination or comity shall be exempt from compliance with these rules during the time between issuance of the license and the due date of their first renewal following the issuance of the license. (5-8-99)

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

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

**04. Retired.** A Licensee who has chosen "Retired" status shall be exempt from the professional development hours required. In the event such a person elects to return to active practice of professional engineering or professional land surveying, professional development hours must be earned before returning to active practice. Thirty (30) PDH's must be earned for an exempted period less than four (4) years prior to the reinstatement request date. The thirty (30) PDH's earned must be earned within the previous two (2) years of the reinstatement request date. Sixty (60) PDH's must be earned for exempted periods of four (4) years or more prior to the reinstatement request date. The sixty (60) PDH's must be earned within the previous four (4) years of the reinstatement request date. All PDH's earned must comply with the requirements of this chapter. (3-25-16)

**05. Expired License.** A Licensee who has chosen to allow his license to expire shall be exempt from the professional development hours required. In the event such a person elects to reinstate the license, professional development hours must be earned and documented before reinstating the license. The requirements for PDH's are the same as shown for retired licensees in Subsection 009.04. (3-25-16)

~~**06. Licensees Residing Outside the United States of America.** Licensees employed and residing outside the United States may delay the time required for fulfilling the continuing professional development requirements for a maximum of two (2) biennia or four (4) calendar years until the end of the six (6) month period beginning upon their return to the United States. This subsection shall not apply to permanent non-residents of the United States. (4-4-13)~~

## **IDAPA 12 – DEPARTMENT OF FINANCE**

### **12.01.10 – RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT**

**DOCKET NO. 12-0110-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 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 4, 2017, Idaho Administrative Bulletin, [Vol.17-10, pages 191-192](#).

**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 Anthony Polidori at (208) 332-8084.

DATED this 27th day of October, 2017.

Anthony Polidori  
Supervising Examiner/Investigator  
Department of Finance  
800 Park Blvd.  
P.O. Box 83720  
Boise, ID 83720-0031  
Office: (208) 332-8084  
Fax: (208) 332-8099

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 26-31-103(2)(b), 26-31-204(5), 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 18, 2017.

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: 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 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 Anthony Polidori at (208) 332-8084.

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 25, 2017.

DATED this 31st day of August, 2017.

[\*\*LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis\*\*](#)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 12-0110-1701**

**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, 2017~~8~~. 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>. ~~(3-29-17)~~( )

**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, 2017~~8~~. Regulation X is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/CFR-2017-title12-vol8/xml/CFR-2017-title12-vol8-part1024.xml>. ~~(3-29-17)~~( )

**03. The Truth in Lending Act.** As set forth in 15 U.S.C. 1601, et seq., as amended to and including January 1, 2017~~8~~. 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>. ~~(3-29-17)~~( )

**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, 2017~~8~~. Regulation Z is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/CFR-2017-title12-vol9/xml/CFR-2017-title12-vol9-part1026.xml>. ~~(3-29-17)~~( )

**05. NMLS Policy Guidebook.** The Conference of State Bank Supervisors/American Association of Residential Mortgage Regulators NMLS Policy Guidebook for Licensees, published by the Nationwide Mortgage Licensing System and Registry as of July 23, 2012, and available at <http://mortgage.nationwidelicingsystem.org/slr/common/policy/Pages/default.aspx>. (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 15 – OFFICE OF THE GOVERNOR  
DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

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

**DOCKET NO. 15-0401-1701**

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

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 2018 Idaho State Legislature for final approval. The pending rules become 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 Section 67-5309, Idaho Code.

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

There are no changes to the pending rules and they are being adopted as originally proposed. The complete text of the proposed rules was published in the November 1, 2017 Idaho Administrative Bulletin, [Vol. 17-11, pages 81-90](#).

**FISCAL IMPACT:** There is no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Shelli Boggie, DHR Consultant, (208) 854-3083.

DATED this 24th day of November, 2017.

Susan E. Buxton  
Administrator  
304 North 8th Street  
P.O. Box 83720  
Boise, ID 83720-0066  
[Susan.Buxton@dhr.idaho.gov](mailto:Susan.Buxton@dhr.idaho.gov)  
Phone: (208) 334-2263  
Fax: (208) 854-3088

<p><b>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE</b></p>
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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 67-5309, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 15, 2017.

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:

Deleting references to “provisional appointment,” which has not been used since 2004 and used only seven times from 1990 – 2004; deleting references to a specific company, Hay Management Consultants; deleting reference to coordination of recruitment with Director of Department of Labor as it is redundant and the applicant tracking system at Labor is being returned to the Division of Human Resources; and amending approval for closure of state offices or state facilities, or both, due to weather or other disruptions.

**FEE SUMMARY:** N/A

**FISCAL IMPACT:** There will be no fiscal impact, positive or negative, as a result of this rulemaking.

**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 September 6, 2017 Idaho Administrative Bulletin, [Vol. 17-9, page 100](#).

**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 rules, contact Shelli Boggie, DHR Consultant, (208) 854-3083.

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 November 22, 2017.

DATED this 28th day of September, 2017.

[LSO Rules Analysis Memo](#)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0401-1701**

**010. DEFINITIONS -- A THROUGH E.**

Each of the terms defined in these rules have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

**01. Administrative Leave.** Temporary paid leave from a job assignment where pay and benefits remain intact. (3-20-14)

**02. Administrator.** The Administrator of the Division of Human Resources in the Office of the Governor or delegate for those responsibilities assigned by the administrator to a specific appointing authority. (5-8-09)

**03. Agency Classification.** A classification of positions unique to an agency. (5-8-09)

**04. Allocation.** The assignment of a classification to a pay grade in the compensation schedule. (3-16-04)

**05. Appeal.** Any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest. (3-16-04)

**06. Appellant.** An employee, appointing authority, or applicant filing an appeal or a petition for review with the Commission. (3-16-04)

**07. Appointing Authority.** The officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to hire, dismiss or otherwise significantly impact the employment status of individuals in any agency. (Ref. Section 67-5302(3), Idaho Code) (5-8-09)

**08. Appointment, Limited.** The appointment of a person to a classified position where the work is projected to be of limited duration, for which the person has qualified by examination. (3-16-04)

**09. Appointment, Nonclassified.** The appointment of a person to a position exempt from the application of these rules by the provisions of Section 67-5303, Idaho Code. (7-1-87)

**10. Appointment, Permanent.** The appointment of a person to a classified position who has been certified by the appointing authority to have successfully completed the required probationary period and whose employment is permanent, subject to removal or discipline only under the provisions of Title 67, Chapter 53, Idaho Code, and the rules of the Division of Human Resources and Idaho Personnel Commission. (3-16-04)

**11. Appointment, Probationary.** The appointment of a person to a classified position for which the person has qualified by examination but is serving a work trial period as a condition for certification to permanent appointment. (4-5-85)

**12. Appointment, Project Exempt.** The appointment of a person to a nonclassified position established under federal grants, which by law restricts employment eligibility to specific individuals or groups on the basis of non-merit selection requirements. (Ref. Section 67-5303(m), Idaho Code) (3-16-04)

~~**13. Appointment, Provisional.** The appointment of a person to a position in classified service for which the person has not qualified by examination pending the establishment of a register for the classification of such position. (3-16-04)~~

**143. Appointment, Seasonal.** An appointment to a regular position in classified service with intermittent work periods defined by a season (summer, fall winter, spring, holiday or harvest). (Ref. Section 67-5302(32), Idaho Code) (3-29-17)

**154. Appointment, Temporary.** The appointment of a person to a nonclassified position which is of a limited duration, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve-month (12) period for any one (1) agency. Temporary appointments may occur for intermittent periods of time and include recurring assignments. (Ref Section 67-5302(33), Idaho Code) (5-8-09)

**165. Base Pay.** The rate paid for performing a job, excluding bonuses, shift differentials, overtime or other compensation premiums. (5-8-09)

**176. Certifiable Range.** An examination score and a rank on an eligibility register sufficiently high to be among the top twenty-five (25) available names, plus names of all individuals with scores identical to the twenty-fifth ranking eligible, for certification to fill a position in the classification for which the register was established. (4-7-11)

**187. Classified Service.** That body of positions in state agencies subject to Title 67, Chapter 53, Idaho Code, as defined therein and excludes temporary, project exempt, and nonclassified appointments. (5-8-09)

**198. Commission.** As utilized in these rules, refers to the Idaho Personnel Commission as established in Section 67-5307, Idaho Code. (5-8-09)

**2019. Compensation Plan.** The overall system of salary administration for classified service including Sections 67-5309B and 67-5309C, Idaho Code; the classification and compensation schedules, Division of Human Resources and Idaho Personnel Commission rules and policies, and agency policies governing employee pay. (5-8-09)

**240. Compensation Schedule.** The pay grades established by the Division of Human Resources and associated rates of pay. (Ref. Section 67-5309B, Idaho Code) (5-8-09)

**221. Consultant.** An independent contractor who provides professional or technical advice, counsel, or service. (Ref. Rule 050) (5-8-09)

**232. Disabled Veteran.** Those veterans separated under honorable conditions who: (3-20-14)

a. Have served on active duty in the armed forces and have a current service-connected disability rating of ten percent (10%) or more or are receiving compensation related to a service-connected disability including retirement benefits or pension from the military or the department of veterans affairs; or (3-20-14)

b. Are Purple Heart recipients. (Ref. Section 65-502(4), Idaho Code) (3-20-14)

**243. Dismissal.** The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Rule 190. (5-8-09)

**254. Due Process.** As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard. (Ref. Section 67-5315, Idaho Code) (3-16-04)

**265. Employment History.** The information available to the public without the employee's consent in accordance with Section 74-106, Idaho Code, for every agency for which a current or former public official works, including the official reasons for separation from employment but not including accrued leave balances or usage. (5-8-09)

**(BREAK IN CONTINUITY OF SECTIONS)**



**040. NONCLASSIFIED EMPLOYEES SUBJECT TO CLASSIFIED SERVICE SUBSEQUENT TO APRIL 5, 1985.**

The provisions of this rule shall apply to all employees exempt from classified service who, subsequent to April 5, 1985, become subject to the provisions of Chapter 53, Title 67, Idaho Code. (3-30-01)

**01. Probationary Period.** A nonclassified employee brought under classified service under Rule 040 must serve a probationary period appropriate for the classification assigned to the employee's position. Service uninterrupted by resignation, termination, or dismissal immediately prior to inclusion in classified service shall be considered as probationary service. (3-16-04)

**02. Certification to Permanent Status.** An employee who has completed a probationary period as required above and who is certified in writing by the appointing authority as serving satisfactorily shall be certified to permanent status without examination. (3-30-01)

**03. Examination.** An employee who has not completed a classified entrance probationary period as required above shall be required to meet the minimum qualifications by passing an examination for the classification assigned to the employee's position. Prior to passing such examination, the employee's status shall be provisional  
The employee will be hired from a hiring list and serve a period of entrance probation. (3-16-04)( )

**04. Separation.** An employee who is not certified by the appointing authority as serving satisfactorily shall be separated from state service no later than thirty (30) calendar days after inclusion in classified service. An employee who fails to pass the examination or had an opportunity to have such examination and not availed himself or herself thereof shall be separated no later than thirty (30) calendar days after the establishment of an adequate register of eligibles. (3-30-01)

**05. Salary Protection.** If the salary of an employee, brought under classified service under Rule 040, is greater than the highest rate of the pay grade of the classification to which assigned, the employee's salary shall be protected; to the maximum of their new paygrade. (3-16-04)

**(BREAK IN CONTINUITY OF SECTIONS)**

**074. ASSIGNMENT OF HAY EVALUATION POINTS.**

**01. Assignment to Pay Grade.** Pursuant to Sections 67-5309B and C, Idaho Code, the pay grade to which a classification is assigned shall be determined by the number of Hay evaluation points assigned to each classification. (3-16-04)

**02. Guide Charts.** The Hay evaluation points assigned to a classification shall be the composite numerical value of points factored from the Hay guide charts. (3-16-04)

**03. Factoring Benchmarks.** The established factoring benchmarks correlated by Hay Management Consultants shall be used in conjunction with the Hay Guide Charts to determine the number of points assigned to a classification. (3-16-04)( )

**04. Factoring Process.** Hay evaluation points shall be assigned to a classification through the following methods, which may be used separately or in combination with the others: (3-16-04)

**a. Factoring Session.** The administrator shall determine the membership of a factoring committee and schedule a factoring session in which the appointing authority or designee may present both oral and written information concerning the classification to be factored. The factoring committee shall assign Hay evaluation points in accordance with Rule 074 and the administrator shall notify the appointing authority in writing of the decision of the factoring committee. The appointing authority may request an issue conference with the factoring committee and present their perspective on the assigned points. The factoring committee may affirm or modify the assigned points. The administrator will provide a letter to the appointing authority stating the outcome of the issue conference.

(3-16-04)

~~b. Hay Management Consultants. After consultation with the appointing authority, the administrator may refer the classification to Hay Management Consultants for a factoring analysis. (3-16-04)~~

**05. Approval.** After consultation with the administrator of the Division of Financial Management for approval regarding potential fiscal impacts, the administrator of the Division of Human Resources shall have final approval of the Hay evaluation points assigned to each classification. These points are final unless appealed in accordance with Section 67-5316, Idaho Code. (3-16-04)

**(BREAK IN CONTINUITY OF SECTIONS)**

**080. RECRUITMENT.**

The administrator will cooperate with the appointing authority of each agency ~~and with the director of the Department of Labor~~ in the operation of a coordinated recruiting program. (5-8-09)

**(BREAK IN CONTINUITY OF SECTIONS)**

**111. ADEQUATE REGISTERS.**

A register with at least five (5) eligible candidates is adequate. If no register exists or if there are less than five (5) eligible candidates, appointing authorities may: (5-8-09)

**01. Selection from Inadequate Register.** Hire an eligible candidate listed on an inadequate register. (3-30-01)

~~02. Provisional Appointment. Make a provisional appointment pursuant to Rule 119.04. (5-8-09)~~

~~03. Request Certification. Request the administrator authorize certification from an eligibility register for a comparable classification. (3-16-04)~~

**04. Special Request.** Request specialized recruitment. (3-30-01)

**(BREAK IN CONTINUITY OF SECTIONS)**

**119. APPOINTMENTS, REINSTATEMENTS, TRANSFERS, AND RESIGNATIONS.**

**01. Reemployment Preference Register.** New appointments to a classification within an agency are not permissible if there is an agency reemployment preference register (Ref. Rule 101.01) for that classification with names of eligibles who are willing to accept employment. (5-8-09)

**02. Probationary Period Required.** All appointments to positions in the state classified service whenever adequate eligibility registers exist for the classification are probationary appointments except as otherwise provided in Rules 040 and 150. (5-8-09)

~~03. Provisional Appointment. (7-1-93)~~

~~a. A provisional appointment may be authorized in the absence of an adequate register. (Ref. Section 67-5309(k), Idaho Code) (5-8-09)~~

~~b. In nominating a person for provisional appointment, the appointing authority will transmit to the administrator an application for employment of the nominee. If the applicant meets the minimum qualifications~~

~~established for the classification, the nominee may be provisionally appointed to fill an existing vacancy in a position for no longer than thirty (30) calendar days after establishment of an adequate register. Successive provisional appointments of the same individual or successive provisional appointments to the same position will not be permitted unless specifically authorized by the administrator.~~ (3-16-04)

~~e. Provisional incumbents will be given opportunity to take the examination for the classification of position. Any provisional employee who fails to pass such an examination within certifiable range or who has an opportunity to take such an examination and has not done so will be separated no later than thirty (30) calendar days after the establishment of an adequate register of eligibles.~~ (3-16-04)

**(BREAK IN CONTINUITY OF SECTIONS)**

**143. REDUCTION IN FORCE DETERMINATION AND NOTIFICATION.**

**01. Identification of Classifications.** The appointing authority will identify the classification of positions to be reduced or eliminated. (5-8-09)

**02. Calculation of Retention Points.** Retention points will be calculated for all employees assigned to the classification of position including those serving in underfill positions. Retention points need not be calculated where layoff involves a single-incumbent class. (5-8-09)

**03. Order of Reduction in Force.** The order of reduction in force will be by type of appointment held by the employee in the affected classification as follows: first to be laid off are ~~provisional appointees, next~~ the entrance probationary appointees, and then the permanent appointees including those serving a voluntary probation. Employees will be placed on the layoff list beginning with the employee with the highest number of retention points. Employee layoffs will be made from the layoff list in inverse order. When two (2) or more employees have the same combined total of retention points, retention will be determined in the following sequence: (Ref. Rule 150.02.c.) (5-8-09)( )

a. The employee with the highest total retention points for the past thirty-six (36) months. (3-16-04)

b. Random selection. (4-5-85)

**04. Notification to Affected Employees.** Each employee affected will be notified in writing of layoff and the rationale for the decision at least fifteen (15) calendar days prior to the effective date. Notification will include a copy of the agency layoff procedure and a copy of the computation of retention points when required (Ref. Rule 143.02). (5-8-09)

**05. Notification to Administrator.** The appointing authority must give written notice of layoff to the administrator at least fifteen (15) calendar days prior to its effective date and must provide a list of persons affected by the layoff with their retention point calculations and must indicate which employees will be laid off. (5-8-09)

**(BREAK IN CONTINUITY OF SECTIONS)**

**150. PROBATIONARY PERIODS.**

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

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

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

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

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

**03. Extension of Probationary Period.** Upon written request demonstrating good cause, the administrator may extend the probationary period of an employee for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. Extension must occur before an employee has worked one thousand forty (1,040) hours or two thousand eighty (2,080) hours for peace officers. (Ref. Section 67-5309(j), Idaho Code) (5-8-09)

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

**05. Temporary Service Credit.** At the request of the hiring agency, the administrator will allow temporary service time in a given classification to be used toward fulfilling the entrance probationary requirement in that classification as established in Section 67-5309(j), Idaho Code. The temporary duties must be substantially the same as the regular permanent appointment. (Ref. Section 67-5309(x), Idaho Code, and Rules 122 and 150.01) (3-29-12)

**06. Acting Service Credit.** At the request of the hiring agency, the administrator will allow acting appointment service time in a given classification to be used toward fulfilling the promotional probationary requirement in that classification as established in Section 67-5309(j), Idaho Code. The acting appointment duties must be substantially the same as the regular permanent appointment. (Ref. Section 67-5309(y), Idaho Code, and Rules 129 and 150.01) (3-29-12)

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. PROBLEM-SOLVING AND DUE PROCESS PROCEDURES.**

**01. Overview of Procedures.** (3-30-01)

**a.** The due process procedure deals with the disciplinary matters set forth in Section 67-5315(2), Idaho Code, dismissals, suspensions without pay, and demotions, and with all involuntary transfers. The due process procedure generally requires the employee receive notice and an opportunity to respond before a disciplinary decision or involuntary transfer is made by the agency. Decisions regarding disciplinary dismissals, suspensions without pay, and demotions may be appealed in accordance with Rule 201. (5-8-09)

**b.** The problem-solving procedure deals with all matters not specifically reserved for the due process procedure. Problem solving decisions may not be appealed to the Commission except as authorized by Section 67-5316, Idaho Code. (5-8-09)

**02. Establishment of Agency Problem-Solving and Due Process Procedures.** Each participating agency must maintain written employee problem-solving and due process procedures, which have been approved by the administrator for conformity to law and Rule 200. (5-8-09)

**03. Eligibility and Time for Filing Under Problem-Solving Procedure.** Any classified employee with permanent, ~~provisional~~ or entrance probationary status may file under the problem-solving procedure as defined by Section 67-5315(1), Idaho Code. An employee must file under the problem-solving procedure in writing not later than ten (10) working days after being notified or becoming aware of a nondisciplinary matter which may be handled through the problem-solving procedure; however, if the filing alleges an ongoing pattern of harassment or illegal discrimination, the agency is strongly encouraged to waive any time limits. The time limit for filing will be extended due to the employee's illness or other approved leave, up to ten (10) days after return to the job. The agency may accept a filing that is or appears to be filed late. Agency policies may provide for waiver of time elements or any intermediate step of the problem-solving procedure upon mutual agreement of the employee and appointing authority. (5-8-09) ( )

**04. Elements of the Problem-Solving Procedure.** The procedure must contain a statement from the agency head encouraging employees to use the procedure for any nondisciplinary, job-related matters, and encouraging the employee, supervisors, and upper-level managers and administrators to resolve the matter at the lowest management level possible within the organization. The statement must also provide a means whereby agency representatives can obtain timely authority, if needed, to resolve the matter. The procedure must require the employee to make a reasonable attempt to discuss the issue with the immediate supervisor before filing. After a written filing is received, the procedure must provide for such additional levels of management within the employee's chain of command as are appropriate in the agency. The procedure must also provide for the use of an impartial mediator upon agreement by the employee and agency. Timelines must not exceed five (5) working days between each step unless both the employee and the agency agree, in writing, to a specific number of days to extend the timelines herein, not to exceed thirty (30) days between each step. The procedure must also inform the employee that he is entitled to be represented by a person of the employee's own choosing at each step of the procedure, except the initial informal discussion with the immediate supervisor. Two (2) or more employees may join in a single filing under the problem-solving procedure. Retaliation for filing under the problem-solving procedure, for participating as a witness, or representative is expressly prohibited. This procedure does not apply to unsatisfactory performance during entrance probation (Ref. Sections 67-5309(j), 67-5315(1)(4), Idaho Code, and Rule 152). (3-29-17)

**05. Filings Alleging Sexual Harassment or Other Illegal Discrimination.** Each agency's problem-solving procedure must provide an optional alternative procedure for an employee to file allegations of sexual harassment or discrimination based on race, color, sex, national origin, religion, age, or disability. The procedure must expressly prohibit sexual harassment and discrimination. Employees must be informed of their right to file complaints with the Idaho Human Rights Commission. The alternative procedure must designate a specific person or persons to receive and investigate such filings, and must require that the investigation and resolution of them be conducted with maximum regard for confidentiality. (5-8-09)

**06. Elements of Due Process Procedure.** An agency must provide notice and an opportunity to respond before making a decision to impose any disciplinary sanction or involuntary transfer, as set forth in Section 67-5315(2), Idaho Code. With respect to notice, an agency must provide notice of the contemplated action, the basis or reason for the contemplated action, and an explanation of the evidence supporting the contemplated action. The notice must be provided to the employee and administrator concurrently. With respect to the opportunity to respond, the employee must be given the opportunity to respond to the notice and present reasons why the contemplated action should not be taken. The opportunity to respond must not occur later than ten (10) working days after the employee has received notice, unless both the employee and agency agree otherwise in writing. After the employee has responded, or after the period to respond has expired or has been waived in writing by the employee, whichever occurs first, the appointing authority, or designee, must make and implement the agency's decision not later than ten (10) working days thereafter, excluding days the appointing authority, or designee, is out of the office, unless both the employee and agency agree otherwise in writing. The procedure must inform the employee of his right to be represented by a person of the employee's own choosing during the opportunity to respond. The procedure must also provide for the use of an impartial mediator upon agreement by the employee and agency. The procedure does not apply to unsatisfactory performance during entrance and promotional probation (Ref. Sections 67-5309(j), 67-5315(2), Idaho Code, and; Rules 150 through 153). The due process procedure is complete when the appointing authority, or designee, mails or delivers a decision to the affected employee. The decision must also be sent to the

administrator concurrently. (5-8-09)

**07. Notification.** A copy of the approved problem-solving and due process procedures must be furnished and explained to each employee with permanent, *provisional* or entrance probationary status in the agency concerned. (5-8-09)

**08. Assistance to Agencies.** The administrator will assist agencies whenever requested in the development or revision of their agency problem-solving and due process procedures. (5-8-09)

**(BREAK IN CONTINUITY OF SECTIONS)**

**250. SPECIAL LEAVES.**

**01. Leave of Absence Without Pay.** (7-1-93)

**a.** Approval. In addition to workers' compensation, family medical leave, disability, or other statewide leave policies, the appointing authority may grant an employee leave without pay for a specified length of time when such leave would not have an adverse effect upon the agency. The request for leave must be in writing and must establish reasonable justification for approval. (5-8-09)

**b.** Reemployment. The appointing authority approving the leave of absence assumes full responsibility for returning the employee to the same position or to another position in a classification allocated to the same pay grade for which the employee meets minimum qualifications. (7-1-87)

**c.** Exhaustion of Accrued Leave. Unless prohibited by workers compensation, family medical leave, disability, or other statewide leave policies, the appointing authority has discretion on whether the employee is required to exhaust accrued vacation leave or compensatory time off for overtime before commencing leave without pay. (Ref. Rule 240) (3-29-17)

**d.** Resignation. If vacation leave and compensatory time off for overtime are not exhausted and the employee resigns from state service while on leave, he will be paid for such accruals in accordance with Sections 67-5334 and 67-5328, Idaho Code. (3-29-17)

**02. Leave Defaults.** When an employee does not have accrued sick leave to cover an entire absence the following leave types will be used to the extent necessary to avoid leave without pay: accrued compensatory time and vacation. If abuse of sick leave is suspected see Rule 240.07. (5-8-09)

**03. Military Leave With Pay.** Employees who are members of the National Guard or reservists in the armed forces of the United States engaged in military duty ordered or authorized under the provisions of law, are entitled each calendar year to one hundred twenty (120) hours of military leave of absence from their respective duties without loss of pay, credited state service or evaluation of performance. Such leave is separate from vacation, sick leave, holiday, or compensatory time off for overtime. (Ref. Section 46-216, Idaho Code). (5-8-09)

**04. Military Leave Without Pay.** An employee whose employment is reasonably expected to continue indefinitely, and who leaves his position either voluntarily or involuntarily in order to perform active military duty, has reemployment rights as defined in Rule 124.05. The employee will either be separated from state service or placed in "inactive" status, at the option of the appointing authority. (5-8-09)

**05. Leave of Absence With Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee is compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following leaves: (5-8-09)

**a.** Vacation leave; (5-8-09)

**b.** Sick leave; (5-8-09)



- c. Special leave situations; (3-20-14)
- d. Compensatory time off for overtime worked; and (3-20-14)
- e. Administrative leave. (3-20-14)
- 06. Court and Jury Services and Problem-Solving and Due Process Leave. (7-1-98)**

a. Connected with Official State Duty. When an employee is subpoenaed or required to appear as a witness in any judicial or administrative proceeding in any capacity connected with official state duty, he is not considered absent from duty. The employee is not entitled to receive compensation from the court. Expenses (mileage, lodging, meals, and miscellaneous expenses) incurred by the employee must be reimbursed by his respective agency in accordance with agency travel regulations. (5-8-09)

b. Private Proceedings. When an employee is required to appear as a witness or a party in any proceeding not connected with official state duty, the employee must be permitted to attend. The employee may use accrued leave or leave without pay. (5-8-09)

c. Jury Service. When an employee is summoned by proper judicial authority to serve on a jury, he will be granted a leave of absence with pay for the time which otherwise the employee would have worked. The employee is entitled to keep fees and mileage reimbursement paid by the court in addition to salary. Expenses in connection with this duty are not subject to reimbursement by the state. (5-8-09)

d. Problem-solving and due process procedures. Any employee who has been requested to serve as a mediator as provided by an agency problem-solving or due process procedure or to appear as a witness or representative during such a proceeding will be granted leave with pay, without charge to vacation leave or compensatory time off for overtime, to perform those duties. (5-8-09)

e. Notification. An employee summoned for court and jury service or requested to serve as a witness or representative must notify his supervisor as soon as possible to obtain authorization for leave of absence. (3-20-14)

**07. Religious Leave.** Appointing authorities will make reasonable accommodations to an employee's need for leave for religious observances. Such leave is charged to the employee's accrued vacation leave or compensatory time off for overtime. (5-8-09)

**08. Leave During Facility Closure or Inaccessibility. (7-1-93)**

a. Authorization. When a state office/facility is closed or declared inaccessible by the Governor or Governor's designee because of severe weather, civil disturbances, loss of utilities or other disruptions, affected employees are authorized administrative leave to cover their scheduled hours of work during the closure or inaccessibility. If an employee was not scheduled to work on the day when an office/facility is declared closed, the employee is not eligible for administrative leave. (3-20-14)( )

~~b. Early release. When the appointing authority or designated representative authorizes early release of employees, the resulting time off will be charged to administrative leave. (3-20-14)~~

b. In the interest of employee safety, appointing authorities may approve employee early release, delayed start time, or absence from work due to weather or other emergency conditions. Those affected employees will use their appropriate accrued leave balances or leave without pay. Administrative leave will be granted to affected employees scheduled to work on a day the Governor or Governor's designee declares a state office/facility closed or inaccessible in accordance with Rule 250.08.a. ( )

**09. Red Cross Disaster Services Leave.** Employees who have been certified by the American Red Cross as disaster service volunteers will be granted up to one hundred twenty (120) hours of paid leave in any twelve (12) month period to participate in relief services pursuant to Section 67-5338, Idaho Code. (5-8-09)

**10. Employee Assistance Program Leave.** Employees may use sick leave or any paid or unpaid leave as approved to attend appointments through the Employee Assistance Program (EAP) during normal working hours. (3-29-17)

**11. Bone Marrow and Organ Donor Leave With Pay.** (5-8-09)

**a.** Approval. Upon request, a full-time employee will be granted five (5) work days' leave with pay to serve as a bone marrow donor or thirty (30) work days' leave with pay to serve as an organ donor. The employee must provide the appointing authority with written verification that the employee is the person serving as the donor. Paid leave, as provided in these rules, is limited to one-time bone marrow and one-time organ donor leave per employee. (Ref. Section 67-5343, Idaho Code) (5-8-09)

**b.** Use. An employee who is granted such leave of absence will receive compensation without interruption during the leave period. For purposes of determining credited state service, pay advancement, performance awards, or any benefit affected by a leave of absence, the service of the employee is considered uninterrupted by the paid leave of absence. (Ref. Section 67-5343, Idaho Code) (5-8-09)

**251. ADMINISTRATIVE LEAVE.**

**a.** Administrative leave may be granted by an appointing authority for employee investigations, and due process procedures, in accordance with Rule 190.02. ( )

**b.** Administrative leave for closure or inaccessibility of a state office/facility due to severe weather, emergencies or incidents that could jeopardize agency operations, or the safety of others must be granted in accordance with Rule 250.08. ( )

**c.** Administrative leave for ~~other~~ reasons other than those listed above must be approved in advance ~~(3-20-14)~~ ( ) by the administrator.



**IDAPA 17 – IDAHO INDUSTRIAL COMMISSION**  
**17.02.04 – ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION**  
**UNDER THE WORKERS' COMPENSATION LAW -- BENEFITS**

**DOCKET NO. 17-0204-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 17-508, 72-1103, and 72-1104, 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 November 1, 2017 Idaho Administrative Bulletin, [Vol. 17-11, pages 91-92](#).

**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 negative fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Nick Landry, Fiscal Manager, (208) 334-6042.

DATED this 22nd day of November 2017.

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

<p><b>THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE</b></p>
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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 72-508, 72-1103, and 72-1104, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 15, 2017.

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 change in rule eliminates situational eligibility for officers subsequent to July 1, 2015.

**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 this rule change is necessary to conform to statute.

**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 Nick Landry, Fiscal Manager, (208) 334-6042.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 22, 2017.

DATED this 20th day of September, 2017.

**LSO Rules Analysis Memo**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0204-1701

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

**01. Eligibility.** An employer who has paid the full base salary due to a peace officer or detention officer, as defined in Section 72-1103, Idaho Code, may apply for reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund under the provisions of Section 72-1104, Idaho Code, for the amount of that salary not covered by the workers' compensation income benefit payments remitted to the employer during the time that such officer is: (5-8-09)

a. Temporarily incapacitated and unable to perform employment duties; (5-8-09)

b. Is otherwise eligible to receive workers' compensation benefits; and (5-8-09)

c. Is one whose incapacitating injury was incurred in the performance of employment duties on or after July 1, 2008, either: (5-8-09)

i. When responding to an emergency; or (5-8-09)

ii. When in the pursuit of an actual or suspected violator of the law; or (4-4-13)

iii. The injury was caused by the actions of another person after July 1, 2012 ~~and before July 1, 2015.~~ (4-4-13) ( )

**02. Application.** An employer eligible to seek reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund shall make application on the form provided by the Commission for that purpose. Applications shall be sent to: Idaho Industrial Commission, ATTN: Peace Officer Fund, PO Box 83720, Boise, Idaho 83720-0041. (5-8-09)

**03. Payments.** Payments to employers requesting reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund shall be made within thirty (30) days of receipt of an approved request for reimbursement, subject to the availability of money in that fund. (5-8-09)

**04. Disputes.** Disputes regarding eligibility for reimbursement from The Peace Officer and Detention Officer Temporary Disability Fund will be decided by the Commission upon written request by the employer. There is no appeal from the reimbursement dispute decisions of the Commission under this section. Disputes regarding eligibility of an injured peace officer or detention officer for workers' compensation benefits, including the continuation of salary benefit set out in Section 72-1104, Idaho Code, will be decided in accordance with the Commission's current rules and procedures governing disputes in all other workers' compensation claims. (5-8-09)

**IDAPA 17 – IDAHO INDUSTRIAL COMMISSION**  
**17.02.07 – PROCEDURES TO OBTAIN COMPENSATION**  
**DOCKET NO. 17-0207-1701**  
**NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 17-508, 72-1103, and 72-1104, 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 November 1, 2017 Idaho Administrative Bulletin, [Vol. 17-11, pages 95-97](#).

**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 negative fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

DATED this 22nd day of November 2017.

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

<p><b>THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE</b></p>
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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 72-508, 72-432, 72-448, 72-602, 72-701 and 72-806, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 15, 2017.

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 rule is necessary to extend the implementation date for EDI Claims Release 3.0 an additional four months, from July 1, 2017 to November 4, 2017, to allow trading partners the amount of time necessary for testing and development of their reporting systems to adapt to the new reporting requirements.

**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 of the need for temporary rulemaking. The temporary rule under this same docket number published in the May 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, pages 71-73](#). It is necessary to extend the implementation date from July 1, 2017 to November 4, 2017, allowing affected companies additional time to adapt and test their operating systems to the new standard for reporting of worker's compensation claims data to the Industrial Commission under EDI Release 3.0.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

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 November 22, 2017.

DATED this 20th day of September, 2017.

[LSO Rules Analysis Memo](#)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0207-1701**

**012. SUBMISSION OF FIRST REPORTS OF INJURY AND CLAIMS FOR COMPENSATION TO THE INDUSTRIAL COMMISSION.**

**01. Purpose.** The Industrial Commission seeks to develop a form for reporting work-related injuries and occupational diseases that is compatible with emerging standards for electronic submission of data. This will allow for more timely entry of information into the database system from which statistical reports are generated by the Commission, reduce the paper that the Commission currently receives, and is expected to reduce the cost of reporting for insurance carriers, employers and the Commission. (3-25-16)

**02. Procedure for Submitting Claims.** (3-25-16)

**a.** FROI Reporting Prior to EDI Mandate. Prior to ~~July 1, 2017~~ November 4, 2017, all FROI information shall be submitted to the Commission on single-sided eight and one-half inch by eleven inch (8½" x 11") white paper in a format substantially similar to Form 1A-1. Form 1A-1 is available from the Benefits Bureau of the Industrial Commission or on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). At the Commission's discretion, claims may be submitted electronically in accordance with EDI Release 1.0 standards and any additional requirements of the Commission. ~~(3-25-16)~~ ( )

**b.** FROI & SROI EDI Reporting. The Commission will require electronic submission of a First Report of Injury (FROI), effective ~~July 1, 2017~~ November 4, 2017, and a Supplemental or Subsequent Report of Injury (SROI), effective ~~July 1, 2017~~ November 4, 2017, in accordance with IAIABC EDI Release 3.0 and the Commission's EDI Guides and Tables, for insurance carriers, in-state Claims Administrators, and self-insured employers, as those entities are not otherwise exempted by these rules. ~~(3-25-16)~~ ( )

**c.** Trading Partner Agreements. Before commencing electronic reporting, self-insured employers and insurance carriers shall sign a Trading Partner Agreement with the Commission, which must be approved by the Commission prior to initial data submission. This agreement will provide the effective date to send and receive electronic reports, which may be earlier but not later than the date above in Paragraph 012.02.b., the acceptable data to be sent and received, the method of transmission to be used, and other pertinent elements. To ensure the accuracy of reported data, the Commission may make periodic audits of insurance carrier and self-insured employer files. In the event that a Trading Partner Agreement is entered into by a claims administrator, notice to the Trading Partner of a FROI shall be deemed to be notice to the underlying insurance carrier or self-insured employer. (3-25-16)

**d.** FROI. Each electronic First Report of Injury (FROI) must comply with the formatting requirements of the IAIABC EDI Claims Release 3.0 Implementation Guide and Idaho Industrial Commission Claims EDI Implementation Guide & Tables, and must contain the information identified as mandatory or mandatory conditional, as applicable. (3-25-16)

**e.** SROI. Each electronic Supplemental or Subsequent Report of Injury (SROI) must comply with the formatting requirements of the IAIABC EDI Claims Release 3.0 Implementation Guide and the Idaho Industrial Commission Claims EDI Implementation Guide & Tables, and must contain the information identified as mandatory or mandatory conditional, as applicable. (3-25-16)

**f. Report Form and Content for Parties Exempt from EDI Requirements:** (3-25-16)

**i.** Individual injured workers, injured workers' legal counsel, and employers that are not insured are not required to comply with IAIABC EDI requirements for filing of the FROI and SROI. SROIs filed on legacy claims will not be accepted via IAIABC EDI Release 3.0 standards. (3-25-16)

**ii.** Employers that are not insured, individual injured workers, and injured workers' legal counsel shall

submit all FROI to the Commission on single-sided eight and one-half inch by eleven inch (8½" X 11") white paper in a format substantially similar to Form 1A-1. Form 1A-1 is available from the Benefits Bureau of the Industrial Commission or on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). (3-25-16)

iii. Employers that are not insured, individual injured workers, and injured workers' legal counsel, shall submit all SROI to the Commission on single-sided eight and one-half inch by eleven inch (8½" X 11") white paper in a format substantially similar to Form SROI-1. Form SROI-1 is available from the Benefits Bureau of the Industrial Commission or on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). (3-25-16)

**03. Retaining Claims Files.** All insurance carriers and their claims administrators shall maintain their respective claim files in accordance with IDAPA 17.02.10, "Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Insurance Carriers," Section 051. IDAPA 17.02.11, "Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Self-Insured Employers," Section 051. Upon request of the Commission, insurance carriers, claims administrators, or employers shall provide to the Commission, in whole or in part according to the request, a copy of the claim file at no cost to the Commission. (3-25-16)

a. All insurance carriers, claims administrators, or employers shall retain complete copies of claims files for the life of the claim or a minimum of five (5) years from the date of closure, whichever is shorter. (3-25-16)

b. For time-loss claims, closure will be the date upon which the insurance carrier, claims administrator, or employer files the final summary of payments, either as an appropriate EDI transaction, or as a hardcopy document for legacy claims. The Commission recommends that an insurance carrier, claims administrator, or employer retain a closed claim file for a minimum of five (5) years. (3-25-16)

**04. Filing Not an Admission.** Filing a claim is not an admission of liability and is not conclusive evidence of any fact stated therein. If a claim is submitted electronically, no signatures are required. (7-1-97)

**05. Filing Considered Authorization.** Filing of a claim shall be considered an authorization for the release of medical records that are relevant to or bearing upon the particular injury or occupational disease for which the claimant is seeking compensation. (7-1-97)

**06. Timely Response Requirement.** When the Commission requests additional information in order to process the Claim, the claimant or employer shall provide the requested information promptly. The Commission request may be either in writing or telephonic. (7-1-97)

**IDAPA 17 – IDAHO INDUSTRIAL COMMISSION**  
**17.02.08 – MISCELLANEOUS PROVISIONS**  
**DOCKET NO. 17-0208-1701**  
**NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 17-508, 72-1103, and 72-1104, 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 November 1, 2017 Idaho Administrative Bulletin, [Vol. 17-11, pages 98-99](#).

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

There is no negative fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

DATED this 22nd day of November 2017.

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



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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, and 72-806, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 15, 2017.

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

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

The Commission believes it important to clarify the regulations that define how benefits must be calculated and paid, and the time frame within which sureties must take certain actions. Without these changes, sureties may not know the Industrial Commission's expectations, and workers will not be protected against untimely payment.

This change would require that a worker receives notice of the acceptance, commencement, denial, reduction or cessation of medical or monetary compensation benefits to which the worker might presently or ultimately be entitled.

**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 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, pages 45-46](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

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 November 22, 2017.

DATED this 20th day of September 2017.

**LSO Rules Analysis Memo**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0208-1701

**061. RULE GOVERNING NOTICE TO CLAIMANTS OF STATUS CHANGE PURSUANT TO SECTION 72-806, IDAHO CODE.**

**01. Notice of Change of Status.** As required and defined by Idaho Code, Section 72-806, a worker shall receive written notice within fifteen (15) days of any change of status or condition, including, but not limited to, whenever there is an acceptance, commencement, denial, reduction, or cessation of medical or monetary compensation benefits to which the worker might presently or ultimately be entitled. Such notice is required when benefits are reduced to recoup any overpayment of benefits in accordance with the provisions of Section 72-316, Idaho Code. (4-7-11)( )

**02. By Whom Given.** Any notice to a worker required by Idaho Code, Section 72-806 shall be given by: the surety if the employer has secured Workers' Compensation Insurance; or the employer if the employer is self-insured; or the employer if the employer carries no Workers' Compensation Insurance. (4-7-11)

**03. Form of Notice.** Any notice to a worker required by Idaho Code, Section 72-806 shall be mailed within ten (10) days by regular United States Mail to the last known address of the worker, as shown in the records of the party required to give notice as set forth above. The Notice shall be given in a format substantially similar to IC Form 8, available from the Commission and posted on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). (4-11-15)

**04. Medical Reports.** As required by Idaho Code, Section 72-806, if the change is based on a medical report, the party giving notice shall attach a copy of the report to the notice. (4-7-11)

**05. Copies of Notice.** The party giving notice pursuant to Idaho Code, Section 72-806 shall send a copy of any such notice to the Industrial Commission, the employer, and the worker's attorney, if the worker is represented, at the same time notice is sent to the worker. The party giving notice may supply the copy to the Industrial Commission in accordance with the Commission's rule on electronic submission of documents. (3-25-16)

## **IDAPA 17 – IDAHO INDUSTRIAL COMMISSION**

### **17.02.10 – ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- SECURITY FOR COMPENSATION -- INSURANCE CARRIERS**

**DOCKET NO. 17-0210-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 17-508, 72-1103, and 72-1104, 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 November 1, 2017 Idaho Administrative Bulletin, [Vol. 17-11, pages 100-103](#).

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

There is no negative fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

DATED this 22nd day of November 2017.

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

<p><b>THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE</b></p>
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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 72-508, 72-408, and 72-806, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 15, 2017.

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

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

The Commission believes it important to clarify the regulations that define how benefits must be calculated and paid, and the time frame within which sureties must take certain actions. Without these changes, sureties may not know the Industrial Commission's expectations, and workers will not be protected against untimely payment.

This change would require sureties or third-party administrators to make an initial decision to accept or deny a claim for an injury or occupational disease within 30 days after the surety and/or third-party claims administrator receives knowledge of the same, in accordance with Section 72-806, Idaho Code; further, the change allows Temporary Partial Disability (TPD) payments to be calculated using the employee's pay period and establishes when TPD payments are due.

This language would 'mirror' the language in IDAPA 17.02.11 for Self-insureds.

**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 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, pages 48-49](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063. 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 November 22, 2017.

DATED this 20th day of September 2017.

**[LSO Rules Analysis Memo](#)**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0210-1701**

**010. DEFINITIONS.**

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

**01. Adjuster.** An individual who adjusts workers' compensation claims. (3-25-16)

**02. Claims Administrator.** An organization, including insurers, third party administrators, independent adjusters, or self-insured employers, that services workers' compensation claims. (3-25-16)

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

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

**(BREAK IN CONTINUITY OF SECTIONS)**

**051. REQUIREMENTS FOR MAINTAINING IDAHO WORKERS' COMPENSATION CLAIMS FILES.**

All insurance carriers and licensed adjusters servicing Idaho workers' compensation claims shall comply with the following requirements: (4-7-11)

**01. Idaho Office.** (4-7-11)

**a.** All insurance carriers and licensed adjusters servicing Idaho workers' compensation claims shall maintain an office within the state of Idaho. The offices shall be staffed by adequate personnel to conduct business. (4-7-11)

**b.** The insurance carrier shall authorize and require a member of its in-state staff or a licensed, resident claims adjuster to service and make decisions regarding claims pursuant to Section 72-305, Idaho Code. Answering machines, answering services, or toll free numbers outside of the state will not suffice. That authority shall include, but is not limited to, the following responsibilities: (3-25-16)

i. Investigate and adjust all claims for compensation; (4-7-11)

ii. Pay all compensation benefits due; (4-7-11)

iii. Accept service of claims, applications for hearings, orders of the Commission, and all process which may be issued under the Workers' Compensation Law; (4-7-11)

iv. Enter into compensation agreements and lump sum settlements with Claimants; and (4-7-11)

v. Provide at the insurance carrier's expense necessary forms to any worker who wishes to file a claim under the Workers' Compensation Law. (4-7-11)

**c.** As staffing changes occur and, at least annually, the insurance carrier or licensed adjuster shall submit to the Industrial Commission Secretary the names of those authorized to make decisions regarding claims pursuant to Section 72-305, Idaho Code. Each authorized insurance carrier shall designate only one (1) claims

administrator for each policy of workers' compensation insurance. (3-25-16)

**02. Claim Files.** All Idaho workers' compensation claim files shall be maintained within the state of Idaho in either hard copy or immediately accessible electronic format. Claim files shall include, but are not limited to: (4-7-11)

**a.** First Report of Injury and Claim for Benefits; (4-7-11)

**b.** Copies of bills for medical care; (4-7-11)

**c.** Copy of lost-time computations, if applicable; (4-7-11)

**d.** Correspondence reflecting reasons for any delays in payments (i.e., awaiting medical reports, clarification, questionable items on bills, etc.), the resolution of such delays and acceptance or denial of compensability; (4-7-11)

**e.** Employer's Supplemental Report; and (4-7-11)

**f.** Medical reports. (4-7-11)

**03. Correspondence.** All original correspondence involving adjusting decisions regarding Idaho workers' compensation claims shall be authorized from and maintained at in-state offices. (3-25-16)

**04. Date Stamp.** Each of the documents listed in Subsections 051.02 and 051.03 shall be date-stamped with the name of the receiving office on the day received, and by each receiving agent or vendor acting on behalf of the claims office. (4-7-11)

**05. Notice and Claim.** All First Reports of Injury, Claims for Benefits, notices of occupational illnesses and fatalities shall be sent directly to the in-state adjuster or insurance carrier. The original copy of the First Report of Injury, Claim for Benefits and notices of occupational illness and fatality shall be sent directly to the Industrial Commission. (4-7-11)

**06. Compensation.** All compensation, as defined by Section 72-102, Idaho Code, must be issued from the in-state office. (4-7-11)

**07. Checks and Drafts.** Checks must be signed and issued within the state of Idaho; drafts are prohibited. (4-7-11)

**a.** The Commission may, upon receipt of a written Application for Waiver, grant a waiver from the provisions of Subsections 051.06 and 051.07 of this rule to permit an insurance carrier to sign and issue checks outside the state of Idaho. (4-7-11)

**b.** An Application for Waiver must be accompanied by an affidavit signed by an officer or principal of the insurance carrier attesting to the fact that the insurance carrier is prepared to comply with all statutes and rules pertaining to prompt payments of compensation. (4-7-11)

**c.** All waivers shall be effective from the date the Commission issues the order granting the waiver. A waiver shall remain in effect until revoked by the Industrial Commission. At least annually, staff of the Industrial Commission may review the performance of any insurance carrier for which a waiver under this rule has been granted to assure that the insurance carrier is complying with all statutes and rules pertaining to prompt payments of compensation. (4-7-11)

**d.** If at any time after the Commission has granted a waiver, the Commission receives information permitting the inference that the insurance carrier has failed to provide timely benefits to any claimant, the Commission may issue an order to show cause why the Commission should not revoke the waiver; and, after affording the insurance carrier an opportunity to be heard, may revoke the waiver and order the insurance carrier to comply with the requirements of Subsections 051.06 and 051.07 of this rule. (4-7-11)

**08. Copies of Checks.** Copies of checks and/or electronically reproducible copies of the information contained on the checks must be maintained in the in-state files for Industrial Commission audit purposes. A copy of the first income benefit check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance. (3-25-16)

**09. Prompt Claim Servicing.** Prompt claim servicing includes, but is not limited to: (4-7-11)

**a.** Making an initial decision to accept or deny a claim for an injury or occupational disease within thirty (30) days after the claims administrator receives knowledge of the same. The worker shall be given notice of that initial decision in accordance with Section 72-806, Idaho Code. Nothing in this rule shall be construed as amending the requirement to start payment of income benefits no later than four (4) weeks or twenty-eight (28) days from the date of disability under the provisions of Section 72-402, Idaho Code. ( )

**b.** Payment of medical bills in accordance with the provisions of IDAPA 17.02.09, Medical Fees, Sections 031, 032, 033 and 034. (4-7-11)

**c.** Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. (4-7-11)

**i.** The first payment of income benefits under Section 72-408, Idaho Code, shall constitute application by the insurance carrier for a waiver to pay Temporary Total Disability (TTD) benefits on a bi-weekly basis, Temporary Partial Disability (TPD) benefits on other than a weekly basis, Permanent Partial Disability (PPD) benefits based on permanent impairment and Permanent Total Disability (PTD) benefits every twenty-eight (28) days, rather than on a weekly basis. ( )

**ii.** Such waiver application shall be granted upon receipt and remain in effect unless revoked by the Industrial Commission in accordance with Subparagraph 051.09.c.iii., below. ( )

**iii.** If at any time after a waiver has been granted pursuant to this section the Commission receives information permitting the inference that the insurance carrier has failed to service claims in accordance with Idaho law, or that such waiver has created an undue hardship on a claimant, the Commission may issue an order to show cause why the Commission should not revoke that waiver, and after affording the insurance carrier an opportunity to be heard, may revoke the waiver with respect to all or certain claimants and order the insurance carrier to comply with the requirements of Subsection 051.09.c. of this rule. ( )

**d.** Payment of the first Permanent Partial Disability (PPD) benefit based on permanent impairment no later than fourteen (14) days after receipt of the medical report providing the impairment rating. The first payment shall include payment of benefits retroactive to the date of medical stability. ( )

**e.** Temporary Partial Disability (TPD) payments shall be calculated using the employee's pay period, whether weekly, bi-weekly, or semi-monthly. For employees paid pursuant to any other schedule, TPD benefits shall be calculated semi-monthly. TPD payments owed for a particular pay period shall issue no later than seven (7) days following the date on which employee is ordinarily paid for that pay period. ( )

**10. Audits.** The Industrial Commission will perform periodic audits to ensure compliance with the above requirements. (4-7-11)

**11. Non-Compliance.** Non-compliance with the above requirements may result in the revocation of the authority of an insurance carrier to write workers' compensation insurance in the state of Idaho, or such lesser sanctions as the Industrial Commission may impose. (4-7-11)

## **IDAPA 17 – IDAHO INDUSTRIAL COMMISSION**

### **17.02.11 – ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- SECURITY FOR COMPENSATION -- SELF-INSURED EMPLOYERS**

**DOCKET NO. 17-0211-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 Section(s) 17-508, 72-1103 and 72-1104, 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 November 1, 2017 Idaho Administrative Bulletin, [Vol. 17-11, pages 104-107](#).

**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 negative fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Patti Vaughn, Benefits Administration Manager, and (208) 334-6063.

DATED this 22nd day of November 2017.

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



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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-408, and 72-806, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 15, 2017.

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

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

The Commission believes it important to clarify the regulations that define how benefits must be calculated and paid, and the time frame within which sureties must take certain actions. Without these changes, sureties may not know the Industrial Commission's expectations, and workers will not be protected against untimely payment.

This change would require self-insured employers or third-party administrators to make an initial decision to accept or deny a claim for an injury or occupational disease within 30 days after the self-insured employer and/or third-party claims administrator receives knowledge of the same, in accordance with Section 72-806, Idaho Code; further, the change allows Temporary Partial Disability (TPD) payments to be calculated using the employee's pay period and establishes when TPD payments are due.

This language would 'mirror' the language in IDAPA 17.02.10 for Insurance Carriers.

**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 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, pages 50-51](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063. 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 November 22, 2017.

DATED this 20th day of September, 2017.

**LSO Rules Analysis Memo**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0211-1701

**010. DEFINITIONS.**

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

**01. Adjuster.** An individual who adjusts workers' compensation claims. (3-25-16)

**02. Claims Administrator.** An organization, including insurers, third party administrators, independent adjusters, or self-insured employers, that services workers' compensation claims. (3-25-16)

**03. Compensation.** All benefits payable under the provisions of the Idaho Workers Compensation Law. (3-29-12)

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

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

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

**(BREAK IN CONTINUITY OF SECTIONS)**

**051. REQUIREMENTS FOR MAINTAINING IDAHO WORKERS' COMPENSATION CLAIMS FILES.**

All self-insured employers and licensed adjusters servicing Idaho workers' compensation claims shall comply with the following requirements: (4-7-11)

**01. Idaho Office.** All self-insured employers and licensed adjusters servicing Idaho workers' compensation claims shall maintain an office within the state of Idaho. The offices shall be staffed by adequate personnel to conduct business. The self-insured employer shall designate and require an Idaho licensed, resident adjuster to make decisions regarding claims pursuant to Section 72-305, Idaho Code. As staffing changes occur and, at least annually, the self-insured employer or licensed adjuster shall submit to the Industrial Commission Secretary the names of those authorized to make decisions regarding claims pursuant to Section 72-305, Idaho Code. Answering machines, answering services, or toll free numbers outside of the state will not suffice. (3-25-16)

**02. Claim Files.** All Idaho workers' compensation claim files shall be maintained within the state of Idaho in either hard copy or immediately accessible electronic format. Claim files shall include, but are not limited to: (4-7-11)

- a. First Report of Injury and Claim for Benefits; (4-7-11)
- b. Copies of bills for medical care; (4-7-11)
- c. Copy of lost-time computations, if applicable; (4-7-11)
- d. Correspondence reflecting reasons for any delays in payments (i.e., awaiting medical reports,

clarification, questionable items on bills, etc.), the resolution of such delays and acceptance or denial of compensability; (4-7-11)

e. Employer's Supplemental Report; and (4-7-11)

f. Medical reports. (4-7-11)

**03. Correspondence.** All original correspondence involving adjusting decisions regarding Idaho workers' compensation claims shall be authorized from and maintained at in-state offices. (3-25-16)

**04. Date Stamp.** Each of the documents listed in Subsections 051.02 and 051.03 shall be date-stamped with the name of the receiving office on the day received, and by each receiving agent or vendor acting on behalf of the self-insured employer. (4-7-11)

**05. Notice and Claim.** All First Reports of Injury, Claims for Benefits, notices of occupational illnesses and fatalities shall be sent directly to the in-state adjuster or self-insured employer. The original copy of the First Report of Injury, Claim for Benefits and notices of occupational illness and fatality shall be sent directly to the Industrial Commission. (4-7-11)

**06. Compensation.** All compensation, as defined by Section 72-102, Idaho Code, must be issued from the in-state office. (4-7-11)

**07. Checks and Drafts.** Checks must be signed and issued within the state of Idaho; drafts are prohibited. (4-7-11)

a. The Commission may, upon receipt of a written Application for Waiver, grant a waiver from the provisions of Subsections 051.06 and 051.07 of this rule to permit a self-insured employer to sign and issue checks outside the state of Idaho. (4-7-11)

b. An Application for Waiver must be accompanied by an affidavit signed by an officer or principal of the self-insured employer, attesting to the fact that the self-insured employer is prepared to comply with all statutes and rules pertaining to prompt payment of compensation. (4-7-11)

c. All waivers shall be effective from the date the Commission issues the order granting the waiver. A waiver shall remain in effect until revoked by the Industrial Commission. At least annually, staff of the Industrial Commission may review the performance of any self-insured employer for which a waiver under this rule has been granted to assure that the self-insured employer is complying with all statutes and rules pertaining to prompt payment of compensation. (4-7-11)

d. If at any time after the Commission has granted a waiver, the Commission receives information permitting the inference that the self-insured employer has failed to provide timely benefits to any claimant, the Commission may issue an order to show cause why the Commission should not revoke the waiver; and, after affording the self-insured employer an opportunity to be heard, may revoke the waiver and order the self-insured employer to comply with the requirements of Subsections 051.06 and 051.07 of this rule. (4-7-11)

**08. Copies of Checks.** Copies of checks and/or electronically reproducible copies of the information contained on the checks must be maintained in the in-state files for Industrial Commission audit purposes. A copy of the first income benefit check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance. (3-25-16)

**09. Prompt Claim Servicing.** Prompt claim servicing includes, but is not limited to: (4-7-11)

a. Making an initial decision to accept or deny a claim for an injury or occupational disease within thirty (30) days of the date the claims administrator receives knowledge of the same. The worker shall be given notice of that initial decision in accordance with Section 72-806, Idaho Code. Nothing in this rule shall be construed as amending the requirement to start payment of income benefits no later than four (4) weeks or twenty-eight (28) days from the date of disability under the provisions of Section 72-402, Idaho Code. ( )

~~a~~**b.** Payment of medical bills in accordance with the provisions of IDAPA 17.02.09, Medical Fees, Sections 031, 032, 033, and 034. (4-7-11)

~~b~~**c.** Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. (4-7-11)

i. The first payment of income benefits under Section 72-408, Idaho Code, shall constitute application by the self-insured employer for a waiver to pay Temporary Total Disability (TTD) benefits on a bi-weekly basis, Temporary Partial Disability (TPD) benefits on other than a weekly basis, Permanent Partial Disability (PPD) benefits based on permanent impairment and Permanent Total Disability (PTD) benefits every twenty-eight (28) days, rather than on a weekly basis. ( )

ii. Such waiver application shall be granted upon receipt and remain in effect unless revoked by the Industrial Commission in accordance with Subparagraph 051.09.c.iii., below. ( )

iii. If at any time after a waiver has been granted pursuant to this section the Commission receives information permitting the inference that the self-insured employer has failed to service claims in accordance with Idaho law, or that such waiver has created an undue hardship on a claimant, the Commission may issue an order to show cause why the Commission should not revoke that waiver, and after affording the employer an opportunity to be heard, may revoke the waiver with respect to all or certain claimants and order the self-insured employer to comply with the requirements of Subsection 051.09.c. of this rule. ( )

d. Payment of the first Permanent Partial Disability (PPD) benefit based on permanent impairment no later than fourteen (14) days after receipt of the medical report providing the impairment rating. The first payment shall include payment of benefits retroactive to the date of medical stability. ( )

e. Temporary Partial Disability (TPD) payments shall be calculated using the employee's pay period, whether weekly, bi-weekly, or semi-monthly. For employees paid pursuant to any other schedule, TPD benefits shall be calculated semi-monthly. TPD payments owed for a particular pay period shall issue no later than seven (7) days following the date on which employee is ordinarily paid for that pay period. ( )

**10. Audits.** The Industrial Commission will perform periodic audits to ensure compliance with the above requirements. (4-7-11)

**11. Non-Compliance.** Non-compliance with the above requirements may result in the revocation of the authority of a self-insured employer to self-insure its workers' compensation obligations in the state of Idaho, or such lesser sanctions as the Industrial Commission may impose. (4-7-11)

## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### 18.01.02 – INSURANCE POLICY TITLES

#### DOCKET NO. 18-0102-1701 (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 2018 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 Section 41-211, 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 existing rule consists of one sentence barring the approval of any life insurance policy bearing a name which is misleading or confusing. Such policies are already prohibited by Section 41-1813, Idaho Code. IDAPA 18.01.02 is not necessary as it does not add anything of value in understanding or effectuating section 41-1813, Idaho Code, or other provisions of Title 41, Idaho Code. This rulemaking repeals this rule.

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 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, page 204](#).

**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 Wes Trexler at [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov) or (208) 334-4315.

DATED this 4th day of October, 2017.

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 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 September 20, 2017.

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 existing rule consists of one sentence barring the approval of any life insurance policy bearing a name which is misleading or confusing. Such policies are already prohibited by section 41-1813, Idaho Code. IDAPA 18.01.02 is not necessary as it does not add anything of value in understanding or effectuating section 41-1813, Idaho Code, or other provisions of Title 41, Idaho Code. This rulemaking proposes to repeal this rule.

**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 5, 2017, Idaho Administrative Bulletin, [Volume 17-7, p. 60](#).

**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 Wes Trexler, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov) (208) 334-4315. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to 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 September 27, 2017.

DATED this 31st day of July, 2017.

**LSO Rules Analysis Memo**

**IDAPA 18.01.02 IS BEING REPEALED IN ITS ENTIRETY**

## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### 18.01.08 – FILING OF LIFE POLICY FORMS

#### DOCKET NO. 18-0108-1701 (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 2018 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 Section 41-211, 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 rule, which was originally adopted in 1962, calls for life policy forms to be submitted to the Department “in duplicate.” Policy forms have long been submitted electronically through the System for Electronic Rate and Form Filings (SERFF). IDAPA 18.01.08 is not necessary for the effectuation of Title 41, Idaho Code. Other provisions of this rule related to filing of rating formulas and specimens are also unnecessary because filings are made per Sections 41-1812 and 41-1813, Idaho Code and in light of substantive provisions in Title 41, Chapter 19, Idaho Code. This rulemaking repeals this rule.

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 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, page 205](#).

**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 Wes Trexler at [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov) or (208) 334-4315.

DATED this 4th day of October, 2017.

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 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 September 20, 2017.

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 rule, which was originally adopted in 1962, calls for life policy forms to be submitted to the Department “in duplicate.” Policy forms have long been submitted electronically through the System for Electronic Rate and Form Filings (SERFF). IDAPA 18.01.08 is not necessary for the effectuation of Title 41, Idaho Code. Other provisions of this rule related to filing of rating formulas and specimens are also unnecessary because filings are made per Idaho Code §§ 41-1812 and 41-1813 and in light of substantive provisions in Title 41, Chapter 19, Idaho Code. This rulemaking proposes to repeal this rule.

**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 published in the July 5, 2017, Idaho Administrative Bulletin, [Volume 17-7, p. 61](#).

**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 Wes Trexler, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov) (208) 334-4315. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to 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 September 27, 2017.

DATED this 31st day of July, 2017.

**LSO Rules Analysis Memo**

**IDAPA 18.01.08 IS BEING REPEALED IN ITS ENTIRETY**



## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### 18.01.20 – CANCELLATION OF, OR REFUSAL TO RENEW AUTOMOBILE INSURANCE POLICIES

DOCKET NO. 18-0120-1701

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 Section 41-211, 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:

Section 41-2502, Idaho Code, requires that insurers offer uninsured and underinsured auto coverage to Idaho consumers and also provides that a consumer can reject such coverage in writing when the policy is first purchased. Subsection (3) of this section also provides that the insurer provide a statement approved by the Director of the Department of Insurance explaining both types of coverage and the types of underinsured coverage that might be available in Idaho. The department fulfilled this directive initially by publishing the July 24, 2008, [Department of Insurance Bulletin 08-08](#). Recently there has been discussion about whether consumers are adequately protected under the status quo. In 2017, there were three bills (H0163, S1048, and S1078) that considered proposing amendments to Sections 41-2502 or 41-2503, Idaho Code (the latter section containing definitions). Legislators suggested that the Director meet with industry to consider alternatives that might better serve Idahoans. Pursuant to negotiated rulemaking, a public meeting was held and written comments were received.

Following additional comments received upon the proposed rule regarding when the revised form must be used, 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 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, pages 206-211](#).

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

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

DATED this 4th day of October, 2017.

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 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 September 20, 2017.

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:

Idaho Code Section 41-2502 requires that insurers offer uninsured and underinsured auto coverage to Idaho consumers and also provides that a consumer can reject such coverage in writing when the policy is first purchased. Subsection (3) of this section also provides that the insurer provide a statement approved by the Director of the Department of Insurance explaining both types of coverage and the types of underinsured coverage that might be available in Idaho. The department fulfilled this directive initially by publishing Bulletin 08-08. Recently there has been discussion about whether consumers are adequately protected under the status quo. In 2017, there were three bills (H0163, S1048, and S1078) that considered proposing amendments to Idaho Code Sections 41-2502 or 41-2503 (the latter section containing definitions). Legislators suggested that the Director meet with industry to consider alternatives that might better serve Idahoans. Pursuant to negotiated rulemaking, a public meeting was held and written comments were received resulting in this proposed rule.

**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 5, 2017, Idaho Administrative Bulletin, [Volume 17-7, p. 62](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tom Donovan, [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov) (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 either by hard copy or via email to the same email address for questions set forth above on or before September 27, 2017.

DATED this 2nd day of August, 2017.

**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. 18-0120-1701

IDAPA 18  
TITLE 01  
CHAPTER 20

18.01.20 - ~~CANCELLATION OF, OR REFUSAL TO RENEW~~ AUTOMOBILE INSURANCE POLICIES

000. LEGAL AUTHORITY.

Title 41, Chapter 25, Idaho Code; Title 67, Chapter 52, Idaho Code.

(7-1-93)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as Idaho Department of Insurance Rules, IDAPA 18.01.20, "Automobile Insurance Policies." ( )

~~042.~~ Purpose. The purpose of this Rule is to provide guidelines that will assist in the implementation and uniform interpretation of the following Sections of the Idaho ~~Insurance Laws that were recently enacted by the Fortieth Session of the Idaho State Legislature and which became effective May 26, 1969, at 8 pm~~ Code. (7-1-93) ( )

a. Section 41-2506 - Cancellation of Policies - Definitions. (7-1-93)

b. Section 41-2507 - Cancellation of Policies - Grounds. (7-1-93)

c. Section 41-2508 - Notice of Cancellation or Intention not to Renew. (7-1-93)

d. Section 41-2509 - Cancellations and Non-Renewals - Exceptions. (7-1-93)

e. Section 41-2502 – Uninsured motorist and underinsured motorist coverage for automobile insurance – Exceptions. ( )

~~002.—003.~~ (RESERVED)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. ( )

003. ADMINISTRATIVE APPEALS.

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

**004. INCORPORATION BY REFERENCE.**

No documents are incorporated in this chapter of rule. ( )

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

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

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

**03. Street Address.** The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. ( )

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

**006. PUBLIC RECORDS ACT COMPLIANCE.**

Any records associated with this rule are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code, as well as applicable exemptions. ( )

**0057. -- 0409. (RESERVED)**

**00410. DEFINITIONS.**

The Idaho Department of Insurance adopts the definitions set forth in Title 41, Chapter 25, Idaho Code. In addition, the following terms are defined as used in this chapter. ( )

**01. The Act.** For the purpose of this Rule, the term "the Act" shall, unless otherwise noted, refer to Sections 41-2506, 41-2507, 41-2508, 41-2509, 41-2510, 41-2511, 41-2512 of the Idaho Insurance Laws, otherwise known as the Insurance Code. (7-1-93)

~~**02. Section 41-2506 Terms.** The terms defined under Section 41-2506 of the Insurance Code shall bear the same meaning when used in this Rule. (7-1-93)~~

**032. Non-Payment of Premium.** The provisions of Section 41-2506(1)(d), Definitions - Non-Payment of Premium, shall be interpreted as follows: Non-Payment of Premium shall mean the failure of the named insured, or his legal representative, to discharge when due any of his obligations in connection with the payment of any premiums or installment premiums on a policy as defined in the Act, or any membership fees due an association or organization, other than an insurance association or organization, which by its by-laws requires the payment of such membership fees by the member prior to his obtaining or continuing insurance in force through such an association or organization. The term "non-payment of premium" as referred to in the Act shall also apply when the named insured or his legal representative is obligated to pay such premium or membership fee directly to the insurer, its agent or representative, or indirectly under any premium finance plan or extensions of credit. However, if the agent or other representative of the insurer extends credit to the insured, orally or otherwise, and said agent or representative terminates such credit arrangement with the insured because of non-payment, said agent or representative, with the knowledge and consent of the insurer, shall then mail or deliver, or cause to be mailed or delivered, to the named insured or his legal representative written notice of cancellation which states, in effect, that the insurance provided by the policy upon which such credit was granted shall cease on a given time and date. This time and date shall be no earlier than ten (10) days after the date such notice was mailed or delivered, the date of mailing considered to be the first day and the tenth day being considered to be ended at midnight, standard time, at the last known address of the named insured. Nothing in this rule shall be construed to permit any agent or other representative of the insurer to cancel any policy without the concurrence of the insurer or for any private debt between the agent and the insured. Also, nothing in the section shall be construed to prohibit a policy from being canceled effective as of any date that is mutually acceptable to the insured, the insurer and the lienholder, if any. Furthermore, a prior existing policy shall terminate on the effective date of any other policy procured by the insured with respect to any automobile designated in both policies and containing duplicate insurance coverage. (7-1-93)

**043. Sixty Day Period.** The sixty (60) day period referred to in Subsection (2) of Section 41-2506,

CANCELLATION OF POLICIES - DEFINITIONS, is intended to provide to insurers a reasonable period of time, if desired, to thoroughly investigate a particular risk while extending coverage during the period of investigation. Should an insurer, after such investigation, conclude that it does not wish to remain on the risk, it may decline to continue such policy in force provided that its action conforms with the provisions of Section 41-2506(2) of the Act. Therefore, the provisions of this section shall be interpreted to mean that an insurer may deliver notice of cancellation or mail notice of cancellation concerning any new automobile policy on or before the sixtieth (60th) day after inception date of the policy, the inception date being considered to be the first day and the sixtieth (60th) day being considered to be ended at midnight, standard time, at the last known address of the named insured. The policy shall thus remain in force from the date the notice of cancellation is mailed to the usual date the cancellation is effective as required by the terms and conditions of the policy, without the policy being considered to be subject to the provisions of the Act. For the purpose of this rule, the term "inception date" shall mean that date and time that the policy goes into effect and the protection furnished by the policy commences. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**016. STANDARD STATEMENT REGARDING UNINSURED AND UNDERINSURED MOTORIST COVERAGE.**

The form set forth below is the standard statement approved by the director of the department of insurance pursuant to Section 41-2502, Idaho Code, and carriers must begin using the new form *for all new policies and those existing policies where UM or UIM coverage is added or removed* no later than January 1, 2019. Carriers may make non-substantive changes to this form, for example, including inserting company letterhead, and carriers must file their standard statement forms with the director prior to use. This rule does not create new requirements for the types of UIM coverage carriers must offer beyond what existed as of the effective date of this rulemaking. ( )

**0167. SEVERABILITY.**

If any provision of this rule shall be held invalid, the remainder of the rule shall not be affected thereby. (7-1-93)

**0178. -- 999. (RESERVED)**

**APPENDIX A**  
**(UNINSURED/UNDERINSURED MOTORIST DISCLOSURE)**

**IDAHO UNINSURED MOTORIST AND UNDERINSURED MOTORIST DISCLOSURE -- Do not sign until you read**

Idaho law requires that every auto liability insurance policy include **Uninsured Motorist (UM)** bodily injury coverage and **Underinsured Motorist (UIM)** bodily injury coverage, unless a named insured (you) has rejected these coverages in writing, which may be in electronic format.

These coverages can protect you and your passengers by paying damages, up to the UM/UIM policy limits you have chosen, when an at-fault person does not have any or enough liability coverage.

- **UM** coverage may pay damages for bodily injuries caused by an at-fault motorist who has no insurance, or from a hit-and-run vehicle where the at-fault party is unknown.
- **UIM** coverage may pay damages for bodily injuries if the at-fault motorist does not have enough liability insurance to cover your costs. UIM coverage is offered in different types by different insurers, and insurers are not required to offer more than one type of UIM coverage. The most common available type of UIM coverage is "Difference in Limits" (or "Offset") Coverage. Some insurers may offer "Excess" Coverage. **Please refer to the attached examples to see how the different types of UIM coverage may impact your level of protection.**

You have the option to purchase both UIM and UM coverage in varying amounts at or above the minimum liability requirements in Idaho, which are \$25,000 per person, \$50,000 for two or more persons in any one accident. By signing below, you acknowledge that the insurance company has explained the following UM/UIM coverages that are available as part of your policy:

**Insurer:** \_\_\_\_\_ **UIM Type:** ☐ Difference in Limits (Offset) ☐ Excess

I have read the above explanation of Uninsured Motorist and Underinsured Motorist coverages. I understand that I have the option to reject either or both coverages.

_____ <b>Named Insured</b> (print name)	_____ <b>Signature of Named Insured</b>	_____ <b>Date</b>
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**UNINSURED AND UNDERINSURED MOTORIST COVERAGE – OPTION TO REJECT**

I understand that, by signing below, I am informing my insurer that I choose to reject the UM/UIM coverage(s) under my automobile liability policy, or under any renewal or replacement of my policy.

I <b>reject</b> and <b>do not</b> wish to purchase <i>Uninsured</i> Motorist Coverage (UM).		
_____ <b>Signature of Named Insured</b> (only if rejecting)		_____ <b>Date</b>

I <b>reject</b> and <b>do not</b> wish to purchase <i>Underinsured</i> Motorist Coverage (UIM).		
_____ <b>Signature of Named Insured</b> (only if rejecting)		_____ <b>Date</b>

This general explanation is NOT an insurance agreement. All auto insurance policies have terms and conditions that control your rights and obligations as a policyholder. For a more detailed explanation of these coverages, refer to your policy, agent or the insurer. The Idaho Department of Insurance can also provide assistance with insurance related questions. Call 800-721-3272 (Idaho only) or 208-334-4250 or visit the Department's website at [www.doi.idaho.gov](http://www.doi.idaho.gov).

	<b>"Difference in Limits" (or "Offset") UIM</b>	<b>"Excess" UIM</b>
Definition of the type of UIM coverage	Your UIM coverage limits are reduced or eliminated by any amounts recovered from another party's insurance.	Your UIM coverage limits are above and beyond what is paid by another party's insurance.

<b>Example 1</b>		
At-fault motorist and you have the same bodily injury/UIM coverage limits		
	<b>"Difference in Limits" (or "Offset") UIM</b>	<b>"Excess" UIM</b>
Bodily Injury liability limit of at-fault motorist	\$25,000	\$25,000
Your Underinsured Motorist (UIM) Coverage limit	\$25,000	\$25,000
Maximum available for your bodily injury	<b>\$25,000</b>	<b>\$50,000</b>
Example 1 explanation	Your UIM coverage doesn't provide additional coverage above the at-fault motorist's coverage because they have the same limit	Your UIM coverage increases the available Bodily Injury coverage above the at-fault motorist's coverage limit

<b>Example 2</b>		
At-fault motorist has lower bodily injury coverage limits than your UIM		
	<b>"Difference in Limits" (or "Offset") UIM</b>	<b>"Excess" UIM</b>
Bodily Injury Liability limit of at-fault motorist	\$25,000	\$25,000
Your Underinsured Motorist (UIM) Coverage limit	\$100,000	\$100,000
Maximum available for your bodily injury	<b>\$100,000</b>	<b>\$125,000</b>
Example 2 explanation	Your UIM coverage covers any deficiency in the at-fault motorist's Bodily Injury coverage, as if the at-fault motorist had Bodily Injury coverage at your UIM limit	Your UIM coverage increases the available Bodily Injury coverage above the at-fault motorist's coverage limit

## **IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE**

### **18.01.22 – SALE OF INSURANCE BY VENDING MACHINES**

#### **DOCKET NO. 18-0122-1701 (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 2018 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 Section 41-211, 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 rule dates back to 1979. It is not currently monitored by the DOI, no licenses currently exist, nor are any expected. The fee for vending machine licenses is not addressed or included in the Department's general fee rule, IDAPA 18.01.44. Internet options replace this mode of accessibility for the public, along with provisions on credit cards for limited travel insurance. Recent legislative change removes retail licensing requirements for travel insurance. IDAPA 18.01.22 is not necessary for effectuating Title 41, Idaho Code. This rulemaking repeals this rule.

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 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, page 212](#).

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

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

DATED this 4th day of October, 2017.

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 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 September 20, 2017.

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

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

This rule dates back to 1979. It is not currently monitored by the DOI, no licenses currently exist, nor are any expected. The fee for vending machine licenses is not addressed or included in the Department's general fee rule, IDAPA 18.01.44. Internet options replace this mode of accessibility for the public, along with provisions on credit cards for limited travel insurance. Recent legislative change removes retail licensing requirements for travel insurance. IDAPA 18.01.22 is not necessary for effectuating Title 41, Idaho Code. This rulemaking proposes to repeal this rule.

**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 5, 2017, Idaho Administrative Bulletin, [Volume 17-7, p. 63](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tom Donovan, [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov) (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 either by hard copy or via email to the same email address for questions set forth above on or before September 27, 2017.

DATED this 31st day of July, 2017.

**LSO Rules Analysis Memo**

**IDAPA 18.01.22 IS BEING REPEALED IN ITS ENTIRETY**

## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### 18.01.25 – TITLE INSURANCE AND TITLE INSURANCE AGENTS AND ESCROW OFFICERS

DOCKET NO. 18-0125-1701

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 Section 41-211, 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 rulemaking seeks to make title insurance policy cancellation fees permissive rather than mandatory because there are various scenarios where it seems inappropriate to charge a cancellation fee, and title insurance agents would not charge cancellation fees but for the current rule.

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 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, pages 213-215](#).

**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 Jim Scanlon at [jim.scanlon@doi.idaho.gov](mailto:jim.scanlon@doi.idaho.gov) or (208) 334-4321.

DATED this 4th day of October, 2017.

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

<p><b>THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE</b></p>
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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 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 September 20, 2017.

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:

Amends language to make title insurance policy cancellation fees permissive rather than mandatory because there are various scenarios where it seems inappropriate to charge a cancellation fee, and title insurance agents would not charge cancellation fees but for the current rule.

**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 5, 2017, Idaho Administrative Bulletin, [Volume 17-7, p. 64](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tom Donovan, [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov) (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 either by hard copy or via email to the same email address for questions set forth above on or before September 27, 2017.

DATED this July 31, 2017.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0125-1701

004. PREMIUM RATES AND THEIR APPLICATION.

**01. Schedule of Premium Rates.** Each title insurer shall file its schedule of premium rates (including both the taxable risk portion and the service portion) for title insurance charged the public for all policies, which premium rates shall commence with the lowest rate and shall advance by one thousand dollars (\$1,000) increments. The rate schedule shall include owner's, standard mortgagee and extended coverage mortgagee policies, and may include other rates. In addition, any charges made for special endorsements shall be listed and the type of policy to which applicable. Filed rates shall provide that where a preliminary report is issued, the order for the policy may be canceled prior to closing. ~~upon The applicant being may be~~ required to pay a cancellation ~~fee charge of fifty percent (50%) of the premium with a minimum of fifty dollars (\$50) provided that any portion of the charge in excess of one hundred dollars (\$100) may be waived, and provided the entire charge may be canceled if it is apparent that by inadvertence or error the customer entered duplicate orders with the same or competing companies.~~ The premium rates for policies shall only include title examination and issuance of title insurance which shall be deemed to include any preliminary report, commitment to insure, binder or similar report (herein collectively called preliminary report) and the policy subsequently issued thereon. If more than one (1) chain of title is involved, an additional charge shall be made for each additional chain. An additional chain is one involving property in a different block or section or under a different ownership within the last five (5) years. (7-1-93)( )

**02. Rebates, Discounts, Credits.** No title insurer or title insurance agent shall: (7-1-93)

- a. Charge a premium for a policy in one transaction and withhold issuance of a policy thereon; (7-1-93)
- b. Charge a premium for a policy in one transaction and apply the premium, or any part thereof, applicable to the first transaction to a premium charged in a subsequent transaction; provided that a title insurer may file a temporary or construction mortgagees policy rate allowing credit for such policy upon a permanent policy to the extent of the basic standard coverage charge only for the temporary policy provided that full applicable premium and fees have been charged and collected on the issuance of the first policy; and provided that a title insurer may file an owner's reissue rate under conditions prescribed by Subsection 004.06 infra; (7-1-93)
- c. Provide or agree to provide closing or escrow services as a part of a title insurance premium charge for issuance of a policy; (7-1-93)
- d. Issue a title insurance binder, commitment or preliminary report without an order ~~and without making a charge therefor if a policy is not issued thereon, nor apply the charge or any part thereof toward the premium of a policy on any other tract of land;~~ (7-1-93)( )
- e. Issue a binder commitment or preliminary report, or title insurance policy for a charge which is less than that currently filed for such risk with the Department of Insurance; or (7-1-93)
- f. In connection with transaction of any title insurance business received by or directed to such insurer or agent directly or indirectly, provide, or cause to be provided, to any person any payment, property or item of value, or division of a premium or fee; provided, contracts of reinsurance when no primary liability is assumed by the reinsurer are exempt here from. (7-1-93)

**03. Amount of Owner's Policy.** An owner's policy shall be issued for not less than (a) the amount of the current sales price of the land and any existing improvements appurtenant thereto, or (b) if no sale is being made, the amount equal to the value of the land and any existing improvements at the time of the issuance of the policy. If improvements are contemplated, the amount may include the cost of such improvements immediately contemplated to be erected thereon with a following pending improvement clause set forth in Schedule B of said policy and the full

premium collected, which clause reduces the policy amount to the extent the improvements are not completed. The amount of policies covering leasehold estates for a term of fifty years or more shall be for the full value of the land and existing improvements, and for less than fifty years shall be for an amount at the option of the insured based on (i) the total amount of the rentals payable for the primary term but not less than five (5) years, or (ii) the full value of the land and existing improvements together with any improvements immediately contemplated to be erected thereon. The amount of policies insuring contract purchasers shall be for the full value of the principal payments. Insurance of lesser estates shall be written for the amount of the value of the estate at the time the policy is issued.

(7-1-93)

**04. Amount of Mortgagee Policies.** A mortgagee's policy shall be for not less than the full principal debt of the loan insured and at insured's request may include up to twenty percent (20%) in excess of the principal debt to cover interest, foreclosure costs, etc. Where the land covered represents only part of the security for the loan, the policy shall be written for the amount of the unencumbered value of the land or the amount of the loan, whichever is the lesser.

(7-1-93)

**05. Simultaneous Issuance of Owner's and Mortgagee's Policy.** When an owner's policy and a mortgage policy covering identical land are simultaneously issued, the owner's policy shall bear the regular owner's rate. Premium for the mortgagee policy simultaneously issued may be for an amount less than the full mortgagee rate for the amount of insurance not in excess of the owner's policy.

(7-1-93)

**06. Double Sale and Reissue.** No order will be held open to cover a double sale and the premium will be charged and the policy issued on each sale, unless the conveyance on resale is recorded at the same time as the original transaction. A title insurer may file an owner's reissue rate of not less than fifty percent (50%) of the basic rate which shall be applicable to any policy ordered within two (2) years of the effective date of a prior owner's or purchaser's policy naming applicant as the insured provided that the following conditions are met:

(7-1-93)

**a.** The prior policy or a copy thereof is presented to the issuing company and shall be retained in the issuing company's file, or in the absence thereof, reasonable proof of issuance is provided the issuing company.

(7-1-93)

**b.** The reissue premium shall be based on the schedule of fees in effect at the time of reissue. (7-1-93)

**c.** Increased liability is to be computed in accordance with the basic schedule of fees in the applicable brackets.

(7-1-93)

**07. Amount on Litigation and Foreclosure Reports.** Where a preliminary report is made for an owner's policy to be issued after a quiet title action or after a foreclosure of contracts of sale, deeds of trust or mortgages, the premium charge shall be that on an owner's policy and the policy will be issued following the successful completion of the litigation or the foreclosure; ~~and~~ A cancellation fee may be charged if the action is unsuccessful. ~~Such fee shall include the examination of title as well as a check immediately prior to judgment or sale on foreclosure.~~ Each such preliminary report shall bear on its face as the limit of liability of the insurer, the value upon which the premium charge is based.

(7-1-93)(      )

## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### 18.01.30 – INDIVIDUAL DISABILITY AND GROUP SUPPLEMENTAL DISABILITY INSURANCE MINIMUM STANDARDS RULE

DOCKET NO. 18-0130-1701

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 41-4207, 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:

Following negotiated rulemaking, this pending rule allows, but does not require, carriers to offer return of premium or cash value benefits to covered persons for specified disease, limited benefit policies, and accident only policies in addition to the other types of policies currently permitted.

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 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, pages 216-218](#).

**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 Wes Trexler at [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov) or (208) 334-4315.

DATED this 4th day of October, 2017.

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 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 41-21 and 41-4207, 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 20, 2017.

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:

Following negotiated rulemaking, this proposed rulemaking will allow, but not require, carriers to offer return of premium or cash value benefits to covered persons for specified disease, limited benefit policies, and accident only policies in addition to the other types of policies currently permitted.

**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 5, 2017, Idaho Administrative Bulletin, [Volume 17-7, p. 65](#).

**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 Wes Trexler, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov) (208) 334-4315.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to 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 September 27, 2017.

DATED this 31st day of July, 2017.

[LSO Rules Analysis Memo](#)



THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0130-1701

**006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB SITE.**

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

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

**03. Street Address.** The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. ( )

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

**007. PUBLIC RECORDS ACT COMPLIANCE.**

Any records associated with this rule are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code, as well as applicable exemptions. ( )

**008. -- 010. (RESERVED)**

**011. PROHIBITED POLICY PROVISIONS.**

**01. Probationary or Waiting Period.** Except as provided in Subsection 004.10 pertaining to the definition of a preexisting condition, a policy shall not contain provisions establishing a probationary or waiting period during which no coverage is provided under the policy. Accident policies shall not contain probationary or waiting periods. (3-30-01)

**02. Additional Coverage as Dividend.** A policy or rider for additional coverage may not be issued as a dividend unless an equivalent cash payment is offered as an alternative to the dividend policy or rider. A dividend policy or rider for additional coverage shall not be issued for an initial term of less than six (6) months. (3-30-01)

**a.** The initial renewal subsequent to the issuance of a policy or rider as a dividend shall clearly disclose that the policyholder is renewing the coverage that was provided as a dividend for the previous term and that the renewal is optional. (3-30-01)

**03. Return of Premium or Cash Value Benefit.** A disability income policy, accident only policy, limited benefit policy, specified disease policy or hospital confinement indemnity policy may contain a "return of premium" or "cash value benefit" so long as the return of premium or cash value benefit is not reduced by an amount greater than the aggregate of claims paid under the policy, and the insurer demonstrates that the reserve basis for the policies is adequate. No other policy subject to this rule shall provide a return of premium or cash value benefit, except return of unearned premium upon termination or suspension of coverage, retroactive waiver of premium paid during disability, payment of dividends on participating policies, or experience rating refunds. ~~(3-30-01)~~ ( )

**04. Federally Operated Hospital.** Policies providing hospital confinement indemnity coverage shall not contain provisions excluding coverage because of confinement in a hospital operated by the federal government. (3-30-01)

**05. Exclusions.** A policy shall not limit or exclude coverage by type of illness, accident, treatment or medical condition, except as follows: (3-30-01)

**a.** Preexisting conditions or diseases, except for congenital anomalies of a covered dependent child;



- (3-30-01)
- b.** Mental or emotional disorders, alcoholism and drug addiction; (3-30-01)
  - c.** Pregnancy, except for complications of pregnancy; (3-30-01)
  - d.** Illness, treatment or medical condition arising out of: (3-30-01)

    - i. War or act of war (whether declared or undeclared); participation in a felony, riot or insurrections; service in the armed forces or units auxiliary to it; (3-30-01)
    - ii. Suicide (sane or insane), attempted suicide or intentionally self-inflicted injury; (3-30-01)
    - iii. Aviation; (3-30-01)
    - iv. With respect to short-term nonrenewable policies, interscholastic sports; and (3-30-01)
    - v. With respect to disability income protection policies, incarceration. (3-30-01)
  - e.** Cosmetic surgery, except that “cosmetic surgery” shall not include reconstructive surgery when the service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part, and reconstructive surgery because of congenital disease or anomaly of a covered dependent child; (3-30-01)
  - f.** Foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints of the feet; (3-30-01)
  - g.** Care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion, or subluxation in the human body for purposes of removing nerve interference and the effects of it, where the interference is the result of or related to distortion, misalignment or subluxation of, or in the vertebral column; (3-30-01)
  - h.** Benefits provided under Medicare or other governmental program (except Medicaid), a state or federal worker’s compensation law, employers liability or occupational disease law, or motor vehicle no-fault law; services performed by a member of the covered person’s immediate family; and services for which no charge is normally made in the absence of insurance; (3-30-01)

    - i.** Dental care or treatment; (3-30-01)
    - j.** Eye glasses, hearing aids, and examination for the prescription, or fitting of them; (3-30-01)
    - k.** Rest cures, custodial care, transportation, and routine physical examinations; and (3-30-01)
    - l.** Territorial limitations. (3-30-01)
- 06. Authority of Director to Disapprove.** Policy provisions precluded in Section 011 shall not be construed as a limitation on the authority of the Director to disapprove other policy provisions in accordance with Chapters 21, 22 and 42 of Title 41 of the Idaho Code, or that in the opinion of the Director are unjust, unfair or unfairly discriminatory to the policyholder, beneficiary or a person insured under the policy. (3-30-01)

**IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE**  
**18.01.35 – GUIDELINES RESPECTING THE USE OF CLAIM FORMS**  
**FOR DISABILITY INSURANCE CLAIMS**

**DOCKET NO. 18-0135-1701 (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 2018 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 Section 41-211, 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 rule requires insurers to furnish, to hospitals and certain other service providers, a six month supply of paper forms for the filing of claims. Since the rule was adopted in 1980, the vast majority of claims are submitted electronically, and it is no longer necessary for providers to have a six-month supply of paper forms on hand at all times. IDAPA 18.01.35 is not necessary for the effectuation of Title 41, Idaho Code as it reflects outmoded practices. This rulemaking repeals this rule.

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 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, page 219](#).

**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 Wes Trexler at [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov) or (208) 334-4315.

DATED this 4th day of October, 2017.

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 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 September 20, 2017.

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

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

This rule requires insurers to furnish, to hospitals and certain other service providers, a six month supply of paper forms for the filing of claims. Since the rule was adopted in 1980, the vast majority of claims are submitted electronically, and it is no longer necessary for providers to have a six-month supply of paper forms on hand at all times. IDAPA 18.01.35 is not necessary for the effectuation of Title 41, Idaho Code as it reflects outmoded practices. This rulemaking proposes to repeal this rule.

**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 5, 2017, Idaho Administrative Bulletin, [Volume 17-7, p. 66](#).

**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 Wes Trexler, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov) (208) 334-4315. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to 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 September 27, 2017.

DATED this 31st day of July, 2017.

[LSO Rules Analysis Memo](#)

**IDAPA 18.01.35 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE**  
**18.01.56 – REBATES AND ILLEGAL INDUCEMENTS TO OBTAINING**  
**TITLE INSURANCE BUSINESS RULES**

**DOCKET NO. 18-0156-1701**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 Section 41-211, 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 rulemaking seeks to revise the definition of “things of value” at Subsection 010.05 and revise provisions 4.1. and 9 of Exhibit 1, requiring cancellation fees because there are various scenarios where it seems inappropriate to charge a cancellation fee, and title insurance agents would not charge cancellation fees but for the rule.

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 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, pages 220-223](#).

**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 Jim Scanlon at [jim.scanlon@doi.idaho.gov](mailto:jim.scanlon@doi.idaho.gov) or (208) 334-4321.

DATED this 4th day of October, 2017.

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 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 September 20, 2017.

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:

We are revising the definition of “things of value” at Subsection 010.05 and revising provisions 4.l. and 9 of Exhibit 1, requiring cancellation fees because there are various scenarios where it seems inappropriate to charge a cancellation fee, and title insurance agents would not charge cancellation fees but for the current rule.

**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 5, 2017, Idaho Administrative Bulletin, [Volume 17-7, p. 67](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tom Donovan, [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov) (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 either by hard copy or via email to the same email address for questions set forth above on or before September 27, 2017.

DATED this 31st day of July, 2017.

**LSO Rules Analysis Memo**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0156-1701

**010. DEFINITIONS.**

**01. Business of Title Insurance.** “Business of title insurance” has the meaning set forth in Idaho Code, Section 41-2704 and includes in addition thereto, the performance in this state by a title entity of any service in conjunction with the issuance of any contract or policy of title insurance. (7-1-93)

**02. Person.** “Person” includes any natural person and any firm, association, organization, partnership, business trust, corporation or other legal entity. (7-1-93)

**03. Producer of Title Business.** “Producer of title business” includes any person engaged in this state in the trade, business, occupation or profession of: (7-1-93)

**a.** Buying or selling interest in real property; or (7-1-93)

**b.** Making loans secured by interest in real property; and (7-1-93)

**c.** Shall include but not be limited to real estate agents, real estate brokers, mortgage brokers, lending or financial institutions, builders, attorneys, developers, subdividers, auctioneers engaged in the sale of real property, consumers, and the employees, agents, representatives, or solicitors of any of the foregoing. (7-1-93)

**04. Self Promotional.** “Self promotional” refers to either a promotional function which is conducted by a single entity or a promotional item intended for distribution by a single entity. All benefits from the promotional function or item must accrue to the entity promoting itself. (7-1-93)

**05. Things of Value.** “Things of value” means anything that has a monetary value and includes, but is not limited to, tangible objects, services, use of facilities, monetary advances, extension of lines of credit, creation of compensating balances, ~~uncollected cancellation fees for issuance of title commitments~~, and all other forms of consideration. (7-1-93)( )

**06. Trade Association.** “Trade association” means an association of persons, a majority of whom are producers of title business, or persons whose primary activity involves real property. (7-1-93)

**07. Title Entity.** “Title entity” includes both title insurance agents and title insurers and their employees, agents, or representatives. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**021. -- 999. (RESERVED)**

**EXHIBIT 1**

A title entity shall not provide things of value except as provided in Sections 012, 013, 014, and 015 of this rule. The following is a partial, but not all inclusive, list of acts and practices which are considered illegal inducements prohibited by the Idaho Insurance Code:

**1.** A title entity shall not sponsor any activity off its premises unless the producer of title business bears the entire cost of the activity. A title entity shall not cosponsor, subsidize, contribute fees, prizes, gifts, or

otherwise provide things of value for a promotional function off the title entity's premises regardless whether the function is self-promotional or not. Off premises functions/activities include, but are not limited to, meetings, luncheons, dinners, conventions, installation ceremonies, celebrations, outings, or related activities of producers of title business, cocktail parties, hospitality room functions, open house celebrations, dances, fishing trips, motor vehicle rallies, sporting events of all kinds, gambling trips, hunting trips or outings, golf tournaments, artistic performances, and outings in recreation areas or entertainment areas. It shall be the burden of the title entity to be prepared to present documentation to the Department of Insurance that no things of value were provided.

2. A title entity shall not sponsor, subsidize, supply prizes or labor, or otherwise provide things of value for promotional activities of producers of title business. This does not prevent a title entity from attending activities of producers of title business if there is no cost to the title entity other than the title entity's own entry fees, registration fees, meals, etc., and provided that these fees are no greater than those charged to producers of title business.

3. A title entity shall not provide or offer to provide, either directly or indirectly, a compensating balance or deposit in a lending institution either for the express or implied purpose of influencing the extension of credit by such lending institution to any such person, or for the express or implied purpose of influencing the placement or channeling of title insurance business by such lending institution.

4. A title entity shall not pay or offer to pay, either directly or indirectly, with respect to any producer of title business for:

a. The services of an outside professional whose services are required by any producer of title business to complete or structure a particular transaction;

b. The salary of an employee of such producer of title business;

c. The salary or any part of the salary of a relative of any producer of title business employed by a title entity, if the payment is in excess of the reasonable value of the work actually performed;

d. A fee for making an inspection or appraisal of property, whether or not the fee bears a reasonable relationship to the services performed;

e. Services required to be performed by any producer of title business in his or her professional capacity (e. g. the drafting of documents that are required to be filed by such producer of title business with the title entity for the initiation of closing and settlement services);

f. Any evidence of title or a copy of the contents thereof which is not produced or issued by the title entity, if the evidence or the title relates to a current transaction;

g. The rent for all or any part of the space occupied by any producer of title business;

h. Money, prizes, or other things of value in any kind of a contest or promotional endeavor;

i. Any advertising effort made in the name of, for, or on behalf of any producer of title business;

j. Any business form of any such producer of title business other than a form regularly used in the conduct of the title entity's business, which form is furnished solely for the convenience of the title entity and does not constitute a benefit to the producer of title business; or

k. Any salary, commission, or any other consideration to any employee who is at the same time actively engaged as a real estate licensee in the real property or mortgage brokerage business or is actively engaged in any other business of a producer of title business; or

l. ~~The cancellation fee, the fee for the preliminary title report or other~~ Any fee on behalf of any producer of title business before or after inducing such producer of title business to cancel an order with another title entity.

5. A title entity shall not furnish, or offer to furnish, all or any part of the time or productive effort of any employee of the title entity (example: office manager, escrow officer, secretary, clerk, messenger, etc.) to any producer of title business. This provision is not intended to effect the title entity's day to day business with producers of title business. It is directed at title entity employees being utilized by, or "loaned" out to a producer of title business for the self-promotional interests of the producer of title business.

6. A title entity shall not furnish, or offer to furnish, pay for, or offer to pay for, furniture, office supplies including file folders, telephones, equipment, or automobiles to any producer of title business, or pay for, or offer to pay for, any portion of the cost of renting, leasing, operating, or maintaining any of the aforementioned items.

7. A title entity shall not provide, or offer to provide, non title services (example: computerized bookkeeping, forms management, computer programming, trust accounting) or any similar benefit to a producer of title business, without charging for and receiving a fee commensurate for services provided (e. g. a fee for trust accounting shall be a like fee charged by state or federally chartered banks or savings and loan associations in the local area). This provision also does not prevent title entities from contracting with trade associations to provide non-title services for a profit (i.e. MLS services).

8. A title entity shall not provide gifts or other things of value in excess of fifty dollars (\$50) per year per individual in connection with congratulations or condolences to a producer of title business.

9. ~~A title entity shall not waive a cancellation fee, fail to charge for a cancellation fee, or otherwise fail to make efforts to collect a cancellation fee from the recipient of services provided by the title entity.~~ A title entity shall not issue a title insurance binder, commitment or preliminary report without an order.

10. A title entity shall not furnish any part of its facility (e. g. conference rooms, meeting rooms, etc.) to a producer of title business or trade association without receiving a fair rental charge commensurate with the average rental for similar facilities in the area.

11. A title entity shall not furnish reports containing publicly recorded information, appraisals, estimates, or income production potential, information kits or similar packages containing information about one or more parcels of real property (other than as permitted in Section 012) helpful to any producer of title business, consumer, or member of the general public without making a charge that is commensurate with the actual cost of the work performed and the material furnished (e. g. "farm packages", lot book reports, tax information, title commitments).

12. Delivery service between a title entity and a producer of title business shall be conducted by the title entity's regular messenger service and shall only involve the delivery of items from a title entity to a producer of title business or from a producer of title business to a title entity.



**IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE**  
**18.01.73 – RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE**  
**AVAILABILITY ACT PLAN DESIGN**

**DOCKET NO. 18-0173-1701 (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 2018 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 41-5211, 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 current rule provides specifics for the plan design of five individual health plans to be offered through the Idaho Individual High Risk Reinsurance Pool (Pool), per Chapter 55, Title 41, Idaho Code. Revisions to Chapter 55, Title 41, Idaho Code, effective July 1, 2017, have eliminated the requirement and the need to design specific products for the Pool, which, going forward, will likely function as a reinsurance mechanism for individuals with certain health conditions enrolled in major medical individual health insurance plans available market-wide. IDAPA 18.01.73 is no longer necessary for the effectuation of Title 41, Idaho Code as Chapter 55, Title 41, Idaho Code no longer provides for individuals to be enrolled in unique high risk pool plans. The approximately 50 individuals grandfathered into these plans prior to the 2017 legislation will be renewed into these plans, if they desire, without modification to plan design. Therefore, rules for design of these plans are obsolete as no new such plans will be created. This rulemaking repeals this rule.

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 6, 2017, Idaho Administrative Bulletin, [Vol. 17-9, page 224](#).

**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 Wes Trexler at [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov) or (208) 334-4315.

DATED this 4th day of October, 2017

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 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 41-5211, 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 20, 2017.

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

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

This rule provides specifics for the plan design of five individual health plans to be offered through the Idaho Individual High Risk Reinsurance Pool (Pool), per Chapter 55, Title 41, Idaho Code. Revisions to Chapter 55, effective July 1, 2017, have eliminated the requirement and the need to design specific products for the Pool, which, going forward, will likely function as a reinsurance mechanism for individuals with certain health conditions enrolled in major medical individual health insurance plans available market-wide. IDAPA 18.01.73 is no longer necessary for the effectuation of Title 41, Idaho Code as Chapter 55, Title 41, Idaho Code, no longer provides for individuals to be enrolled in unique high risk pool plans. The approximately 50 individuals grandfathered into these plans prior to the 2017 legislation will be renewed into these plans, if they desire, without modification to plan design. Therefore, rules for design of these plans are obsolete as no new such plans will be created. This rulemaking proposes to repeal this rule.

**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 5, 2017, Idaho Administrative Bulletin, [Volume 17-7, p. 68](#).

**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 Wes Trexler, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov) (208) 334-4315.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to 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 September 27, 2017.

DATED this 31st day of July, 2017.

**LSO Rules Analysis Memo**

**IDAPA 18.01.73 IS BEING REPEALED IN ITS ENTIRETY**

## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### 18.01.75 – CREDIT FOR REINSURANCE RULES

DOCKET NO. 18-0175-1701

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 41-515, Idaho Code.

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

The pending rule revises and updates IDAPA 18.01.75 to include current NAIC Credit for Reinsurance Model Regulation #786 provisions supporting the modernization of reinsurance regulation. This pending rule sets forth rules and procedural requirements necessary to carry out the provisions of Idaho Code, Section 41-515 as amended in 2017 by House Bill No. 101.

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 2, 2017, Idaho Administrative Bulletin, [Vol. 17-8, pages 70-106](#).

**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, [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov), (208) 334-4214.

DATED this 31st day of August, 2017.

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 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 41-515, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 16, 2017.

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

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

To revise and update IDAPA 18.01.75 to include current NAIC Credit for Reinsurance Model Regulation #786 provisions supporting the modernization of reinsurance regulation. This proposed rulemaking sets forth rules and procedural requirements necessary to carry out the provisions of Section 41-515, Idaho Code, as amended in 2017 by H0101.

**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 7, 2017, Idaho Administrative Bulletin, [Vol. 17-6, p. 52](#).

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

Following the NAIC model rule promotes consistency among states and predictability for reinsurers in determining acceptable securities to be held and standards applicable to letters of credit as referenced in Subsections 061.02, 081.05 and 081.06.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Thomas A. Donovan, [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov), (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 either by hard copy or via email to the same email address for questions set forth above on or before August 23, 2017.

DATED this 7th day of July, 2017.

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0175-1701

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as Rules of the Department of Insurance, IDAPA 18.01.75, "Credit for Reinsurance Rules." (7-1-99) ( )

**02. Scope.** The purpose of this rule is to set forth rules and procedural requirements which the director deems necessary to carry out the Credit for Reinsurance provision, Section 41-51-45, Idaho Code. The actions and information required by this rule are hereby declared to be necessary and appropriate in the public interest and for the protection of the ceding insurers in this state. (7-1-99) ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

All contested cases shall be governed by the provisions Chapter 2, Title 41, Idaho Code, the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (7-1-96) ( )

**004. INCORPORATION BY REFERENCE.**

Consistent with National Association of Insurance Commissioners (NAIC) model regulation 786, the following documents applicable to letters of credit as referenced in subsections 061.02, 081.05 and 081.06 of this rule, are incorporated by reference. ( )

**01. Documents.** Copies of the following documents may be obtained by contacting our office. ( )

**a.** The Purposes and Procedures Manual of the NAIC Investment Analysis Office, NAIC Securities Valuation Office and NAIC Structured Securities Group, December 31, 2016, edition, as referenced in subsection 061.02. ( )

**b.** The Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 600 (UCP 600), July 1, 2007, edition, as referenced in subsection 081.05. ( )

**c.** The International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), 1998 edition, as referenced in subsection 081.06. ( )

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

The Department of Insurance is located at 700 W State St., Third Floor, Boise, ID 83702. The mailing address is PO Box 83720, Boise, ID 83720. The web address is www.doi.idaho.gov. Office hours are Monday-Friday, 8:00 am-5:00 pm. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

This rule is subject to and in compliance with the Public Records Act, Title 74, Chapter 1, Idaho Code. ( )

**0047. -- 0009.** (RESERVED)

**010. DEFINITIONS.**

**01. Beneficiary.** When used in trust agreements qualified under this rule, the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes, and is limited to, the

court appointed domiciliary receiver (including conservator, rehabilitator or liquidator). ( )

**02. Grantor.** The entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer. ( )

**03. Mortgage-Related Security.** Means an obligation that is rated AA or higher (or the equivalent) by a securities rating agency recognized by the securities valuation office of the NAIC and that either: ( )

**a.** Represents ownership of one (1) or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates or participation), that: ( )

**i.** Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 U.S.C.A. Section 5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located; ( )

**ii.** Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. Sections 1709 and 1715-b, or, where the notes involve a lien on the manufactured home, by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. Section 1703; or ( )

**b.** Is secured by one (1) or more promissory notes or certificates of deposit or participations in the notes (with or without recourse to the insurer of the notes) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of subparagraphs 010.03.a.i. and 010.03.a.ii. ( )

**04. Obligation.** ( )

**a.** Losses Paid But Not Recovered. Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer; ( )

**b.** Reserves for Reinsured Losses Reported and Outstanding; ( )

**c.** Reserves for Reinsured Losses Incurred But Not Reported; and ( )

**d.** Reserves for Allocated Reinsured Loss Expenses and Unearned Premiums. ( )

**05. Promissory Note.** When used in connection with a manufactured home, shall also include a loan, advance or credit sale as evidenced by a retail installment sales contract or other instrument. ( )

**011. CREDIT FOR REINSURANCE – REINSURER LICENSED IN THIS STATE.**

Pursuant to Section 41-51~~45~~<sup>42</sup>(a), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to assuming insurers which were licensed in this State as of ~~the date of the ceding insurer's~~ statutory financial statement credit for reinsurance is claimed. (7-1-96)( )

**012. -- 020. (RESERVED)**

**021. CREDIT FOR REINSURANCE -- ACCREDITED REINSURERS.**

**01. Accredited Reinsurers.** Pursuant to Section 41-51~~45~~<sup>42</sup>(b), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which is accredited as a reinsurer in this

state as of the date ~~of the ceding insurer's~~ on which statutory financial statement credit for reinsurance is claimed. An accredited reinsurer ~~is one which~~ must: (7-1-96)( )

a. ~~Has filed~~ File with the Idaho Department of Insurance ~~an application to act as an accredited reinsurer in this state, on forms and in the format provided by the director and received written notice of accreditation by the department~~ a properly executed form AR-1 (attached as an exhibit to this rule) as evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records; (7-1-99)( )

b. File with the director a certified copy of a certificate of authority or other acceptable evidence that it is licensed to transact insurance or reinsurance in at least one (1) state, or in the case of a U.S. branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one (1) state. ( )

~~bc.~~ Files annually with the director a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and (7-1-96)( )

~~ed.~~ Maintains a surplus as regards policyholders in an amount not less than twenty million dollars (\$20,000,000) ~~and whose accreditation has not been denied by the director within ninety (90) days of its submission or, in the case of companies with a surplus as regards policyholders of less than twenty million dollars (\$20,000,000), whose accreditation has been approved by the director~~ or obtain the affirmative approval of the director upon a finding that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. (7-1-96)( )

**02. Denial of Accreditation.** If the director determines that the assuming insurer has failed to meet or maintain any of these qualifications, he may upon written notice and hearing, suspend or revoke the accreditation. ~~No~~ Credit shall not be allowed a domestic ceding insurer under this section with respect to reinsurance ceded after 9/1/97 if the assuming insurer's accreditation has been denied or revoked by the director, or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the director after notice and hearing. (7-1-96)( )

**022. -- 030. (RESERVED)**

**031. CREDIT FOR REINSURANCE -- REINSURER DOMICILED AND LICENSED IN ANOTHER STATE.**

Pursuant to Section 41-51~~45~~(~~42~~)(c), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which ~~as of the date of the ceding insurer's statutory financial statement~~ any date on which statutory financial statement credit for reinsurance is claimed: (7-1-96)( )

**01. Applicable Domicile and License.** Is domiciled and licensed in (or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed in) a state which employs standards regarding credit for reinsurance substantially similar to those applicable under ~~the Act~~ Section 41-515, Idaho Code, and this rule; (7-1-96)( )

**02. Maintains Surplus.** Maintains a surplus as regards policyholders in an amount not less than twenty million dollars (\$20,000,000); and (7-1-96)

**03. Proper AR-1 Form Filed.** Files a properly executed Form AR-1 with the director as evidence of its submission to this state's authority to examine its books and records. (7-1-96)

**04. Provisions.** The provisions of this section relating to surplus as regards policyholders shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used in this section, "substantially similar" standards means credit for reinsurance standards which the director determines equal or exceed the standards of Section 41-51~~45~~, Idaho Code, and this rule. (7-1-96)( )

**032. -- 040. (RESERVED)**



041. CREDIT FOR REINSURANCE -- REINSURERS MAINTAINING TRUST FUNDS.

01. **Trust Fund.** Pursuant to Section 41-51~~45~~<sup>42</sup>(d), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer ~~which that~~, as of ~~the any~~ date ~~of the ceding insurer's on which~~ statutory financial statement credit for reinsurance is claimed, and thereafter for so long as credit for reinsurance is claimed, maintains a trust fund in an amount prescribed below in a qualified United States financial institution as defined in Section 41-51~~45~~<sup>4</sup>(4), Idaho Code, for the payment of the valid claims of its United States ~~policyholders and domiciled~~ ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the director substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the director to determine the sufficiency of the trust fund.

~~(7-1-96)~~( )

02. **Requirements.** The following requirements apply to the following categories of assuming insurer:  
(7-1-96)

a. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to ~~business written in the~~ reinsurance ceded by United States ~~domiciled insurers~~, and in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars (\$20,000,000), except as provided for in paragraph 041.02.b. of this section.

~~(7-1-96)~~( )

b. ~~The trust fund for a group which includes incorporated and individual unincorporated underwriters shall consist of funds in trust in an amount not less than the group's aggregate liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of the United States ceding insurers of any member of the group. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members. The group shall make available to the director annual certifications by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter member of the group. At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three (3) full years, the director or commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of U.S. ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flow, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than thirty percent (30%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers covered by the trust.~~

~~(7-1-96)~~( )

c. ~~The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of ten billion dollars (\$10,000,000,000) (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the National Association of Insurance Commissioners) and which has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation, shall consist of funds in trust in an amount not less than the assuming insurers' liabilities attributable to business ceded by United States ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group and, in addition, the group shall maintain a joint trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall file a properly executed Form AR-1 as evidence of the submission to this state's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination. The group shall make available to the director annual certifications by the members' domiciliary regulators and their independent public accountants of the solvency of each member of the group. The trust fund for a group including incorporated and individual unincorporated underwriters shall consist of:~~

~~(7-1-96)~~( )

i. For insurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, funds in trust in an amount not less than the respective underwriters' several liabilities



attributable to business ceded by U.S. domiciled ceding insurers to any underwriter of the group: ( )

ii. For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this rule, funds in trust in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and ( )

iii. In addition to these trusts, the group shall maintain a trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of the U.S. domiciled ceding insurers of any member of the group for all the years of account. ( )

d. The incorporated members of the group within the scope of paragraph 041.02.c. of this section shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members. The group shall, within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the director: ( )

i. An annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group; or ( )

ii. If a certification is unavailable, a financial statement, prepared by independent public accountants, of each underwriter member of the group. ( )

e. The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of ten billion dollars (\$10,000,000,000) (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the NAIC) and that has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation, shall: ( )

i. Consist of funds in trust in an amount not less than the assuming insurers' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group; ( )

ii. Maintain a joint trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of U.S. domiciled ceding insurers of any member of the group; and ( )

iii. File a properly executed form AR-1 as evidence of the submission to the Idaho Department of Insurance's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination. ( )

f. Within ninety (90) days after the statements are due to be filed with the group's domiciliary regulator, the group shall file with the director an annual certification of each underwriter member's solvency by the member's domiciliary regulators, and financial statements, prepared by independent public accountants, of each underwriter member of the group. ( )

**03. Acceptable Form.** ~~The trust shall be established in a form approved by the director and complying with Section 41-514(1), Idaho Code, and this section. The trust instrument shall provide that:~~ (7-1-96)( )

a. Credit for reinsurance shall not be granted unless the form of the trust and any amendments to the trust have been approved by either the director or commissioner of the state where the trust is domiciled or the director or commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the director and commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that: ( )

ii. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States.

(7-1-96)

~~bii.~~ Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States ~~policyholders and~~ ceding insurers, their assigns and successors in interest. ~~(7-1-96)~~ ( )

~~eiii.~~ The trust shall be subject to examination as determined by the director. (7-1-96)

~~div.~~ The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust; ~~and~~ (7-1-96)

~~ev.~~ No later than February 28 of each year the trustees of the trust shall report to the director in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31. (7-1-96)

~~f.~~ ~~No amendment to the trust shall be effective unless reviewed and approved in advance by the director.~~ ~~(7-1-96)~~

~~b.~~ Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by this subsection or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the director or commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the director or commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund. ( )

~~c.~~ The assets shall be distributed by and claims shall be filed with and valued by the director or commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies. ( )

~~d.~~ If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. beneficiaries of the trust, the director or commissioner with regulatory oversight over the trust shall return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement. ( )

~~e.~~ The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this provision. ( )

~~04.~~ **Liabilities.** For purposes of this section, the term "liabilities" shall mean the assuming insurer's gross liabilities attributable to reinsurance ceded by U.S. domiciled insurers excluding liabilities that are otherwise secured by acceptable means, and, shall include: ( )

~~a.~~ For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance: ( )

~~i.~~ Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer; ( )

~~ii.~~ Reserves for losses reported and outstanding; ( )

~~iii.~~ Reserves for losses incurred but not reported; ( )

~~iv.~~ Reserves for allocated loss expenses; and ( )

~~v.~~ Unearned premiums. ( )

- b.** For business ceded by domestic insurers authorized to write life, health and annuity insurance: ( )
- i.** Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums: ( )
- ii.** Aggregate reserves for accident and health policies: ( )
- iii.** Deposit funds and other liabilities without life or disability contingencies; and ( )
- iv.** Liabilities for policy and contract claims. ( )
- 05.** Assets. Assets deposited in trusts established pursuant to Section 41-515(2), Idaho Code, and section 041 of these rules shall be valued according to their current fair market value and shall consist only of cash in U.S. dollars, certificates of deposit issued by a U.S. financial institution as defined in Section 41-515(4)(a), Idaho Code, clean, irrevocable, unconditional and “evergreen” letters of credit issued or confirmed by a qualified U.S. financial institution, as defined in Section 41-515(4)(a), Idaho Code, and investments of the type specified in this subsection, but investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust shall not exceed five percent (5%) of total investments. No more than twenty percent (20%) of the total of the investments in the trust may be foreign investments authorized under paragraphs 041.05.a.v., 05.c., 05.e.ii. or 05.f. of this rule, and no more than ten percent (10%) of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in U.S. dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of Section 41-515(2), Idaho Code, shall be invested only as follows: ( )
- a.** Government obligations that are not in default as to principal or interest, that are valid and legally authorized and that are issued, assumed or guaranteed by: ( )
- i.** The United States or by any agency or instrumentality of the United States; ( )
- ii.** A state of the United States; ( )
- iii.** A territory, possession or other governmental unit of the United States; ( )
- iv.** An agency or instrumentality of a governmental unit referred to in subparagraphs 041.05.a.ii. and 041.05.a.iii. if the obligations shall be by law (statutory or otherwise) payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for making these payments, but shall not be obligations eligible for investment under this paragraph if payable solely out of special assessments on properties benefited by local improvements; or ( )
- v.** The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC. ( )
- b.** Obligations that are issued in the United States, or that are dollar denominated and issued in a non-U.S. market, by a solvent U.S. institution (other than an insurance company) or that are assumed or guaranteed by a solvent U.S. institution (other than an insurance company) and that are not in default as to principal or interest if the obligations: ( )
- i.** Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated; ( )
- ii.** Are insured by at least one (1) authorized insurer (other than the investing insurer or a parent, subsidiary or affiliate of the investing insurer) licensed to insure obligations in this state and, after considering the insurance, are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation

Office of the NAIC; or ( )

iii. Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC. ( )

c. Obligations issued, assumed or guaranteed by a solvent non-U.S. institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of U.S. corporations issued in a non-U.S. currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC. ( )

d. An investment made pursuant to the provisions of paragraph 041.05.a., 041.05.b., or 041.05.c. of this subsection shall be subject to the following additional limitations: ( )

i. An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed five percent (5%) of the assets of the trust; ( )

ii. An investment in any one mortgage-related security shall not exceed five percent (5%) of the assets of the trust; ( )

iii. The aggregate total investment in mortgage-related securities shall not exceed twenty-five percent (25%) of the assets of the trust; and ( )

iv. Preferred or guaranteed shares issued or guaranteed by a solvent U.S. institution are permissible investments if all of the institution's obligations are eligible as investments under subparagraphs 041.05.b.i. and 05.b.iii. of this subsection, but shall not exceed two percent (2%) of the assets of the trust. ( )

e. Equity interests: ( )

i. Investments in common shares or partnership interests of a solvent U.S. institution are permissible if: ( )

(1) Its obligations and preferred shares, if any, are eligible as investments under Paragraph 041.05.e.; and ( )

(2) The equity interests of the institution (except an insurance company) are registered on a national securities exchange as provided in the Securities Exchange Act of 1934, 15 U.S.C. Sections 78a to 78kk or otherwise registered pursuant to that act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority, or successor organization. A trust shall not invest in equity interests under paragraph 041.05.e. an amount exceeding one percent (1%) of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company; ( )

ii. Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development, if: ( )

(1) All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC; and ( )

(2) The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development. ( )

iii. An investment in or loan upon any one institution's outstanding equity interests shall not exceed one percent (1%) of the assets of the trust. The cost of an investment in equity interests made pursuant to Paragraph 041.05.e., when added to the aggregate cost of other investments in equity interests then held pursuant to Paragraph 041.05.e., shall not exceed ten percent (10%) of the assets in the trust. ( )

f. Obligations issued, assumed or guaranteed by a multinational development bank, provided the

obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC. ( )

**g.** Investment companies: ( )

i. Securities of an investment company registered pursuant to the Investment Company Act of 1940, 15 U.S.C. Section 80a, are permissible investments if the investment company: ( )

(1) Invests at least ninety percent (90%) of its assets in the types of securities that qualify as an investment under Paragraph 041.05.a., 041.05.b., or 041.05.c. of this subsection or invests in securities that are determined by the director to be substantively similar to the types of securities set forth in Paragraph 041.05.a., 041.05.b., or 041.05.c. of this subsection; or ( )

(2) Invests at least ninety percent (90%) of its assets in the types of equity interests that qualify as an investment under Subparagraph 041.05.e.i. of this subsection; ( )

ii. Investments made by a trust in investment companies under Paragraph 041.05.e. shall not exceed the following limitations: ( )

(1) An investment in an investment company qualifying under Subparagraph 041.05.g.i.(1) of this subsection, shall not exceed ten percent (10%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall not exceed twenty-five percent (25%) of the assets in the trust; and ( )

(2) Investments in an investment company qualifying under Subparagraph 041.05.g.i.(2) of this subsection, shall not exceed five percent (5%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to Subparagraph 041.05.e.i. of this subsection. ( )

**h.** Letters of Credit: ( )

i. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the director), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced. ( )

ii. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence or willful misconduct, or both. ( )

**06. Security by an Unauthorized Assuming Insurer.** A specific security provided to a ceding insurer by an assuming insurer pursuant to Section 051 shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this section. ( )

#### **042. CREDIT FOR REINSURANCE – CERTIFIED REINSURERS.**

**01. Certification and Security.** Pursuant to Section 41-515(2)(e), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under Section 042 of this rule. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the director. The security shall be in a form consistent with the provisions of Section 41-515(2)(e) and (3), Idaho Code, and Sections 071, 081, or 091 of this rule the amount of security required in order for full credit to be allowed shall correspond with the following requirements:

<u>Rating</u>	<u>Security Required</u>
<u>Secure - 1</u>	<u>0%</u>
<u>Secure - 2</u>	<u>10%</u>
<u>Secure - 3</u>	<u>20%</u>
<u>Secure - 4</u>	<u>50%</u>
<u>Secure - 5</u>	<u>75%</u>
<u>Vulnerable - 6</u>	<u>100%</u>

( )

b. Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions. ( )

c. The director shall require the certified reinsurer to post one hundred percent (100%), for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer. ( )

d. In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one (1) year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the director. The one (1) year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral: ( )

i. Line 1: Fire. ( )

ii. Line 2: Allied Lines. ( )

iii. Line 3: Farm owners multiple peril. ( )

iv. Line 4: Homeowners multiple peril. ( )

v. Line 5: Commercial multiple peril. ( )

vi. Line 9: Inland Marine. ( )

vii. Line 12: Earthquake. ( )

viii. Line 21: Auto physical damage. ( )

e. Credit for reinsurance under section 042 shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to section 042 with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract. ( )

f. Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under section 042. ( )

02. Certification procedure: ( )

a. The director shall post notice on the insurance department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The director may not take final action on the application until at least thirty (30) days after posting the notice required by Paragraph 042.02.a. ( )

b. The director shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with Subsection 042.01. The director shall publish a list of all certified reinsurers and their ratings.( )

c. In order to be eligible for certification, the assuming insurer shall meet the following requirements: ( )

i. The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the director pursuant to Subsection 042.03. ( )

ii. The assuming insurer must maintain capital and surplus, or its equivalent, of no less than two hundred fifty million dollars (\$250,000,000) calculated in accordance with Subparagraph 042.02.d.viii. of this section. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least two hundred fifty million dollars (\$250,000,000) and a central fund containing a balance of at least two hundred fifty million dollars (\$250,000,000). ( )

iii. The assuming insurer must maintain financial strength ratings from two (2) or more rating agencies deemed acceptable by the director. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one (1) factor used by the director in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following: ( )

(1) Standard & Poor's; ( )

(2) Moody's Investors Service; ( )

(3) Fitch Ratings; ( )

(4) A.M. Best Company; or ( )

(5) Any other nationally recognized statistical rating organization. ( )

iv. The certified reinsurer must comply with any other requirements reasonably imposed by the director. ( )

d. Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following: ( )

i. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The director shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two (2) financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification:

<u>Rating</u>	<u>Best</u>	<u>S&amp;P</u>	<u>Moody's</u>	<u>Fitch</u>
<u>Secure - 1</u>	<u>A++</u>	<u>AAA</u>	<u>Aaa</u>	<u>AAA</u>

<u>Rating</u>	<u>Best</u>	<u>S&amp;P</u>	<u>Moody's</u>	<u>Fitch</u>
<u>Secure - 2</u>	<u>A+</u>	<u>AA+, AA, AA-</u>	<u>Aa1, Aa2, Aa3</u>	<u>AA+, AA, AA-</u>
<u>Secure - 3</u>	<u>A</u>	<u>A+, A</u>	<u>A1, A2</u>	<u>A+, A</u>
<u>Secure - 4</u>	<u>A-</u>	<u>A-</u>	<u>A3</u>	<u>A-</u>
<u>Secure - 5</u>	<u>B++, B+</u>	<u>BBB+, BBB, BBB-</u>	<u>Baa1, Baa2, Baa3</u>	<u>BBB+, BBB, BBB-</u>
<u>Vulnerable - 6</u>	<u>B, B-, C++, C+, C, C-, D, E, F</u>	<u>BB+, BB, BB-, B+, B-, B-, CCC, CC, C, D, R</u>	<u>Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C</u>	<u>BB+, BB, BB-, B+, B-, B-, CCC+, CC, CCC-, DD</u>

( )

ii. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations; ( )

iii. For certified reinsurers domiciled in the U.S., a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers); ( )

iv. For certified reinsurers not domiciled in the U.S., a review annually of Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers) (attached as exhibits to this rule); ( )

v. The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than ninety (90) days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership; ( )

vi. Regulatory actions against the certified reinsurer; ( )

vii. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in following subparagraph 042.02.d.viii.; ( )

viii. For certified reinsurers not domiciled in the U.S., audited financial statements (audited U.S. GAAP basis if available, audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or with the permission of the state insurance director, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor). Upon the initial application for certification, the director will consider audited financial statements for the last three (3) years filed with its non U.S. jurisdiction supervisor; ( )

ix. The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding; ( )

x. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The director shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and ( )

xi. Any other information deemed relevant by the director. ( )

e. Based on the analysis conducted under Subparagraph 042.02.d.v. of a certified reinsurer's reputation for prompt payment of claims, the director may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers, provided that the director shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under Subparagraph 042.02.d.i. if the director finds that; ( )



i. More than fifteen percent (15%) of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of ninety (90) days or more that are not in dispute and that exceed one hundred thousand dollars (\$100,000) for each cedent; or ( )

ii. The aggregate amount of reinsurance recoverables on paid losses that are not in dispute that are overdue by ninety (90) days or more exceeds fifty million dollars (\$50,000,000). ( )

f. The assuming insurer must submit a properly executed form CR-1 (attached as an exhibit to this rule) as evidence of its submission to the jurisdiction of this state, appointment of the director as an agent for service of process in this state, and agreement to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment. The director shall not certify any assuming insurer that is domiciled in a jurisdiction that the director has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards. ( )

g. The certified reinsurer must agree to meet applicable information filing requirements as determined by the director, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers that is not otherwise public information subject to disclosure shall be exempted from disclosure under Title 74, Chapter 1, Idaho Code, and shall be withheld from public disclosure. The applicable information filing requirements are, as follows: ( )

i. Notification within ten (10) days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefor; ( )

ii. Annually, Form CR-F or CR-S, as applicable per instructions adopted by the Idaho Department of Insurance. ( )

iii. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in following Subparagraph 042.02.g.iv.; ( )

iv. Annually, audited financial statements (audited U.S. GAAP basis if available, audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the director, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor). Upon the initial certification, audited financial statements for the last three (3) years filed with the certified reinsurer's supervisor; ( )

v. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers; ( )

vi. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and ( )

vii. Any other information that the director may reasonably require. ( )

h. Change in Rating or Revocation of Certification. ( )

i. In the case of a downgrade by a rating agency or other disqualifying circumstance, the director shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of Subparagraph 042.02.d.i. ( )

ii. The director shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the director to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations. ( )

iii. If the rating of a certified reinsurer is upgraded by the director, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the director shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the director, the director shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer. ( )

iv. Upon revocation of the certification of a certified reinsurer by the director, the assuming insurer shall be required to post security in accordance with Section 061 of this rule in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with Section 041 of this rule, the director may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three (3) months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the director to be at high risk of uncollectibility. ( )

**03. Qualified Jurisdictions.** ( )

a. If, upon conducting an evaluation under Section 042 of this rule with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the director determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the director shall publish notice and evidence of such recognition in an appropriate manner. The director may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified. ( )

b. In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the director shall evaluate the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. The director shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the director as eligible for certification. A qualified jurisdiction must agree to share information and cooperate with the director with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the director, include, but are not limited to, the following: ( )

i. The framework under which the assuming insurer is regulated. ( )

ii. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance. ( )

iii. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction. ( )

iv. The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used. ( )

v. The domiciliary regulator's willingness to cooperate with U.S. regulators in general and the director in particular. ( )

vi. The history of performance by assuming insurers in the domiciliary jurisdiction. ( )

vii. Any documented evidence of substantial problems with the enforcement of final U.S. judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the director has determined that it does not adequately and promptly enforce final U.S. judgments or arbitration awards. ( )

viii. Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization. ( )

ix. Any other matters deemed relevant by the director. ( )

c. A list of qualified jurisdictions shall be published through the NAIC committee process. The director shall consider this list in determining qualified jurisdictions. If the director approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the director shall provide thoroughly documented justification with respect to the criteria provided under Subparagraphs 042.03.b.i. through 042.03.b.ix. of this subsection. ( )

d. U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions. ( )

**04. Recognition of Certification Issued by an NAIC Accredited Jurisdiction.** ( )

a. If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the director has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 and such additional information as the director requires. The assuming insurer shall be considered to be a certified reinsurer in this State. ( )

b. Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this State as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the director of any change in its status or rating within ten (10) days after receiving notice of the change. ( )

c. The director may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with Paragraph 042.02.h. of this subsection. ( )

d. The director may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the director suspends or revokes the certified reinsurer's certification in accordance with Paragraph 042.02.h., the certified reinsurer's certification shall remain in good standing in this State for a period of three (3) months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this State. ( )

**05. Mandatory Funding Clause.** In addition to the clauses required under Section 101 of this rule, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer. ( )

**06. Notification Requirements.** The director shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions. ( )

**0423. -- 050. (RESERVED)**

**051. CREDIT FOR REINSURANCE REQUIRED BY LAW.**

Pursuant to Section 41-51~~45~~<sup>(+2)</sup>(~~ef~~), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 41-51~~45~~<sup>(+2)</sup>(a), (b), (c), ~~or~~ (d), or (e). Idaho Code, but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this section, "jurisdiction" means any state, district or territory of the United States and any lawful national government. ~~(7-1-96)~~( )

**052. -- 060. (RESERVED)**

**061. ASSET OR REDUCTION FROM LIABILITY FOR REINSURANCE CEDED TO AN UNAUTHORIZED ASSUMING INSURER NOT MEETING THE REQUIREMENT OF SECTIONS 011, 021, 031, 041, 042, AND 051.**

Pursuant to Section 41-51~~45~~<sup>(+2)</sup>(~~3~~), Idaho Code, the director shall allow a reduction from liability for reinsurance ceded

by a domestic insurer to an assuming insurer not meeting the requirements of Section 41-51-~~45~~(~~42~~), Idaho Code, in an amount not exceeding the liabilities carried by the ceding insurer. ~~Such~~ The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations ~~there~~ under the reinsurance contract. ~~Such~~ The security ~~must~~ shall be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in Section 41-51-~~45~~(4)(~~b~~), Idaho Code. This security may be in the form of any of the following:  
(7-1-96)( )

01. Cash. (7-1-96)

02. **Securities.** Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the NAIC Investment Analysis Office NAIC Securities Valuation Office and NAIC Structured Securities Group, and qualifying as admitted assets;  
(7-1-96)( )

03. **Letters of Credit.** Clean, irrevocable, unconditional and “evergreen” letters of credit issued or confirmed by a qualified United States institution, as defined in Section 41-51-~~45~~(~~34~~)(a), Idaho Code, effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding ~~company~~ insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution’s subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs;  
or  
(7-1-96)( )

04. ~~Any Other Form of Security Acceptable to the Director.~~ Any Other Form of Security Acceptable to the Director.  
(7-1-96)( )

05. **Other Provisions Applicable.** An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to section 061 shall be allowed only when the requirements of sections ~~101 and the applicable portions of Sections 101~~ and the applicable portions of sections 074, 075, 076, 081, and 091 of this rule are met.  
(7-1-99)( )

062. -- ~~069~~70. (RESERVED)

~~070~~1. **TRUST AGREEMENTS QUALIFIED UNDER IDAPA 18.01.75.061.**  
Sections 074, 075, and 076 apply to trust agreements qualified under Section 061.  
( )

~~071. **BENEFICIARY.**  
Beneficiary means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).~~  
(7-1-96)

~~072. **GRANTOR.**  
Grantor means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.~~  
(7-1-96)

~~073. **OBLIGATIONS.**  
Obligations, as used in IDAPA 18.01.75, “Credit for Reinsurance Rules,” means:~~  
(7-1-99)

~~01. **Losses Paid but Not Recovered.** Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;~~  
(7-1-99)

~~02. **Reserves for Reinsured Losses Reported and Outstanding;**~~  
(7-1-96)

~~03. **Reserves for Reinsured Losses Incurred but Not Reported; and**~~  
(7-1-96)

~~04. Reserves for Allocated Reinsured Loss Expenses and Unearned Premiums. (7-1-96)~~

~~072. -- 073. (RESERVED)~~

**074. REQUIRED CONDITIONS.**

**01. Who Shall Enter the Agreement.** The trust agreement shall be entered into between the beneficiary, the grantor and a trustee which shall be a qualified United States financial institution as defined in Section 41-51~~45~~(4)(b), Idaho Code. ~~(7-1-99)~~( )

**02. Trust Account.** The trust agreement shall create a trust account into which assets shall be deposited. (7-1-96)

**03. Who Shall Hold Assets in Trust Account.** All assets in the trust account shall be held by the trustee at the trustee's office in the United States, ~~except that a bank may apply for the director's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this section. If the director approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in Subsection 074.04.d. must also be presentable, as a matter of legal right, at the trustee's principal office in the United States.~~ (7-1-99)( )

**04. Provisions of Trust Agreement.** The Trust Agreement shall provide that: (7-1-99)

**a.** The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee; (7-1-96)

**b.** No other statement or document is required to be presented ~~in order~~ to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets; ~~(7-1-96)~~( )

**c.** It is not subject to any conditions or qualifications outside of the trust agreement; and (7-1-96)

**d.** It shall not contain references to any other agreements or documents except as provided for under Subsections ~~074.11~~ and 074.12. ~~(7-1-99)~~( )

**05. Sole Benefit of Beneficiary.** The Trust Agreement shall be established for the sole benefit of the beneficiary. (7-1-99)

**06. Required of Trustee.** The Trust Agreement shall require the trustee to: (7-1-99)

**a.** Receive assets and hold all assets in a safe place; (7-1-96)

**b.** Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity; (7-1-96)

**c.** Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter; (7-1-96)

**d.** Notify the grantor and the beneficiary within ten (10) days, of any deposits to or withdrawals from the trust account; (7-1-96)

**e.** Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and (7-1-96)

**f.** Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary,

upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account. (7-1-96)

**07. Written Notification of Termination.** The trust agreement shall provide that at least thirty (30) days, but not more than forty-five (45) days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary. (7-1-99)

**08. Subject to Laws of State in Which Trust is Established.** The trust agreement shall be made subject to and governed by the laws of the state in which the trust is ~~established~~ domiciled. (7-1-99)( )

**09. Prohibit Invasion of Trust Corpus.** The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the director), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced. (7-1-99)( )

**10. Trustee Shall Be Liable.** The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence or willful misconduct, or both. (7-1-99)( )

**11. Purposes for Applying Amounts Drawn Upon Trust Account.** Notwithstanding other provisions of this rule, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, ~~such a~~ the trust agreement may, ~~notwithstanding any other conditions in this rule,~~ provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes: (7-1-99)( )

a. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer; (7-1-96)

b. To make payment to the assuming insurer of any amounts held in the trust account that exceed one hundred two percent (102%) of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or (7-1-96)

c. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in Section 41-51~~4~~5(4)(b), Idaho Code, apart from its general assets, in trust for such uses and purposes specified in Subsections 074.11.a. and 074.11.b. as may remain executory after such withdrawal and for any period after the termination date. (7-1-99)( )

**12. Reinsurance Agreement Provisions.** ~~The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by Subsection 076.01.b., so long as these required conditions are included in the trust agreement.~~ Notwithstanding other provisions of this rule, when a trust agreement is established to meet the requirements of Section 061 in conjunction with a reinsurance agreement covering life, annuities or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes: (7-1-99)( )

a. To pay or reimburse the ceding insurer for: ( )



i. The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies; and ( )

ii. The assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provisions of the policies reinsured under the reinsurance agreement; ( )

b. To pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; or ( )

c. Where the ceding insurer has received notification of termination of the trust and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified U.S. financial institution apart from its general assets, in trust for the uses and purposes specified in Paragraphs 074.12.a. and 074.12.b. of this subsection as may remain executory after withdrawal and for any period after the termination date. ( )

13. Trust Account Assets. Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by the Insurance Code or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed five percent (5%) of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities or accident and health risks, then the provisions required by this paragraph must be included in the reinsurance agreement. ( )

#### **075. PERMITTED CONDITIONS.**

**01. Resignation of Trustee.** The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety (90) days after receipt by the beneficiary and grantor of the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ninety (90) days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee. (7-1-99)

**02. Grantor's Rights.** The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name. (7-1-99)

**03. Trustee's Authority to Invest.** The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in Paragraph 076.01.b. (7-1-99)( )

**04. Transfer of Assets.** The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets. (7-1-99)

**05. Termination of Trust Account.** The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor. (7-1-99)

076. ADDITIONAL CONDITIONS APPLICABLE TO REINSURANCE AGREEMENTS.

01. **Reinsurance Agreement ~~in Conjunction With Trust Agreement~~.** A reinsurance agreement, ~~which is entered into in conjunction with a trust agreement and the establishment of a trust account,~~ may contain provisions that: ~~(7-1-99)( )~~

a. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover; (7-1-96)

~~b. Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types permitted by the Insurance Code or any combination of the above, provided that such investments are issued by an institution that is not the parent, subsidiary or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, then the trust agreement may contain the provisions required by this paragraph in lieu of including such provisions in the reinsurance agreement; (7-1-96)~~

~~eb.~~ Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity; (7-1-96)

~~ec.~~ Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and (7-1-96)

~~ed.~~ Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes: (7-1-96)

i. To pay or reimburse the ceding insurer for: ~~the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;~~ ~~(7-1-96)( )~~

(1) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies; ( )

(2) The assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; and ( )

(3) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; ( )

ii. To ~~reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;~~ make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer. ~~(7-1-96)( )~~

iii. ~~To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement. The account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses and unearned premium reserves; and (7-1-96)~~



~~iv. To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.~~ (7-1-96)

**02. Other Provisions of Reinsurance Agreement.** The Reinsurance Agreement may also contain provisions that: (7-1-99)

a. Give the assuming insurer the right to seek approval from the ceding insurer, which shall not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided: (7-1-96)( )

i. The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a current fair market value equal to the current fair market value of the assets withdrawn so as to maintain at all times the deposit in the required amount, or (7-1-96)( )

ii. After withdrawal and transfer, the current fair market value of the trust account is no less than one hundred and two percent (102%) of the required amount. (7-1-96)( )

~~iii. The ceding insurer shall not unreasonably or arbitrarily withhold its approval.~~ (7-1-96)

b. Provide for: the return of any amount withdrawn in excess of the actual amounts required for Paragraph 076.01.d. and for interest payments, at a rate not in excess of the prime rate of interest on such amounts. (7-1-96)( )

~~i. The return of any amount withdrawn in excess of the actual amounts required for Subsections 076.01.e.i., or 076.01.e.ii., or 076.01.e.iii., or in the case of Subsection 076.01.e.iv., any amounts that are subsequently determined not to be due; and~~ (7-1-99)

~~ii. Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to Subsection 076.01.e.~~ (7-1-99)

c. Permit the award by any arbitration panel or court of competent jurisdiction of: (7-1-96)

i. Interest at a rate different from that provided in Paragraph 076.02.b.; (7-1-99)

ii. Court of arbitration costs; (7-1-96)

iii. Attorney's fees, and (7-1-96)

iv. Any other reasonable expenses. (7-1-96)

**03. Financial Reporting.** A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department in compliance with the provisions of this regulation when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure. (7-1-96)

**04. Existing Agreements.** Notwithstanding the effective date of this rule, any trust agreement or underlying reinsurance agreement in existence prior to July 1, 1996 will continue to be acceptable until 7/1/96, at which time the agreements will have to be in full compliance with this rule for the trust agreement to be acceptable. (7-1-96)

**05. Failure to Identify Beneficiary.** The failure of any trust agreement to specifically identify the beneficiary as defined in section ~~074~~10 of this section shall not be construed to affect any actions or rights which the director may take or possess pursuant to the provisions of the laws of this state. (7-1-99)( )

077. -- 080. (RESERVED)

**081. LETTERS OF CREDIT QUALIFIED UNDER SECTION 061.**

**01. Letters of Credit Under Section 061.** The letter of credit must be clean, irrevocable and unconditional and issued or confirmed by a qualified United States financial institution as defined in Section 41-514~~5~~~~(34)~~~~(a)~~, Idaho Code. The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in ~~Subsections~~ Subparagraph 081.0~~98~~~~a.i.~~. As used in this section, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator). (7-1-96)(    )

**02. Heading of Letter.** The heading of the letter of credit may include a boxed section which contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only. (7-1-96)

**03. Statement.** The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto. (7-1-96)

**04. Term of Letter.** The term of the letter of credit shall be for at least one (1) year and shall contain an "evergreen clause" which prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than thirty (30) days' notice prior to the expiration date or nonrenewal. (7-1-96)

**05. Disclosure Statement.** The letter of credit shall state whether it is subject to and governed by the laws of this state or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce ~~(Publication 5600)~~ (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution. (7-1-96)(    )

**06. Letter Subject to Uniform Customs and Practice.** If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce ~~(Publication 5600)~~ (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), then the letter of credit shall specifically address and ~~make provision provide~~ for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article ~~4936~~ of Publication ~~5600~~ occur. (7-1-96)(    )

~~**07. Issued or Confirmed by Authorized Institution.** The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, pursuant to Section 41-514(3), Idaho Code.~~ (7-1-96)

**087. Exception.** If the letter of credit is issued by a qualified United States financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in subsection 081.0~~7~~~~1~~, then the following additional requirements shall be met: (7-1-96)(    )

**a.** The issuing qualified United States financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts, and (7-1-96)(    )

**b.** The "evergreen clause" shall provide for thirty (30) days' notice prior to the expiration date for nonrenewal. (7-1-96)

**098. Reinsurance Agreement Provisions.** (7-1-96)

a. The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions ~~which~~ that: (7-1-96)( )

i. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover. (7-1-96)

ii. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons: (7-1-96)

~~(1) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies; (7-1-96)~~

~~(2) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement; (7-1-96)~~

~~(3) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement (such amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred and unearned premium reserves); and (7-1-96)~~

~~(4) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement. (7-1-96)~~

(1) To pay or reimburse the ceding insurer for: ( )

(a) The assuming insurer's share under the specific reinsurance agreement of premiums returned but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies; ( )

(b) The assuming insurer's share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement; and ( )

(c) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; ( )

(2) Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount, and where the assuming insurer's entire obligations under the reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified U.S. financial institution apart from its general assets, in trust for such uses and purposes specified in Subparagraph 081.08.a.ii. as may remain after withdrawal and for any period after the termination date. ( )

iii. All of the foregoing provisions of subsection Paragraph 081.098.a. should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer. (7-1-96)( )

b. Nothing contained in subsection Paragraph 081.098.a. shall preclude the ceding insurer and assuming insurer from providing for: (7-1-96)( )

i. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to subsection Paragraph 081.098.a.ii.(3); and/or (7-1-96)( )

ii. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, ~~in the case of Subsection 081.09.a.ii.(4);~~ any amounts that are subsequently determined not to be due. (7-1-96)( )

~~e. When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and health, where it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of Subsection 081.09.a.ii., require that the parties enter into a "Trust Agreement" which may be incorporated into the reinsurance agreement or be a separate document. (7-1-96)~~

~~10. No Reduction in Liability. A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement. Further, the reduction for the letter of credit may be up to the amount available under the letter of credit but no greater than the specific obligation under the reinsurance agreement which the letter of credit was intended to secure. (7-1-96)~~

082. -- 090. (RESERVED)

091. OTHER SECURITY.

A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control. (7-1-96)

092. -- 100. (RESERVED)

101. REINSURANCE CONTRACT.

Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of sections 011, 021, 031, 041, 042, or 061 or otherwise in compliance with Section 41-5145(12), Idaho Code, after the adoption of this rule unless the reinsurance agreement: (7-1-96)( )

01. **Insolvency Clause.** Includes ~~an~~ a proper insolvency clause ~~which provides that stipulates, in substance, the following:~~ that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to Chapter 33, Title 41, Idaho Code; (7-1-96)( )

~~a. In the event of the ceding insurer's insolvency, the reinsurance afforded by the reinsurance agreement shall be payable by the assuming insurer directly to the ceding insurer or its domiciliary liquidator, on the basis of and at the time the ceding insurer's liability is determined in the liquidation proceedings, without diminution because of the ceding insurer's insolvency or because its liquidator has failed to pay all or a portion of any claim, except: (7-1-96)~~

~~i. Where the contract specifically provides another payee of such reinsurance in the event of the insolvency of the ceding insurer; or (7-1-96)~~

~~ii. Where the assuming insurer, with the consent of the direct insured(s), has assumed such policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under such policies and in substitution for the obligations of the ceding insurer to such payees. (7-1-96)~~

~~b. The ceding insurer's liquidator, shall give written notice to the assuming insurer of the pendency of a claim against the insolvent ceding insurer on the contract reinsured within a reasonable time after such claim is filed in the liquidation proceeding. During the pendency of such claim, any assuming insurer may investigate such claim and interpose in the proceeding where the claim is to be adjudicated, at its own expense, any defense that it may deem available to the ceding insurer or its liquidator. The expense thus incurred by the assuming insurer shall be chargeable against the ceding insurer, subject to court approval, as part of the expense of liquidation to the extent of proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. Where two (2) or more assuming companies are involved in the same claim and a majority in interest elect to interpose a defense to such claim, each assuming insurer's share of the expense thus incurred shall be determined in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding insurer. (7-1-96)~~



Credit for Reinsurance Model Regulation

FORM AR-1

CERTIFICATE OF ASSUMING INSURER

I, \_\_\_\_\_,  
(name of officer) (title of officer)

of \_\_\_\_\_,  
(name of assuming insurer) the assuming insurer

under a reinsurance agreement with one or more insurers domiciled in

\_\_\_\_\_, hereby certify that  
(name of state)

\_\_\_\_\_, ("Assuming Insurer"):  
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in \_\_\_\_\_  
(ceding insurer's state of domicile)

for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Insurance Commissioner of \_\_\_\_\_  
(ceding insurer's state of domicile)  
as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the Insurance Commissioner of \_\_\_\_\_ to examine  
(ceding insurer's state of domicile)  
its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in \_\_\_\_\_  
(ceding insurer's state of domicile)  
reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the Insurance Commissioner at least once per calendar quarter.

Dated: \_\_\_\_\_  
(name of assuming insurer)

BY: \_\_\_\_\_  
(name of officer)

\_\_\_\_\_  
(title of officer)

Model Regulation Service—January 2012

FORM CR-1

CERTIFICATE OF CERTIFIED REINSURER

I, \_\_\_\_\_,  
(name of officer) (title of officer)  
of \_\_\_\_\_, the assuming insurer  
(name of assuming insurer)  
under a reinsurance agreement with one or more insurers domiciled in \_\_\_\_\_,  
in order to be considered for approval in this state, hereby certify that (name of state)  
\_\_\_\_\_  
(name of assuming insurer) ("Assuming Insurer"):

1. Submits to the jurisdiction of any court of competent jurisdiction in \_\_\_\_\_  
(ceding insurer's state of domicile)  
for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.
2. Designates the Insurance Commissioner of \_\_\_\_\_  
(ceding insurer's state of domicile)  
as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.
3. Agrees to provide security in an amount equal to 100% of liabilities attributable to U.S. ceding insurers if it resists enforcement of a final U.S. judgment or properly enforceable arbitration award.
4. Agrees to provide notification within 10 days of any regulatory actions taken against it, any change in the provisions of its domiciliary license or any change in its rating by an approved rating agency, including a statement describing such changes and the reasons therefore.
5. Agrees to annually file information comparable to relevant provisions of the NAIC financial statement for use by insurance markets in accordance with [cite relevant provision of the state equivalent of the Credit for Reinsurance Model Regulation].
6. Agrees to annually file the report of the independent auditor on the financial statements of the insurance enterprise.
7. Agrees to annually file audited financial statements, regulatory filings, and actuarial opinion in accordance with [cite relevant provision of the state equivalent of the Credit for Reinsurance Model Regulation].
8. Agrees to annually file an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers.
9. Is in good standing as an insurer or reinsurer with the supervisor of its domiciliary jurisdiction.

Credit for Reinsurance Model Regulation

Dated: \_\_\_\_\_  
\_\_\_\_\_  
(name of assuming insurer)  
BY: \_\_\_\_\_  
(name of officer)  
\_\_\_\_\_  
(title of officer)



**Form CR-F – PART 1**  
Assumed Reinsurance as of December 31, Current Year (000 Omitted)

[illegible]

**Form CR-F – PART 2**  
Ceded Reinsurance as of December 31, Current Year (000 Omitted)

[illegible]

Model Regulation Service—January 2012

## Form CR-S – PART 1 – SECTION 1

Reinsurance Assumed Life Insurance, Annuities, Deposit Funds and Other Liabilities  
Without Life or Disability Contingencies, and Related Benefits Listed by Reinsured Company as of December 31, Current Year

[illegible]

**Form CR-S – PART 1 – SECTION 2**  
Reinsurance Assumed Accident and Health Insurance Listed by Reinsured Company as of December 31, Current Year

[illegible]

**Form CR-S – PART 2**  
Reinsurance Recoverable on Paid and Unpaid Losses Listed by Reinsuring Company as of December 31, Current Year

[illegible]

Reinsurance Ceded Life Insurance, Annuities, Deposit Funds and Other Liabilities  
Without Life or Disability Contingencies, and Related Benefits Listed by Reinsuring Company as of December 31, Current Year



**IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE**  
**18.01.81 – CORPORATE GOVERNANCE ANNUAL DISCLOSURE**  
**DOCKET NO. 18-0181-1701 (NEW CHAPTER)**  
**NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 41-6404, Idaho Code.

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

House Bill No. 102 enacted in 2017, created Title 41, Chapter 64, Corporate Governance Annual Disclosure requiring insurance companies to file a Corporate Governance Annual Disclosure (CGAD). The addition of a new rule following the enactment of Title 41, Chapter 64, Idaho Code, provides insurers with more detailed procedures for submitting the required CGAD filing and includes the contents that are deemed necessary by the Director of the Department of Insurance to carry out the provisions of Chapter 64.

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 2, 2017, Idaho Administrative Bulletin, [Vol. 17-8, pages 107-112](#).

**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, [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov), (208) 334-4214.

DATED this 31st day of August, 2017.

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 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 41-6404, 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 16, 2017.

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:

House Bill No. 102 created Title 41, Chapter 64 Corporate Governance Annual Disclosure requiring companies to file a Corporate Governance Annual Disclosure (CGAD). The addition of a new rule following the enactment of Title 41 Chapter 64 will provide insurers with more detailed procedures for submitting the required CGAD filing and would include the contents that are deemed necessary by the Director of Insurance to carry out the provisions of Chapter 64.

**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 7, 2017, Idaho Administrative Bulletin, [Vol. 17-6, p. 53](#).

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

The National Association of Insurance Commissioners (NAIC) Financial Analysis Handbook is incorporated by reference as the proposed rule refers to procedures outlined in the handbook for determining the lead state for an insurance group.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Thomas A. Donovan, [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov) (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 either by hard copy or via email to the same email address for questions set forth above on or before August 23, 2017.

DATED this 7th day of July, 2017.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0181-1701**

**IDAPA 18**  
**TITLE 01**  
**CHAPTER 81**

**18.01.81 – CORPORATE GOVERNANCE ANNUAL DISCLOSURE**

**000. LEGAL AUTHORITY.**

This rule is promulgated pursuant to the authority granted by Title 41, Chapters 2 and 64, Idaho Code. ( )

**001. TITLE AND SCOPE.**

**01. Title.** This rule shall be cited in full as Idaho Department of Insurance Rule IDAPA 18.01.81, “Corporate Governance Annual Disclosure.” ( )

**02. Scope.** This rule sets forth the procedures for filing and the required contents of the Corporate Governance Annual Disclosure (CGAD), deemed necessary by the director to carry out the provisions of Title 41, Chapter 64, Idaho Code. ( )

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of this rule, or to the documentation of compliance with this rule. These documents will be available for public inspection and copying in accordance with the public records act. ( )

**003. ADMINISTRATIVE APPEALS.**

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

**004. INCORPORATION BY REFERENCE.**

The most recent National Association of Insurance Commissioners (NAIC) Financial Analysis Handbook (2016 Annual / 2017 Quarterly edition) is hereby incorporated by reference into IDAPA 18.01.81. Copies of this handbook, may be viewed at: ( )

**01. Department.** Idaho Department of Insurance, 700 West State Street, 3rd Floor, Boise, Idaho 83720-0043; ( )

**02. NAIC Documents.** NAIC Executive Headquarters, 2301 McGee Street, Suite 800 Kansas City, MO 64108-2662. NAIC website at [http://www.naic.org/prod\\_serv\\_publications.htm](http://www.naic.org/prod_serv_publications.htm). ( )

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS – STREET ADDRESS – WEB SITE.**

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

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

**03. Street Address.** The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. ( )

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

**006. PUBLIC RECORDS ACT COMPLIANCE.**

Any records associated with this rule are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code, as well as applicable exemptions. ( )

**007. – 009. (RESERVED)**

**010. DEFINITIONS.**

The Idaho Department of Insurance adopts the definitions set forth in Section 41-6402, Idaho Code. In addition, the following terms are defined as used in this chapter. ( )

**01. Director.** The insurance director of the State. ( )

**02. Senior Management.** Any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators and shall include, for example and without limitation, the chief executive officer (CEO), chief financial officer (CFO), chief operations officer (COO), chief procurement officer (CPO), chief legal officer (CLO), chief information officer (CIO), chief technology officer (CTO), chief revenue officer (CRO), chief visionary officer (CVO), or any other chief or "C" level executive. ( )

**011. FILING PROCEDURES.**

**01. Filing Deadline.** An insurer, or the insurance group of which the insurer is a member, required to file a CGAD by chapter 64, title 41, Idaho Code, shall, no later than June 1 of each calendar year, submit to the director a CGAD that contains the information described in Section 012 of this rule. ( )

**02. Signature.** The CGAD must include a signature of the insurer's or insurance group's chief executive officer or corporate secretary attesting to the best of that individual's belief and knowledge that the insurer or insurance group has implemented the corporate governance practices and that a copy of the CGAD has been provided to the insurer's or insurance group's board of directors (board) or the appropriate committee thereof. ( )

**03. Format.** The insurer or insurance group shall have discretion regarding the appropriate format for providing the information required by this rule and is permitted to customize the CGAD to provide the most relevant information necessary to permit the director to gain an understanding of the corporate governance structure, policies and practices utilized by the insurer or insurance group. ( )

**04. Providing Information.** For purposes of completing the CGAD, the insurer or insurance group may choose to provide information on governance activities that occur at the ultimate controlling parent level, an intermediate holding company level or the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group is encouraged to make the CGAD disclosures at the level at which the insurer's or insurance group's risk appetite is determined, or at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised, or the level at which legal liability for failure of general corporate governance duties would be placed. If the insurer or insurance group determines the level of reporting based on these criteria, it shall indicate which of the three criteria was used to determine the level of reporting and explain any subsequent changes in level of reporting. ( )

**05. Completion on Insurance Group Level.** Notwithstanding Subsection 011.01, and as outlined in Section 41-6403, Idaho Code, if the CGAD is completed at the insurance group level, then it must be filed with the lead state of the group as determined by the procedures outlined in the most recent financial analysis handbook adopted by the NAIC. In these instances, a copy of the CGAD must also be provided to the chief regulatory official of any state in which the insurance group has a domestic insurer, upon request. ( )

**06. Referencing.** An insurer or insurance group may comply with this section by referencing other existing documents (e.g., Own Risk Solvency Assessment (ORSA) summary report, holding company form B or F filings, Securities and Exchange Commission (SEC) proxy statements, foreign regulatory reporting requirements, etc.) if the documents provide information that is comparable to the information described in Section 012. The insurer or insurance group shall clearly reference the location of the relevant information within the CGAD and attach the referenced document if it is not already filed or available to the regulator. ( )

**07. Filing of Amended Versions.** Each year following the initial filing of the CGAD, the insurer or insurance group shall file an amended version of the previously filed CGAD indicating where changes have been made. If no changes were made in the information or activities reported by the insurer or insurance group, the filing should so state. ( )

## **012. CONTENTS OF CORPORATE GOVERNANCE ANNUAL DISCLOSURE.**

**01. Detail.** The insurer or insurance group shall be as descriptive as possible in completing the CGAD, with inclusion of attachments or example documents that are used in the governance process, since these may provide a means to demonstrate the strengths of their governance framework and practices. ( )

**02. GCAD Considerations.** The CGAD shall describe the insurer's or insurance group's corporate governance framework and structure including consideration of the following: ( )

**a.** The board and various committees thereof ultimately responsible for overseeing the insurer or insurance group and the level(s) at which that oversight occurs (e.g., ultimate control level, intermediate holding company, legal entity, etc.). The insurer or insurance group shall describe and discuss the rationale for the current board size and structure; and ( )

**b.** The duties of the board and each of its significant committees and how they are governed (e.g., bylaws, charters, informal mandates, etc.), as well as how the board's leadership is structured, including a discussion of the roles of chief executive officer (CEO) and chairman of the board within the organization. ( )

**03. Factors.** The insurer or insurance group shall describe the policies and practices of the most senior governing entity and significant committees thereof, including a discussion of the following factors: ( )

**a.** How the qualifications, expertise and experience of each board member meet the needs of the insurer or insurance group. ( )

**b.** How an appropriate amount of independence is maintained on the board and its significant committees. ( )

**c.** The number of meetings held by the board and its significant committees over the past year as well as information on director attendance. ( )

**d.** How the insurer or insurance group identifies, nominates and elects members to the board and its committees. The discussion should include, for example: ( )

**i.** Whether a nomination committee is in place to identify and select individuals for consideration. ( )

**ii.** Whether term limits are placed on directors. ( )

**iii.** How the election and re-election processes function. ( )

**iv.** Whether a board diversity policy is in place and if so, how it functions. ( )

**e.** The processes in place for the board to evaluate its performance and the performance of its committees, as well as any recent measures taken to improve performance (including any board or committee training

programs that have been put in place). ( )

**04. Additional Factors.** The insurer or insurance group shall describe the policies and practices for directing senior management, including a description of the following factors: ( )

**a.** Any processes or practices (i.e., suitability standards) to determine whether officers and key persons in control functions have the appropriate background, experience and integrity to fulfill their prospective roles, including: ( )

**i.** Identification of the specific positions for which suitability standards have been developed and a description of the standards employed. ( )

**ii.** Any changes in an officer's or key person's suitability as outlined by the insurer's or insurance group's standards and procedures to monitor and evaluate such changes. ( )

**b.** The insurer's or insurance group's code of business conduct and ethics, the discussion of which considers, for example: ( )

**i.** Compliance with laws, rules, and regulations; and ( )

**ii.** Proactive reporting of any illegal or unethical behavior. ( )

**c.** The insurer's or insurance group's processes for performance evaluation, compensation and corrective action to ensure effective senior management throughout the organization, including a description of the general objectives of significant compensation programs and what the programs are designed to reward. The description shall include sufficient detail to allow the director to understand how the organization ensures that compensation programs do not encourage and/or reward excessive risk taking. Elements to be discussed may include, for example: ( )

**i.** The board's role in overseeing management compensation programs and practices. ( )

**ii.** The various elements of compensation awarded in the insurer's or insurance group's compensation programs and how the insurer or insurance group determines and calculates the amount of each element of compensation paid; ( )

**iii.** How compensation programs are related to both company and individual performance over time; ( )

**iv.** Whether compensation programs include risk adjustments and how those adjustments are incorporated into the programs for employees at different levels; ( )

**v.** Any clawback provisions built into the programs to recover awards or payments if the performance measures upon which they are based are restated or otherwise adjusted; ( )

**vi.** Any other factors relevant in understanding how the insurer or insurance group monitors its compensation policies to determine whether its risk management objectives are met by incentivizing its employees. ( )

**d.** The insurer's or insurance group's plans for CEO and senior management succession. ( )

**05. Oversight.** The insurer or insurance group shall describe the processes by which the board, its committees and senior management ensure an appropriate amount of oversight to the critical risk areas impacting the insurer's business activities, including a discussion of: ( )

**a.** How oversight and management responsibilities are delegated between the board, its committees and senior management; ( )

b. How the board is kept informed of the insurer's strategic plans, the associated risks, and steps that senior management is taking to monitor and manage those risks; ( )

c. How reporting responsibilities are organized for each critical risk area. The description should allow the director to understand the frequency at which information on each critical risk area is reported to and reviewed by senior management and the board. This description may include, for example, the following critical risk areas of the insurer: ( )

i. Risk management processes (An ORSA summary report filer may refer to its ORSA summary report pursuant to Chapter 63, Title 41, Idaho Code); ( )

ii. Actuarial function; ( )

iii. Investment decision-making processes; ( )

iv. Reinsurance decision-making processes; ( )

v. Business strategy/finance decision-making processes; ( )

vi. Compliance function; ( )

vii. Financial reporting/internal auditing; and ( )

viii. Market conduct decision-making processes. ( )

**013. SEVERABILITY CLAUSE.**

If any provision of this rule, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this rule which can be given effect without the invalid provision or application, and to that end the provisions of this rule are severable. ( )

**014. – 999. (RESERVED)**

# IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO

## 59.01.02 – PERSI RULES FOR ELIGIBILITY

### DOCKET NO. 59-0102-1701

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 Idaho State Legislature for final approval. The pending rule becomes final and effective on Sine Die, 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 Section 59-1306, 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:

Section 59-1302(15), Idaho Code, was amended in the 2017 legislative session. The definition of “Employer” as applied to all new employers must be in compliance with the Internal Revenue Service regulations governing governmental retirement plans.

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 June 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, pages 71-74](#).

**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 Cheryl George, (208) 287-9231.

DATED this 6th day of July, 2017.

Don Drum  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th Street, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: (208) 287-9230  
Fax: (208) 334-3408

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 59-1306, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 21, 2017.

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

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

Section 59-1302(15), Idaho Code, was amended in the 2017 legislative session. The definition of “Employer” as applied to all new employers must be in compliance with the Internal Revenue Service regulations governing governmental retirement plans.

**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 it is not feasible as it would be inconsistent with the Retirement Board’s obligation under Section 59-1306, Idaho Code, to conform to the federal tax code to maintain qualified plan tax status. The 2017 legislative change requires following Internal Revenue Service regulations. The requirement to follow Internal Revenue Service regulations contradicts the need for negotiated rulemaking.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Cheryl George at (208) 287-9231.

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 June 28, 2017.

DATED this 27th day of April, 2017.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0102-1701**

**005. DEFINITIONS (RULE 5).**

The following definitions are supplemental to those provided by Section 59-1302, Idaho Code. (1-1-94)

**01. Board.** “Board” means the governing authority of the Public Employee Retirement System of Idaho as provided by Section 59-1304, Idaho Code, of the Firefighters’ Retirement Fund created by Chapter 14, Title 72, Idaho Code, and the Policeman’s Retirement Fund created by Chapter 15, Title 50, Idaho Code. (1-1-94)

**02. Compensation.** “Compensation” as used in Section 59-1342(6), Idaho Code, means “salary” as defined by Section 59-1302(31), Idaho Code. (1-1-94)

**03. Date of Retirement.** “Date of retirement” means the effective date on which a retirement allowance becomes payable. (1-1-94)

**04. Employee.** “Employee” means a person as defined in Section 59-1302(14), Idaho Code. (1-1-94)

**05. Employer.** “Employer” means the state of Idaho or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any



organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. A political subdivision and government entity also means an entity that meets each of the requirements of Paragraphs 005.05.a. through c. of this subsection, taking into account all of the facts and circumstances. Entities that may qualify as political subdivisions include, among others, general purpose governmental entities, such as cities and counties (whether or not incorporated as municipal corporations), and special purpose governmental entities, such as special assessment districts that provide for roads, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvements, and other governmental purposes for a State or local governmental unit. ( )

a. Sovereign powers. Pursuant to a State or local law of general application, the entity has a delegated right to exercise a substantial amount of at least one (1) of the following recognized sovereign powers of a State or local governmental unit: The power of taxation, the power of eminent domain, and police power. ( )

b. Governmental purpose. The entity serves a governmental purpose. The determination of whether an entity serves a governmental purpose is based on, among other things, whether the entity carries out the public purposes that are set forth in the entity's enabling legislation and whether the entity operates in a manner that provides a significant public benefit with no more than incidental private benefit. ( )

c. Governmental control. A State or local governmental unit exercises control over the entity. For this purpose, control is defined in Subparagraph 005.05.c.i. of this rule and a State or local governmental unit exercises such control only if the control is vested in persons described in Subparagraph 005.05.c.ii. of this rule. ( )

i. Definition of control. "Control" means an ongoing right or power to direct significant actions of the entity. Rights or powers may establish control either individually or in the aggregate. Among rights or powers that may establish control, an ongoing ability to exercise one or more of the following significant rights or powers, on a discretionary and non-ministerial basis, constitutes control: the right or power both to approve and to remove a majority of the governing body of the entity; the right or power to elect a majority of the governing body of the entity in periodic elections of reasonable frequency; or the right or power to approve or direct the significant uses of funds or assets of the entity in advance of that use. Procedures designed to ensure the integrity of the entity but not to direct significant actions of the entity are insufficient to constitute control of an entity. Examples of such procedures include requirements for submission of audited financial statements of the entity to a higher level State or local governmental unit, open meeting requirements, and conflicts of interest limitations. ( )

ii. Control vested in a State or local governmental unit or an electorate. Control is vested in persons described as a State or local governmental unit possessing a substantial amount of each of the sovereign powers and acting through its governing body or through its duly authorized elected or appointed officials in their official capacities or an electorate established under applicable State or local law of general application, provided the electorate is not a private faction. ( )

iii. Definition of "private faction". A private faction is any electorate if the outcome of the exercise of control described in 005.05.c.i. of this rule is determined solely by the votes of an unreasonably small number of private persons. The determination of whether a number of such private persons is unreasonably small depends on all of the facts and circumstances, including, without limitation, the entity's governmental purpose, the number of members in the electorate, the relationships of the members of the electorate to one another, the manner of apportionment of votes within the electorate, and the extent to which the members of the electorate adequately represent the interests of persons reasonably affected by the entity's actions. For purposes of this definition, an electorate is a private faction if any three (3) private persons that are members of the electorate possess, in the aggregate, a majority of the votes necessary to determine the outcome of the relevant exercise of control. Provided however, an electorate is not a private faction if the smallest number of private persons who can combine votes to establish a majority of the votes necessary to determine the outcome of the relevant exercise of control is greater than ten (10) persons. For example, if an electorate consists of twenty (20) private persons with equal, five-percent (5%) shares of the total votes, that electorate is not a private faction because a minimum of eleven (11) members of that electorate is necessary to have a majority of the votes. By contrast, for example, if an electorate consists of twenty (20) private persons with unequal voting shares in which some combination of ten (10) or fewer members has a majority of the votes, then that electorate does not qualify for the safe harbor from treatment as a private faction under this subparagraph. The following rules apply for purposes of determining numbers of voters and voting control in

Subparagraph 005.05.c.iii. of this rule, related parties (as defined in 26 CFR § 1.150-1(b)) are treated as a single person; and in computing the number of votes necessary to determine the outcome of the relevant exercise of control, all voters entitled to vote in an election are assumed to cast all votes to which they are entitled. ( )

**056. Employment.** “Employment” as used in Section 59-1302(14)(B)(b), Idaho Code, shall mean the period of time from a member’s date of hire to the member’s succeeding date of separation from that employer. Placing a member on leave of absence with or without pay shall not be considered as a separation from the employer. (1-1-94)

**067. Firefighters' Retirement Fund.** “Firefighters’ Retirement Fund” or “FRF” is the retirement fund provided by Chapter 14, Title 72, Idaho Code. (1-1-94)

**078. General Member.** “General member” is a PERSI member not classified as a police officer, firefighter, or paid firefighter. (1-1-94)

**089. Paid Firefighter.** “Paid firefighter” includes a former FRF members and paid firefighters as defined by Section 59-1391(f), Idaho Code, hired October 1, 1980, and thereafter. (4-7-11)

**109. Police Officer.** “Police officer” means an employee who is serving in a position designated by Section 59-1303(3), Idaho Code, or in a position so designated by the Retirement Board as provided by Section 59-1303(4), Idaho Code. (1-1-94)

**101. Primary Employer.** The primary employer is the employer from whom the employee receives the highest aggregate salary per month. (1-1-94)

**172. Public Employee Retirement System of Idaho.** “Public Employee Retirement System of Idaho” or “PERSI” is the retirement system created by Chapter 13, Title 59, Idaho Code. (1-1-94)

**123. Retirement Board.** “Retirement Board” means the governing authority of the Public Employee Retirement System of Idaho as provided by Section 59-1304, Idaho Code, and of the Firefighters’ Retirement Fund created by Chapter 14, Title 72, Idaho Code, and the Policeman’s Retirement Fund created by Chapter 15, Title 50, Idaho Code. (1-1-94)

**134. Same Position.** “Same position” as set forth in Section 59-1303(7), Idaho Code, means the same job classification or position title including continued employment in any revised job classification or new position title evolving from that same position as the result of personnel reclassification procedures provided the continued employment remains within the same state agency or within the same department of a political subdivision. (1-1-94)

**145. Surviving Spouse.** “Surviving spouse” is a person as defined in Section 15-2-802, Idaho Code. (1-1-94)

**156. Teacher.** “Teacher” is defined as a school employee who is required to be certified. (1-1-94)

# **IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO**

## **59.01.03 – PERSI CONTRIBUTION RULES**

**DOCKET NO. 59-0103-1702**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2018 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 Section 59-1314(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:

This rule applies to the PERSI Employee General member Contribution Rate. The actuarial valuation for the period ending June 30, 2016 reflected that the amortization period is above the maximum 25 year amortization period contained in Section 59-1322, Idaho Code. The PERSI Board has acted to adopt the rate increase as it is required to do to bring the amortization period to 25 years or less as required by Section 59-1322, Idaho Code. The rate increase becomes effective July 1, 2018.

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 May 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, pages 94-97](#).

**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:

Employer contribution rates will increase by 0.62% of salaries, beginning July 1, 2018. This will affect the general fund to the extent the contributions required of the employer (State of Idaho and political subdivisions and government entities electing to participate in the system) are made from general fund dollars.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Cheryl George, (208) 287-9231.

DATED this 5th day of July, 2017.

Don Drum  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th Street, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: (208) 287-9230  
Fax: (208) 334-3408

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

**EFFECTIVE DATE:** The effective date of the temporary rule is February 1, 2017.

**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 59-1314(1).

**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 May 17, 2017.

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

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

This rule applies to the PERSI Employee General Member and Class II Member Contribution Rates. The actuarial valuation for the period ending June 30, 2016 reflected that the amortization period is above the maximum 25 year amortization period contained in Idaho Code section 59-1322. The PERSI Board has acted to adopt the rate increase as it is required to do to bring the amortization period to 25 years or less as required by Idaho Code section 59-1322. The rate increase becomes effective July 1, 2018.

**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 rate increase is required to bring the amortization period to 25 years or less as required by section 59-1322, 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:

Employer contribution rates will increase by 0.62% of salaries, beginning July 1, 2018. This will affect the general fund to the extent the contributions required of the employer (State of Idaho and political subdivisions and government entities electing to participate in the system) are made from general fund dollars.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking is not feasible because it would be inconsistent with the PERSI Board's need to bring the amortization rate to 25 years or less and with the Board's exclusive fiduciary responsibility for plan operations.

**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 Cheryl George, (208) 287-9231.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 24, 2017.

DATED this 18th day of April, 2017.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0103-1702**

**026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (RULE 26).**

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, shall be nine point seventy-seven percent (9.77%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point thirty-nine percent (10.39%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be eleven point thirty-two percent (11.32%) of payroll until June 30, 2018. Beginning July 1, 2018, the rate shall be eleven point ninety-four percent (11.94%) until next determined by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(10-21-14)~~( )

**027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (RULE 27).**

The Firefighter Retirement Fund employer rate shall be: (10-1-94)

**01. Option I and II Firefighters.** For option I and II firefighters hired before October 1, 1980, as follows:

Option I And II Firefighters	
PERSI Employer Contribution Rate:	<del>Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy three percent (10.73%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be eleven point sixty six percent (11.66%) of payroll until next determined by the Board</del> <u>The employer contribution rate as provided in Rule 28.</u>
Additional Employer Rate:	One percent (1%)
Social Security Rate:	Seven point sixty-five percent (7.65%)
Excess Merger Costs Rate:	Seventeen point twenty-four percent (17.24%) through December 31, 2014. Beginning January 1, 2015, five percent (5%) until next determined by the Board.
TOTAL Contribution Rate:	The total contribution rate is the sum of the PERSI employer contribution rate, the additional employer rate, the social security rate and the excess merger costs rate.

~~(10-21-14)~~( )

**02. Class D Firefighters.** For class D firefighters (firefighters employed on or after October 1, 1980,

by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund), as follows:

Class D Firefighters	
PERSI Employer Contribution Rate:	<del>Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy three percent (10.73%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be eleven point sixty six percent (11.66%) of payroll until next determined by the Board.</del> <u>The employer contribution rate as provided in Rule 28.</u>
Excess Merger Costs Rate:	Seventeen point twenty-four percent (17.24%) through December 31, 2014. Beginning January 1, 2015, five percent (5%) until next determined by the Board.
TOTAL Contribution Rate:	The total contribution rate is the sum of the PERSI employer contribution rate and the excess merger costs rate.

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) ~~(10-21-14)~~( )

**03. Class E Members.** For class E members (general members who meet the definition of paid firefighter under Section 59-1391(f), Idaho Code, but are not firefighters as defined in Section 59-1302(16), Idaho Code) the employer general member contribution rate as provided in Rule 26, plus the excess merger costs specified in Subsection 027.01. (3-20-04)

**028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (RULE 28).**

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police officer member excluding those listed in Rule 29 of this chapter when applicable, and firefighters excluding those listed in Rule 27 of this chapter, shall be ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be eleven point sixty-six percent (11.66%) of payroll June 30, 2018. Beginning July 1, 2018, the rate shall be twelve point twenty-eight percent (12.28%) until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) ~~(10-21-14)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (RULE 100).**

The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, for all members not classified as police members or firefighters, shall be five point eighty-six percent (5.86%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be six point twenty-three percent (6.23%) of salary through June 30, 2013. Beginning July 1, 2013, the rate shall be six point seventy-nine percent (6.79%) through June 30, 2018. Beginning July 1, 2018, the rate shall be seven point sixteen percent (7.16%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(10-21-14)~~( )

**101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (RULE 101).**

The employee contribution rate as provided in Section 59-1334, Idaho Code, for an employee classified as a police officer member is seven point twenty-one percent (7.21%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be seven point sixty-five percent (7.65%) of salary through June 30, 2013. Beginning July 1, 2013, the rate shall be eight point thirty-two percent (8.32%) of salary through June 30, 2018. Beginning July 1, 2018, the rate shall be eight point seventy-seven percent (8.77%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(10-21-14)~~( )