SENATE COMMERCE & HUMAN RESOURCES
ADMINISTRATIVE RULES REVIEW

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SENATE COMMERCE & HUMAN RESOURCES

IDAPA 01 - BOARD OF ACCOUNTANCY

01.01.01 - IDAHO ACCOUNTANCY RULES

DOCKET NO. 01-0101-0601

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Volume 06-10, pages 26 through 29.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Barbara R. Porter, Executive Director, at 208-334-2490.

DATED this 3rd day of November, 2006.

THIS NOTICE WAS WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section54-204(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 October 18, 2006.

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

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

Update the standards being incorporated by reference. Idaho Code requires agencies to cite the specific year when we incorporate standards by reference. We incorporate by reference CPE, AICPA and PCAOB standards. The CPE Standards are still accurate, but the AICPA and PCAOB Standards need to be updated from 2006 to 2007.

Change "Northwest Association of Schools and Colleges" to "Northwest Commission on Colleges and Universities." CPA Exam candidates must obtain college education from schools that meet accreditation standards. An accrediting body referred to in our rules has changed its name from the "Northwest Association of Schools and Colleges" to the "Northwest Commission on Colleges and Universities."

Remove the National Society of Accountants from our list of approved Administering Organizations. CPA Firms must undergo Peer Reviews performed by an approved Administering Organization. The National Society of Accountants is no longer performing Peer Reviews, and does not intend to offer the service in the future.

Change "fee" to "fine" for non-compliance with CPE reporting. The penalty for licensees who do not complete their Continuing Professional Education and timely report it is currently referred to as a "fee" in our rules. Because this is an act of non-compliance with a regulatory requirement that is designed to maintain professional competency, it should be referred to as a "fine."

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 IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes were discussed in public meetings and newsletters, without any objections from the public.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Barbara R. Porter, Executive Director, at 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 October 25, 2006.

DATED this 18th day of August, 2006.

Barbara R. Porter, Executive Director
1109 Main Street, Owyhee Plaza Suite 470
Phone: 208-334-2490 / Fax: 208-334-2615

Idaho State Board of Accountancy
PO Box 83720, Boise, Idaho 83720-0002
E-mail: bporter@isba.idaho.gov

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

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. 200~~6~~7 AICPA Professional Standards, except as superceded by Section 54-206(8), Idaho Code. ~~(4-11-06)~~(____)

02. CPE Standards. 2002 Statements on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA. (4-2-03)

03. PCAOB Standards. 200~~6~~7 Standards issued by the Public Company Accountability Oversight Board. ~~(4-11-06)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

300. REQUIREMENTS FOR INITIAL CERTIFIED PUBLIC ACCOUNTANT LICENSURE (RULE 300).
Applications for initial licensure shall be made on a form provided by the Board. Applicants for licensure as certified public accountants must comply with the applicable sections of the Idaho Accountancy Act and the following requirements: (4-2-03)

01. Education. (4-2-03)

a. Semester Hours. An applicant for licensure must have at least one hundred fifty (150) semester hours (or two hundred twenty-five (225) quarter hours) of college education including a baccalaureate or higher degree conferred by a college or university acceptable to the Board. An applicant for licensure who was accepted for the May 2000 CPA Examination or prior examination does not have to fulfill additional educational requirements beyond those required at the time of acceptance to sit for the CPA Examination. (4-2-03)

b. Accreditation. The Board shall recognize: (4-2-03)

i. Any college or university accredited by the Northwest ~~*Association of Schools and Colleges (NASC)*~~ Commission on Colleges or Universities or any other regional accrediting association having the equivalent standards; ~~(4-2-03)~~(____)

ii. Any independent senior college in Idaho certified by the State Department of Education for teacher training; and (4-2-03)

iii. Accounting and business programs accredited by the American Assembly of Collegiate Schools of Business (AACSB) or any other accrediting agency having equivalent standards. (4-2-03)

c. Education Requirement. An applicant shall be deemed to have met the education requirement if, as part of the one hundred fifty (150) semester hours of education, the applicant has met any one (1) of the following four (4) conditions: (4-2-03)

i. Earned a graduate degree with a concentration in accounting from a program that is accredited in accounting by an accrediting agency approved by the Board; (4-2-03)

ii. Earned a graduate degree from a program that is accredited in business by an accrediting agency approved by the Board and completed at least twenty-four (24) semester hours in accounting at the undergraduate or fifteen (15) semester hours at the graduate level, or an equivalent combination thereof, including coverage of, but not necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting; (4-2-03)

iii. Earned a baccalaureate degree from a program that is accredited in business by an accrediting agency approved by the Board and completed twenty-four (24) semester hours in accounting at the undergraduate or graduate level including coverage of, but not necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting; and completed at least twenty-four (24) semester hours in business courses (other than accounting courses) at the undergraduate or graduate level; or (4-2-03)

iv. Earned a baccalaureate or higher degree and completed at least twenty-four (24) semester hours in accounting at the upper division or graduate level at an institution approved by the Board and including coverage of, but not necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting; and completed at least twenty-four (24) semester hours in business courses (other than accounting courses) at the undergraduate or graduate level. (4-2-03)

02. Experience. As prescribed in Subchapter C. (4-2-03)

03. Examination on Code of Professional Conduct. An applicant for initial licensure shall successfully complete a course in professional ethics, that is acceptable to the Board, at any time before a license will be issued. (4-2-03)

04. Initial License Application Fee. As prescribed in Rule 701. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

607. ADMINISTERING ORGANIZATIONS (RULE 607).
This section shall not require any licensee of a firm to become a member of any administering organization. Qualified administering organizations which register with, and are approved by the

Board based on their adherence to the AICPA Peer Review minimum standards, shall include the: (4-2-03)

01. Monitoring Organizations. AICPA practice monitoring organizations such as the Center for Public Company Audit Firms (CPCAF). (4-6-05)

02. Peer Review Program. Peer review program of the American Institute of Certified Public Accountants (AICPA). (4-2-03)

03. State CPA Societies. State CPA societies fully involved in the administration of the AICPA Peer Review Program and their successor organizations which meet the minimum standards. (4-2-03)

~~***04. National Society of Accountants (NSA)**. Peer Review Program of NSA which adheres to the AICPA Peer Review minimum standards. (4-2-03)*~~

(BREAK IN CONTINUITY OF SECTIONS)

703. LATE FEES AND FINES (RULE 703).

01. Late License and Practice Privileges Renewal Fee. The fee for late license renewal or practice privileges renewal is one hundred dollars ($100). (4-2-03)

02. ~~*Late*~~ **Non-Compliance With CPE Filing** ~~***Fee***~~ **Deadline**. The ~~*fee*~~ fine for ~~*late*~~ non-compliance with CPE filing deadline is one hundred dollars ($100) for filing anytime during the month of February, one hundred and fifty dollars ($150) for filing anytime during the month of March, two hundred dollars ($200) for filing anytime during the month of April, two hundred and fifty dollars ($250) for filing anytime during the month of May, and three hundred dollars ($300) for filing anytime during the month of June. ~~*(4-2-03)*~~(____)

03. Non-Compliance with Firm Registration and Peer Review. The fine shall be one hundred dollars ($100) per licensee for each act of non-compliance defined in Rule 617. (4-2-03)

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING

DOCKET NO. 07-0104-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1006(5), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 86 through 88.

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 Stephen Keys, Bureau Chief, 208-332-8986.

DATED this 1st day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 31, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1006(5), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2006.

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 loophole has recently been discovered which seems to permit individuals working in the modular building industry to utilize this specialty electrical license in order to install electrical wiring, equipment, and apparatus. This rule is necessary in order to close that loophole, as this specialty was not intended to facilitate this type of work. This rule would make it clear that journeyman electricians and electrical apprentices, employed by an electrical contractor, must be utilized for the wiring of modular structures.

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 rulemaking is necessary to protect the public health, safety, or welfare.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes in the rules are required to protect the public health, safety, or welfare.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2006.

DATED this 23rd day of August, 2006.

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

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

014. ELECTRICAL SPECIALTIES REQUIRING A SPECIAL LICENSE.
The following shall be considered as electrical specialties, the practice of which shall require a special license: (4-9-79)

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

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

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

a. A licensed specialty manufacturing or assembling equipment electrician must be employed by a licensed specialty manufacturing or assembling equipment contractor in order to work in this category. The holder of a specialty license in this category may not countersign a contractor's license application as supervising journeyman except for work within this specialty. (4-5-00)

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

c. Subsection 014.03 does not apply to a manufacturing or assembling equipment electrician installing electrical wiring, equipment, and apparatus in modular buildings as that term is defined in Section 39-4105, Idaho Code. Only journeyman electricians and electrical apprentices, employed by an electrical contractor, may perform such installations. (8-31-06)T

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

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

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

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

05. Irrigation Sprinkler Electrical. Any person qualifying for and having in his possession, an irrigation system electrical license may install, maintain, repair and replace equipment, controls and wiring beyond the disconnect switch supplying power to the electric irrigation machine. The irrigation machine is considered to include the hardware, motors and controls of the irrigation machine and underground conductors connecting the control centers on the irrigation machine to the load side of the disconnecting device. Disconnect device to be installed by others. All such installations performed by individuals under this section shall be done in accordance with the applicable provisions of the National Electrical Code. He shall be employed by a licensed electrical contractor whose license is contingent upon the granting of a specialty electrical license to an employee and whose installations shall be limited to this category. The holder of a specialty license may not countersign a contractor's license application as supervising specialty journeyman except for work in his specialty. (1-1-92)

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

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

b. Domestic water pumps, one hundred twenty/two hundred forty (120/240) volt,

single phase, sixty (60) amps or less: Install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to and including the disconnecting device. (7-1-98)

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

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

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

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

b. Refrigeration, Air-Conditioning Equipment and Heat Pumps (single phase): install, repair, and maintain all electrical equipment, wires, and accessories from the unit up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (9-17-85)

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

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.06 - RULES CONCERNING UNIFORM PLUMBING CODE

DOCKET NO. 07-0206-0502

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the December 7, 2005 Idaho Administrative Bulletin, Vol. 05-12, pages 21 through 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 Stephen L. Keys, Bureau Chief, (208) 332-8986.

DATED this 30th day of December, 2005.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 9, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2605, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than December 21, 2005.

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:

As homes are constructed, more and more are being built with only 1/2" pipe. Most current water softeners require at least a 3/4" capacity. Altering existing drain systems to accommodate these water softeners is expensive and would be unnecessary if the larger pipe were utilized at the outset. The proposed rule provides that the discharge line shall be a minimum of 3/4" rather than the 1/2" required by the Uniform Plumbing Code.

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

In order to protect the public from incurring the expense and time involved in altering plumbing systems in newly constructed homes to adapt to current models of water softening devices.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the relatively simple nature of the rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Stephen L. Keys, Bureau Chief, (208) 332-8986.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before December 28, 2005.

DATED this 1st day of November, 2005.

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

011. ADOPTION AND INCORPORATION BY REFERENCE OF THE 2003 UNIFORM PLUMBING CODE.
The 2003 Uniform Plumbing Code, including Appendices "A, B, D, E, G, H, I, J, and L," (herein U.P.C.) is adopted and incorporated by reference with the following amendments. The 2003 Uniform Plumbing Code is available at the Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642; and at the Division of Building Safety, 1250 Ironwood Dr., Ste. 220,

Coeur d'Alene, Idaho 83814. (4-6-05)

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

02. Section 316.1.6. PVC DWV may be joined by the use of one-step solvent cement listed or labeled per U.P.C. Section 301.1.1. (4-6-05)

03. Section 420.0. Pressure balance or thermostatic mixing valves are not required for high flow (over eight (8) g.p.m.) tub filler valves with hand shower sets attached. (3-15-02)

04. Section 421.0. Delete. (4-6-05)

05. Section 604.1. Materials. Crosslinked Polyethylene (PEX) Tubing manufactured to ASTM – F876/F877 and tested, approved, and listed to ANSI/NSF 14 and 61, for potable water along with all applicable installation standards may be used for hot and cold water distribution systems within a building or cold water distribution systems outside of a building. Listed PE (polyethylene) 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. (4-6-05)

06. Section 609.4. 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. (4-6-05)
COMMERCE/HUMAN RESOURCES
07. Section 609.10. Water hammer. Does not apply to residential construction. (7-1-98)

08. Table 6-4 and Table A-2. Change fixture unit loading value for bathtub or combination bath/shower, and clotheswashers to two (2) fixture units. (3-15-02)

09. Section 610.2. All new one (1) and two (2) family residences 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. ~~*Provisions must be made for the discharge of the water softener to terminate in an approved location.*~~ ~~*(5-3-03)*~~(9-9-05)T

10. Section 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. (4-6-05)

11. Table 7-3. Maximum unit loading and maximum length of drainage and vent piping. (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 (ref: Section 717.0). Change fixture unit loading value for clotheswashers, domestic to two (2) fixture units. (3-15-02)

12. Section 703.1 - Underground Drainage and Vent Piping. 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. (3-15-02)

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

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

15. Section 704.3. Delete. (5-3-03)

16. Table 7-5. Change fixture unit loading value for one and a half (1 1/2) inch horizontal drainage to two (2) fixture units. (7-1-98)

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

18. Section 712.1. In the first sentence, delete the phrase "except that plastic pipe shall not be tested with air". (4-6-05)

19. Section 801.2.3. 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 point four (25.4) mm). (5-3-03)

20. Section 801.4. Drains. 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 inch (¾") 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 inch (¾"). (9-9-05)T

2~~0~~1. Section 807.4. A domestic dishwashing machine may be installed without the use of an airgap if the drain hose is looped to the bottom side of the counter top and secured properly. (3-15-02)

2~~1~~2. Section 908. Exception - Vertical Wet Venting. A horizontal wet vent may be created provided it is created in a vertical position and all other requirements of Section 908 are met. (7-1-98)

2~~2~~3. Section 1002.3. Trap arms may not exceed one hundred eighty (180) degrees of horizontal turn without the use of a cleanout. (3-15-02)

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Vol. 06-8, pages 82 through 83.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact Jack Rayne, Building Bureau Chief, 208-332-7151.

DATED this 23rd day of August 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-4107, 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, 2006.

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 adopts and incorporates by reference the 2006 editions of the International Building Code, International Residential Code, and International Energy Conservation Code.

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

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

This rulemaking will have no fiscal impact on the general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the necessity to adopt current building codes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jack Rayne, Building Programs Manager, 208-332-7151**.**

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 23, 2006.

DATED this 7th day of June, 2006.

Jack Rayne
Building Programs Manager
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Phone: 208-332-7151
Fax: 208-855-2164

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. ADOPTION AND INCORPORATION BY REFERENCE

Under the provisions of Section 39-4109, Idaho Code, the following codes are hereby adopted and incorporated by reference into IDAPA 07.03.01, "Rules of Building Safety," Division of Building Safety ~~*and shall be in full force and effect on and after January 1, 2005*~~. 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 http://www.iccsafe.org. ~~*(3-30-06)*~~(____)

01. International Building Code. 200~~3~~6 Edition. ~~*(3-30-06)*~~(____)

02. International Residential Code. 200~~3~~6 Edition. ~~*(3-30-06)*~~(____)

03. International Energy Conservation Code. 200~~3~~6 Edition. ~~*(3-30-06)*~~(____)

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.05.01 - RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

DOCKET NO. 07-0501-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1907, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the May 3, 2006 Idaho Administrative Bulletin, Vol. 06-5, pages 45 through 56.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Stephen Keys, Bureau Chief, 208-332-8986.

DATED this 25th day of May, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1907, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than May 17, 2006.

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 clarifies the need for licensure as an electrical contractor or electrical specialty contractor in order to qualify for public works licensing categories for electrical (200.116) and specialty electrical (200.118).

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

There is no fee or charge being imposed through this rulemaking.

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

This rulemaking will have no fiscal impact on the general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the clerical nature of the change.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 24, 2006.

DATED this 5th day of April, 2006.

Stephen L. Keys, Bureau Chief
Division of Building Safety
1090 E. Watertower St.
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0501-0601

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

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

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

03. 01542 Craning and Erection. A specialty contractor whose primary business includes the art, ability and skill to safely control the workings of a crane in such a manner that building materials, supplies, equipment and structural work can be raised and set in a final position. (4-6-05)

04. 01550 Construction Zone Traffic Control. A specialty contractor whose primary business is the installation or removal of temporary lane closures, flagging or traffic diversions, utilizing pilot cars, portable devices such as cones, delineators, barricades, sign stands, flashing beacons, flashing arrow trailers, and changeable message signs on roadways, public streets and highways or public conveyances. (4-6-05)

05. 01570 Temporary Erosion and Sediment Controls. A specialty contractor whose primary business includes the ability and expertise to install silt fencing or other similar devices to prevent erosion and contain silt. (4-6-05)

06. 02110 Excavation, Removal and Handling of Hazardous Material. A specialty contractor whose primary business includes the excavation and removal of toxic and hazardous site materials. Contractors must be properly licensed and certified if required. (4-6-05)

07. 02115 Removal of Underground Storage Tanks. A specialty contractor whose primary business includes, but is not limited to, the excavation, removal, cleanup, and disposal of underground storage tanks that have contained petrochemical type fuels. This work should include the sampling and testing of surrounding materials and filing of closure documents. (4-6-05)

08. 02195 Environmental Remediation, Restoration and Soil Stabilization. A specialty contractor whose primary business is the remediation and restoration of contaminated environmental sites. (4-6-05)

09. 02210 Drilling. A specialty contractor whose primary business includes practical elementary knowledge of geology and hydrology; the art, ability, knowledge, science and expertise to bore, drill, excavate, case, pack or cement by use of standard practices, including the use of diamond bits, cable tools, percussion, air percussion, rotary, air rotary, reverse circulation

rotary methods or jetting. (4-6-05)

10. 02220 Demolition. A specialty contractor whose primary business includes the ability and expertise to demolish all types of buildings or structures and to remove all of such buildings or structures from the premises, and maintain the premises surrounding demolition site safely for passing public. (4-6-05)

11. 02230 Site Clearing. A specialty contractor whose primary business includes the ability and expertise to remove and dispose of all trees, brush, shrubs, logs, windfalls, stumps, roots, debris and other obstacles in preparation for excavation of a construction site or other uses. (4-6-05)

12. 02231 Logging. A specialty contractor whose primary business and expertise includes the clearing, cutting, removal and transportation of logs and trees and the construction of temporary roads and structures for such operations along with any reclamation work associated with such operations. (4-6-05)

13. 02232 Tree Removal and Trimming. A specialty contractor whose primary business includes pruning, removal, and/or guying of trees, limbs, stumps, and bushes including grinding and removal of such items. (4-6-05)

14. 02240 Dewatering and Subsurface Drainage. A specialty contractor whose primary business is to control the level and flow of subsurface water. (4-6-05)

15. 02260 Earth Retention Systems, Mechanical Stabilized Earth Walls and Retaining Walls. A specialty contractor whose primary business includes the building of earth retention systems, mechanical stabilized earth walls and retaining walls. (4-6-05)

16. 02265 Slurry Walls. A specialty contractor whose primary business is the construction of below ground structural diaphragm walls or containment walls through the combined use of trench excavation, mud slurry and tremie concrete. (4-6-05)

17. 02270 Rockfall Mitigation and High Scaling. A specialty contractor whose primary business is rockfall mitigation and high scaling. (4-6-05)

18 02310 Excavation and Grading. A specialty contractor whose primary business includes such work as digging, moving and placing material forming the surface of the earth in such manner that a cut, fill, excavation and any similar excavating operation can be done with the use of hand and power tools and machines that are used to dig, move and place that material forming the earth's surface. (4-6-05)

19. 02312 Dust Control, Dust Abatement and Dust Oiling. A specialty contractor whose primary business is dust control, dust abatement and dust oiling. (4-6-05)

20. 02317 Rock Trenching. A specialty contractor whose primary business is rock trenching. (4-6-05)

21. 02318 Hauling. A specialty contractor whose primary business includes the ability

and expertise to obtain or move specified materials by transportation in a vehicle. (4-6-05)

22. 02319 Blasting. A specialty contractor whose primary business includes the use of conventional and high explosives for pre-splitting, surface, underground and underwater blasting, drill, trench, or excavate for use of explosives; priming and loading drilled, trenched or excavated areas by pipe tamping, pneumatic loading, injector loading, mud capping, slurry loading, combination of pneumatic and injector loading or hand loading; use of volt, ohms and milliampere meter (VOM) in testing blasting machine output voltage, power line voltage, measuring electric blasting cap or blasting circuit resistance, testing for current leakage, testing for AC-DC stray current and voltage, leading wires for open or short circuits, rack bar blasting machine for running short or galvanometer output voltage; use of blasting caps, electric blasting caps, delay electric blasting caps, primacord and all other detonating devices. (4-6-05)

23. 02325 Dredging. A specialty contractor whose primary business includes the excavation or removal of earth, rock, silt, or sediment from bodies of water including but not limited to streams, lakes, rivers or bays by means of specialized equipment. (4-6-05)

24. 02404 Horizontal and Directional Earth Boring, Trenching and Tunneling. A specialty contractor whose primary business and expertise includes boring, trenching or tunneling. (4-6-05)

25. 02450 Drilled Piers, Pile Driving, Caisson Drilling, Geopier and Helical Piers. A specialty contractor whose primary business includes drilling piers, pile driving, caisson drilling, Geopier and helical piers. (4-6-05)

26. 02500 Utilities. A specialty contractor whose primary business includes the construction and installation of pipe lines for the transmission of sewage, gas and water, including minor facilities incidental thereto; installation of electrical poles, towers, arms, transformers, fixtures, conduits, conductors, switch gear, grounding devices, panels, appliances and apparatus installed outside of buildings; including excavating, trenching, grading, back fill, asphalt patching as well as all necessary work and installation of appurtenances in connection therewith. (4-6-05)

27. 02520 Well Drilling. A specialty contractor whose primary business includes the practical elementary knowledge of geology, hydrology, the occurrence of water in the ground, water levels in wells, the prevention of surface and sub-surface contamination and pollution of the ground water supply; and the art, ability, experience, knowledge, science, and expertise to bore, drill, excavate, case, screen, cement, clean and repair water wells; or to do any or any combination of any or all such boring, drilling, excavating, casing, cementing, cleaning and repairing with hand or power tools or rigs, including the installation and repair of pumps. (4-6-05)

28. 02580 Installation of Communication Towers. A specialty contractor whose primary business and expertise is the installation of communication towers. (4-6-05)

29. 02660 Membrane Liners for Ponds and Reservoirs. A specialty contractor whose primary business includes the installation of liners for the purpose of containment of liquids. (4-6-05)

30. 02720 Crushing. A specialty contractor whose primary business includes the

ability and expertise to reduce rocks and aggregates to a smaller and uniform size and gradation to meet an agreed specification. (4-6-05)

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

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

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

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

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

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

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

38. 02850 Bridges and Structures. A specialty contractor whose primary business includes the installation, alteration and repair of bridges and related structures, including culverts.

(4-6-05)

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

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

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

42. 02900 Landscaping, Seeding and Mulching. A specialty contractor whose primary business includes the preparation of plots of land for architectural, horticulture and provisions of decorative treatment and arrangement of gardens, lawns, shrubs, vines, bushes, trees and other decorative vegetation; construction of conservatories, hot and green houses, drainage and sprinkler systems, and ornamental pools, tanks, fountains, walls, fences and walks, arrange, fabricate and place garden furniture, statuary and monuments in connection therewith. (4-6-05)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

58. 04900 Chemical Cleaning and Masonry Restoration. A specialty contractor whose primary business includes the cleaning or restoration of masonry through the use of

chemicals, pressure washing, sand blasting or other methods. (4-6-05)

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

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

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

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

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

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

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

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

67. 07100 Waterproofing and Dampproofing. A specialty contractor whose primary

business includes the ability and expertise to apply waterproofing membranes, coatings of rubber, latex, asphaltum, pitch, tar or other materials or any combination of these materials, to surfaces to prevent, hold, keep and stop water, air or steam from penetrating and passing such materials, thereby keeping moisture from gaining access to material or space beyond such waterproofing. (4-6-05)

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

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

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

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

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

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

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

75. 08100 Doors, Gates, Specialty Doors and Activating Devices. A specialty contractor whose primary business is the installation, modification or repair of residential, commercial or industrial doors and door hardware. This includes but is not necessarily limited to wood, metal clad or hollow metal, glass, automatic, revolving, folding and sliding doors, power activated gates, or movable sun shades/shutters. Card activated equipment and other access

control devices and any low voltage electronic or manually operated door hardware devices are also a part of this category. (4-6-05)

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

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

78. 09200 Lath and Plaster. A specialty contractor whose primary business includes the ability and expertise to prepare mixtures of sand, gypsum, plaster, quick-lime or hydrated lime and water or sand and cement and water or a combination of such other materials as create a permanent surface coating; including coloring for same and to apply such mixtures by use of a plaster's trowel, brush or spray gun to any surface which offers a mechanical key for the support of such mixture or to which such mixture will adhere by suction; and to apply wood or metal lath or any other materials which provide a key or suction base for the support of plaster coatings; including the light gauge metal shapes for the support of metal or other fire proof lath. Includes metal stud framing. (4-6-05)

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

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

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

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

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

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

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

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

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

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

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

90. 11001 Specialty Machinery and Equipment Installation and Servicing. A specialty contractor whose primary business is the installation, removal, modification or repair of pumps, water and waste water equipment, conveyors, cranes, dock levelers, various hoisting and material handling equipment, trash compactors and weighing scales installation and servicing. This does not include the construction of buildings and/or roof structures for this equipment. (4-6-05)

91. 11140 Petroleum and Vehicle Service Equipment, Installation and Repair. A specialty contractor whose primary business includes the installation and repair of underground fuel storage tanks used for dispensing gasoline, diesel, oil or kerosene fuels. This includes installation of all incidental tank-related piping, leak line detectors, vapor recovery lines, vapor

probes, low voltage electrical work, associated calibration, testing and adjustment of leak detection and vapor recovery equipment, and in-station diagnostics. This contractor may also install auto hoisting equipment, grease racks, compressors, air hoses and other equipment related to service stations. (4-6-05)

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

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

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

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

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

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

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

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

other licenses including electrical and plumbing. (4-6-05)

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

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

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

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

104. 13800 Instrumentation and Controls. A specialty contractor whose primary business includes the installation, alteration or repair of instrumentation and control systems used to integrate equipment, sensors, monitors' controls and mechanical operators for industrial processes, building equipment, mechanical devices and related equipment. (4-6-05)

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

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

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

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

109. 15100 Pipe Fitter and Process Piping. A specialty contractor whose primary

business is the installation of piping for fluids and gases or materials. This category does not include domestic water, sewage, fire protection and utilities as they are covered under other categories. (4-6-05)

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

111. 15510 Boiler - Hot-Water Heating and Steam Fitting. A specialty contractor who installs, services and repairs power boilers, hot-water heating systems and steam fitting, including fire-tube and water-tube steel power boilers and hot-water heating low pressure boilers, steam fitting and piping, fittings, valves, gauges, pumps, radiators, convectors, fuel oil tanks, fuel oil lines, chimneys, flues, heat insulation and all other equipment, including solar heating equipment, associated with these systems. (4-6-05)

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

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

114. 15700 Air Conditioning and Warm-Air Heating. A specialty contractor whose primary business includes the installation, alteration and repair of air conditioning and warm-air heating systems. Systems may include, but are not limited to duct work, air filtering devices, water treatment devices, pneumatic or electrical controls and control piping, thermal and acoustical insulation, vibration isolation materials and devices, liquid fuel piping and tanks, water and gas piping from service connection to equipment served, testing and balancing refrigerant cooling and heating circuits and air handling systems. (4-6-05)

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

116. 16000 Electrical. A ~~*specialty*~~ contractor ~~*whose primary*~~ engaging in, conducting, or carrying on the business ~~*includes the*~~ of ~~*installation*~~ installing~~*, alteration or repair of any electrical*~~ wires~~*, fixtures, appliances,*~~ or equipment to carry electric current or installing electrical apparatus~~*, raceway or conduits and lines, which transmit, transform or utilize electrical energy*~~ to be operated by such current. ~~*Licensure with State Electrical Bureau is required.*~~ A contractor licensed in this category may perform all work covered in categories defined in Subsection 200.118. A contractor in this category must be an electrical contractor, licensed pursuant to Section 54-1007(1), Idaho Code. ~~*(4-6-05)*~~(____)

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

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

a. Elevator, Dumbwaiter, Escalator or Moving-Walk Electrical; (____)

b. Sign Electrical; (____)

c. Manufacturing or Assembling Equipment; (____)

d. Limited Energy Electrical License (low voltage); (____)

e. Irrigation Sprinkler Electrical; (____)

f. Well Driller and Water Pump Installer Electrical~~*Licenses*~~; and (____)

g. Refrigeration, Heating and Air Conditioning Electrical Installer. (4-6-05)

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

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

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

122. 18400 Nonstructural Restoration After Fire or Flood. A specialty contractor

whose primary business includes cleaning and nonstructural restoration after fire, flood or natural disasters. (4-6-05)

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

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

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

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.05.01 - RULES OF THE PUBLIC CONTRACTORS LICENSING BOARD

DOCKET NO. 07-0501-0603

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1907, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 92 through 94.

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 Stephen Keys, Bureau Chief, 208-332-8986.

DATED this 1st day of November 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 31, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1907, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2006.

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 removal of the indemnification provisions by the Board has resulted in a great deal of feedback from small contractors and other agencies concerned that current requirements will limit participation by DBE's and other small businesses. Formalizing requirements for a "guarantor" and allowing the use of the "guarantor" will allow small contractors to qualify for licensure when the assets of the contracting entity on its own are insufficient to qualify. This rule is necessary to allow startup concerns to emerge, and to allow individuals to pledge personal assets to supplement those assets of a business entity that they control. The rule allows for a "guarantor" to pledge assets to facilitate the granting of a Public Works Contractor's License.

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 rulemaking is necessary to protect the public health, safety, or welfare.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes in the rules are required to protect the public health, safety, or welfare.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2006.

DATED this 23rd day of August 2006.

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

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

110. APPLICATION FOR LICENSURE -- DOCUMENTATION; APPRAISALS; REFERENCES; BONDING; AND FINANCIAL STATEMENTS.

01. Application Documentation. To obtain a license, the applicant shall submit to the administrator, on such forms as the administrator shall prescribe, accompanied by the required fee for the class of license applied for, a written, notarized application for such license. All of the information submitted by the applicant shall specifically pertain to work that is similar in scope and value to that for which licensure is being requested or which is being requested in a petition to change or add types of construction. The information contained in such application forms shall include: (3-20-04)

a. A complete statement of the general nature of applicant's contracting business, including a concise description of the applicant's experience and qualifications as a contractor and a list of clients for whom work has been performed; (3-20-04)

b. A description of the value and character of contract work completed and for whom performed during the three (3) year period prior to filing the application; (3-20-04)

c. A general description of applicant's machinery and equipment; and
~~*(3-20-04)*~~(8-31-06)T

d. An annual financial statement, as herein defined, that was issued no more than twelve (12) months prior to the date of submission of the application, indicating compliance with such financial requirements as the board may prescribe by rule. ~~*and which may include*~~ The applicant's financial statement may be supplemented with: (8-31-06)T

i. Bonding. As authorized by Section 54-1910(e), Idaho Code, a letter from applicant's bonding company, not an insurance agent, stating the amount of the applicant's bonding capability per project and in the aggregate, including supporting documentation;
~~*(3-20-04)*~~(8-31-06)T

ii. Guaranty. Documentation, satisfactory to the administrator, of the existence of a written guaranty agreement between the applicant and a third-party in which the third-party guarantor agrees to assume financial responsibility for payment of any obligations of the applicant for any particular project as may be determined by a court of competent jurisdiction. The guaranty agreement, along with financial statements meeting the requirements of Subsection 110.01.e. of this rule, shall be submitted with the license application. (8-31-06)T

e. For class A, AA, and AAA license applications, financial statements shall be accompanied by an independent auditor's report or be reviewed. For class B license applications, financial statements must be accompanied by an independent audit report or be reviewed or compiled by a certified public accountant. For class C and D license applications, financial statements must be accompanied by an independent audit report or be reviewed, compiled, or on

the form provided by the administrator, and include such additional information as may be required by the administrator to determine the applicant's fitness for a license. (3-20-04)

f. The name, social security number, and business address of an individual applicant or, if the applicant is a partnership, its tax identification number, business address, and the names and addresses of all general partners; and if the applicant is a corporation, association, limited liability company, limited liability partnership, or other organization, its tax identification number, business address, and the names and addresses of the president, vice president, secretary, treasurer, and chief construction managing officers, or responsible managing employee. (3-20-04)

g. Applicants requesting a licensing class higher than that for which the applicant is currently licensed shall provide documentation, satisfactory to the administrator, of having performed projects, similar in scope and character to those for which license is requested. The monetary value of those jobs must fall within a range not less that thirty percent (30%) below that for which the applicant is currently licensed. (4-11-06)

02. Application for Change in Licensing Class. Requests for a licensing class higher than that for which the applicant is currently licensed shall be accompanied by the information in Subsection 110.01, and the applicable fee. Licenses granted under Subsection 110.02 shall be valid for a period of twelve (12) months from the date of issuance. (4-11-06)

03. Extension of Time to File Financial Statement. The administrator may grant an extension of time to file the annual financial statement if the licensee provides an interim compiled balance sheet and income statement for the applicant's fiscal year-to-date, duly certified as true by the applicant, and if a partnership, limited liability company, or limited liability partnership by a member thereof, and if a corporation, by its executive or financial officer. Such renewal application shall be filed prior to the first day of such renewal licensing period. In the event an extension is granted, the renewal license shall be valid for a period of twelve (12) months from the date of the issuance of the renewal license. (3-20-04)

04. Appraisals. The administrator may require submission of an independent appraisal of any real or chattel property reported by an applicant or licensee. Such appraisals shall be conducted by a disinterested person or firm established and qualified to perform such services. (3-20-04)

05. References. The administrator may require an applicant for an original or renewal license to furnish such personal, business, character, financial, or other written references as deemed necessary and advisable in determining the applicant's qualifications. (3-20-04)

~~***06. Bonding**. Applicants may submit letters from a bonding company, not an insurance agent, stating the amount of the applicant's bonding capability per project and in the aggregate, together with supporting information. (3-20-04)*~~

SENATE COMMERCE & HUMAN RESOURCES

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. 07-0701-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-5005(3), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the May 3, 2006 Idaho Administrative Bulletin, Vol. 06-5, pages 57 and 58.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: The proposed civil penalties will have no impact on the general fund. It is anticipated that the impact on dedicated agency funds will be less than $10,000 per year.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Stephen Keys, Bureau Chief, 208-332-8986.

DATED this 25th day of May, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPSED 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 54-5005(3), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than May 17, 2006.

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

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

This rule will implement a system for imposition of civil penalties against individuals who violate the permitting, inspection, and certification requirements of the HVAC Act.

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

There is not fee or charge being imposed through this rulemaking.

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

The proposed civil penalties will have no impact on the general fund. It is anticipated that the impact on dedicated agency funds will be less than $10,000 per year.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Board worked informally with members of the various interest groups in developing these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Stephen Keys, Bureau Chief, 208-332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 24, 2006.

DATED this 5th day of April, 2006.

Stephen Keys, Bureau Chief
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

THE FOLLOWING IS THE TEXT OF PENDING RULE

061. -- ~~999~~069.(RESERVED).

070. CIVIL PENALTIES.
The following acts shall subject the violator to penalties based on the following schedule. (____)

01. Heating, Ventilation, and Air Conditioning Contractor or Specialty Contractor. Except as provided by Section 54-5001, Idaho Code, any person who acts, or purports to act, as an HVAC contractor or specialty contractor as defined by Section 54-5003(3) and 54-5003(6), Idaho Code, without a valid Idaho state HVAC contractor or specialty contractor certification shall be subject to a civil penalty of not more than five hundred dollars ($500) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (____)

02. Employees. Any person, who knowingly employs a person who does not hold a valid Idaho state HVAC certification or apprentice registration, as required by Section 54-5008, Idaho Code, to perform HVAC installations, shall be subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (____)

03. Certification or Registration. Except as provided by Section 54-5001, Idaho Code, any person performing HVAC work as an HVAC journeyman as defined by Section 54-5003(4), Idaho Code, specialty journeyman as defined by Section 54-5003(7), Idaho Code, apprentice as defined by Section 54-5003(2), Idaho Code, or a specialty apprentice as defined by Section 54-5003(5), Idaho Code, without a valid certification or registration shall be subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (____)

04. Supervision. Any HVAC apprentice or specialty apprentice working without the required journeyman supervision or any HVAC contractor or industrial account employing apprentices without providing the required HVAC journeyman supervision shall be subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (____)

05. Performance Outside Scope of License. Any HVAC specialty contractor or specialty journeyman performing HVAC installations, alterations, or maintenance outside the scope of the specialty certification shall be subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (____)

06. Fees and Permits. Any person failing to pay applicable fees or properly post an HVAC permit shall be subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (____)

07. Corrections. Any person who fails to make corrections in the time allotted in the notice on any HVAC installation as set forth in Section 54-5019, Idaho Code, shall be subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty

of not more than one thousand dollars ($1,000) for each offense thereafter. ( )

08. **Gross Violation**. In the case of continued, repeated, or gross violation of Title 54, Chapter 50, Idaho Code, or IDAPA 07.07.01, "Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety," a certification revocation shall be initiated for certificated individuals under this chapter and non-certificated individuals shall be subject to prosecution by the appropriate jurisdiction under Idaho law. ( )

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

071. -- 999. **(RESERVED).**

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.30 - UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES

DOCKET NO. 09-0130-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-4702, 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. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the September 6, 2006 Idaho Administrative Bulletin, Volume 06-9, pages 25 through 30.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Roger Holmes, UI Benefits Administration Bureau Chief, (208) 332-3570 ext. 3233.

DATED this 6th day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 67-4702, 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, 2006.

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:

IDAPA 09.01.30.100.01 and 100.04 would be amended to provide that if a claimant's illness lasts for more than one week, the claimant will be ineligible for benefits effective the week his accumulated missed wages (because of the illness) exceed one-half (½) of his weekly benefit amount.

IDAPA 09.01.30.425.10 would be amended to provide that employers will provide separation information to the Department when contacted by a Department representative, rather than mailing a report to the Department.

IDAPA 09.01.30.460 would be a new rule providing that professional athletes who are between seasons can't use their base period wages for services as athletes to establish a claim for benefits if they have a contract for the next season or intend to participate in the sport the next season, even without a formal offer of employment.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking: This is a federally funded program and there is no financial impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the nature of the proposed changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Roger Holmes, UI Benefits Bureau Chief, 332-3570 ext. 3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2006.

DATED this August 2, 2006.

Roger Holmes, UI Benefits Bureau Chief
Department of Commerce and Labor
Unemployment Insurance Benefits Administration
317 W. Main Street, Boise, ID 83735
332-3570 ext. 3233 / 334-6301 fax

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

100. ABLE TO WORK.
"Able to work" is defined as the physical and mental ability to perform work under conditions ordinarily existing during a normal workweek. It does not mean that a person must be able to perform work in his customary occupation or the same kind of work he last performed. Ref. Sec. 72-1366(4), Idaho Code. (3-19-99)

01. Able to Perform Some Type of Work. A person must be able to perform work of some type for which he can qualify at the time he files an initial claim for unemployment insurance. If he becomes ill or disabled after he has filed an initial claim, the claim may be continued under the illness provision if no suitable work is available. If suitable work is offered or becomes available which would have provided wages greater than one-half (1/2) his weekly benefit amount and cannot be accepted because of the claimant's illness or disability, the claimant shall be ineligible for benefits. If the same illness or disability continues for more than one (1) week and the accumulation of missed wages exceeds one-half (1/2) his weekly benefit amount, the claimant shall be ineligible for benefits effective the week in which the accumulated missed wages exceed one-half (1/2) the weekly benefit amount. ~~(3-19-99)~~(____)

02. Able to Work Part-Time. A person who is able to work only part of the workday or part of the workweek is not considered "able to work" for the purposes of Section 72-1366(4), Idaho Code. This rule does not apply to claimants who establish eligibility under the Americans with Disabilities Act. (3-19-99)

03. Disability Compensation. A claimant's receipt of disability compensation shall not in itself establish that he is unable to work or unavailable for work, even though the payee has been declared totally disabled. (3-19-99)

04. Illness Provision. A person who claims benefits under the illness provision must remain available for local office job referral, however, he may leave the area for treatment of ~~the~~ his illness and continue to be eligible under the illness provision. The claimant may continue reporting through the local office near his residence. If suitable work becomes available and is refused or missed because of the claimant's illness, or the claimant is unable to respond to a referral because of the illness, the claimant shall be ineligible if the work would have provided wages greater than one-half (1/2) his weekly benefit amount. If the same illness or disability continues for more than one (1) week and the accumulation of missed wages exceeds one-half (1/2) his weekly benefit amount, the claimant shall be ineligible for benefits effective the week in which the accumulated missed wages exceed one-half (1/2) the weekly benefit amount.
~~(3-19-99)~~(____)

05. Illness Provision as Applied to Transitional or Reopened Claim. Receipt of benefits during the same illness continues throughout a spell of unemployment, even though the current benefit year has ended and a transitional claim is filed the following year or the claim is reopened after a period of not filing with no intervening employment. (3-19-99)

06. Mental Illness. A person who, after filing a valid claim, becomes unable to work because of mental illness is entitled to the same benefits under the illness provision as claimants who suffer from other types of illness or disability. (3-19-99)

07. Withdrawing from Labor Market Because of Illness. A claimant who withdraws from the labor market because of illness or injury prior to filing a claim is not eligible until he is able to work and available for work. (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 any claims taking office has reason to believe there will be more claimants than can be served on any given day, an appointment slip must be used to adjust the claims load for the filing of initial claims. Appointment slips shall be issued to potential claimants who cannot be served on the date they first make contact with the office. A claimant who receives an appointment slip does not forfeit any benefit rights provided, however, that he subsequently files his claim on the day assigned. When any claims taking 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 a local 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. (3-30-01)

02. Effective Date of Backdated Claims. When the filing of an initial claim for benefits is backdated due to local office scheduling problems or a Department system malfunction, the effective date shall be the Sunday of the week in which the claimant first reported to the local office to file the claim or attempted to access the telephone or electronic claim filing system and there were problems with the system. (3-30-01)

03. Filing of New Claims. New intrastate and interstate claims may be filed electronically, in person at a local office or at an itinerant location, or by mail if permitted by a claims examiner. New interstate claims may also be filed by telephone. (3-30-01)

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. In-person Filing. A claimant may file a claim in person at the local office serving the claimant's area of residence. Local offices are open Monday through Friday, 8 a.m. until 5 p.m., except on state holidays. When a claimant reports to a local office to file a claim during regular business hours, the claim shall be effective as of the Sunday of that week. (4-11-06)

c. 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)

d. 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)

e. Mailed Claims. A claims examiner may allow a claimant to file a claim by mail when in-person filing or other methods of filing would cause undue hardship. If a claimant who has been granted permission to file a claim by mail completes and returns the claim form to the local office within seven (7) days of the date the form was mailed to the claimant by the Department, the claim will be effective as of the Sunday preceding the date the claimant requested permission to file the claim by mail. If the claimant fails to return the claim form within the seven (7) day period, and mail facilities were available for such mailing within the period, the claim will be effective as of the Sunday preceding the date the claimant mails the claim form, as determined by the postmark. (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. ~~*Request for*~~ Notice to Employer of Separation ~~*Information*~~. 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), ~~*after receiving a request for separation information from the Department because an individual has filed a claim for benefits*~~ when contacted by a Department representative for a response, shall ~~*submit*~~ respond to the Department ~~*a report of*~~ with the reasons for the separation whenever ~~*such*~~ the claimant: ~~*(4-5-00)*~~(____)

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; ~~*or*~~ ~~*(3-19-99)*~~(____)

iv. Is not working due to a suspension; or (____)

~~*i*~~v. Was separated for any other reason except lack of available work. (3-19-99)

b. Employer Response. The employer's response shall be ~~*completed in accordance with instructions printed on the Department's request for separation information and shall be completed*~~ given by the employer or on the employer's behalf by someone having personal knowledge of the facts ~~*therein stated*~~ concerning the separation. The employer should provide to the Department, via electronic media or mail, copies of any documentation supporting their position. ~~*(3-15-02)*~~(____)

11. Filing of an Additional Claim or Reopening a Claim. A claim series may be reestablished, electronically, in person at a local office or at an itinerant location, by telephone, or by mail. 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. (3-30-01)

a. In-person Filing. When a claimant reports to a local office to file an AC/RO during regular business hours, the claim shall be effective as of the Sunday of that week. (3-30-01)

b. Mailing. A claimant may file an AC/RO by mailing the completed AC/RO documents to a local office. The claim shall be effective as of the Sunday preceding the date the claimant mails the documents, as determined by the postmark. (3-30-01)

c. 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)

d. Telephone Filing. A claimant may file an AC/RO by telephone by calling a local 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. (3-30-01)

e. 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. Claims shall be reestablished as follows: (3-19-99)

i. 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; or (3-19-99)

ii. If the claimant is reporting excessive earnings for no more than two (2) consecutive weeks, the claim may be automatically reestablished if the claimant notifies the local office at the time of or prior to filing the report for the second week that he has become unemployed. Otherwise, the claim must be reestablished by filing a reopen/additional claim. (3-19-99)

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)

451. -- 4~~74~~59. (RESERVED).

460. PROFESSIONAL ATHLETES BETWEEN SEASONS.
Ref. Sec. 72-1366(18), Idaho Code. ( )

01. Base Period Wages. No base period wages shall be used for the purposes of establishing a claim when substantially all services performed during the base period consist of participation in sports, athletic events, training, or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) if the individual performed such services in the first season (or similar period) and there is a reasonable

assurance that the individual will perform such services in the later of such seasons (or similar periods). ( )

02. **Reasonable Assurance**. Reasonable assurance is defined as any of the following: ( )

a. The claimant has a contract, either written or oral; ( )

b. The claimant offered to work and the employer expressed an interest in hiring the player for the next season (or similar period); or ( )

c. The claimant expresses a readiness and willingness or intent to participate in the sport the following season. Reasonable assurance exists if the claimant asserts he or she intends to pursue employment as a professional athlete the next season despite not having a specific employer to return to or a formal offer of employment. ( )

03. **Substantially All Services**. For the purposes of Section 460, an individual shall be deemed to have performed "substantially all services" in sports, athletic events, training, or preparing to so participate if ninety percent (90%) or more of the base period wages were based on such services. ( )

461. -- 474. (RESERVED).

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.35 - UNEMPLOYMENT INSURANCE TAX ADMINISTRATION RULES

DOCKET NO. 09-0135-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2007 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in therein.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-4702, 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 proposed rule has been amended to make typographical, transcriptional, and clerical corrections to the rule. The rule is being amended pursuant to Section 67-5227, Idaho Code. The amendment corrects an incorrect citation to Idaho Code found in IDAPA 09.01.35.134.02.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the September 6, 2006, Idaho Administrative Bulletin, Volume 06-9, pages 31 through 39.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Don Arnold, UI Compliance Bureau Chief, (208) 332-3570 ext. 3258.

DATED this 6th day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-4702(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 September 20, 2006.

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:

IDAPA 09.01.35.011.01 is being amended to expressly require employers who pay no wages in a quarter to file a quarterly report for the quarter with zero wages reported. IDAPA 09.01.35.011.11 is being amended to clarify that each covered employer's UI tax report shall be reported under the covered employer's account number, even if reported by a payroll service.

IDAPA 09.01.35.061 is being amended to add the definition of "willfully".

IDAPA 09.01.35.112.01, 09.01.35.112.03 & 09.01.35.112.04 are being amended to remove the mandatory language for the factors to be considered in determining a worker's status and replace with permissive language that allows the Department to consider any and/or all of the enumerated factors. IDAPA 09.01.35.112.03 is also being amended to clarify factors for the direction or control test. IDAPA 09.01.35.112.03 is further being amended to add consideration of direction or control an employer may have when a worker performs services under the alleged employer's license, permit or certificate, acquired under federal, state or local laws and/or regulations, and the employer under such laws is required to direct and control the activities of the worker. IDAPA 09.01.35.112.03 is further being amended by consideration of other factors to determine the existence of or lack of the employer's exercise of direction or control.

IDAPA 09.01.35.134.02 and 04 will be changed to eliminate duplication within the PEO rule.

A new section, IDAPA 09.01.35.263, will clarify that if an employer meets coverage requirements during a calendar year, the quarterly reports for the wages paid in prior quarters of the same calendar year will be due on the due date for the quarterly report in which the employer became a covered employer and quarterly reports for subsequent quarters are due at the end of each quarter.

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: There will be no impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the nature of the proposed changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Don Arnold, UI Compliance Bureau Chief, (208) 332-3570 ext. 3258.

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, 2006.

DATED this August 2, 2006.

Don Arnold
UI Compliance Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
(208) 332-3570 ext. 3258
(208) 334-6301 fax

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

011. GENERAL PROVISIONS.
The following Unemployment Insurance Tax Administration Rules are adopted pursuant to Section 67-4702, Idaho Code. (4-11-06)

01. Quarterly Reporting. Subject employers shall report all wages paid for services in covered employment each calendar quarter. In the event a subject employer does not pay wages during a calendar quarter, the employer shall file a quarterly report indicating that no wages were paid. Ref. Sec. 72-1337, Idaho Code. ~~(3-19-99)~~(____)

02. Contribution Due Date. Contributions are due on or before the last day of the month following the calendar quarter except if the last day of the month falls on a weekend or holiday, in which case the next workday is the due date. Ref. Sec. 72-1349, Idaho Code.(3-19-99)

03. Penalties and Interest on Bankruptcy. Penalty and/or interest shall not be assessed on amounts covered in the Department's Proof of Claim with the Bankruptcy Court for the period after the filing date of the Bankruptcy Petition and ending with the conclusion of bankruptcy proceedings and distribution of assets. Post petition penalty and interest shall be compromised, provided the amount due is paid in full by a date established after the termination of the bankruptcy proceedings. Ref. Sec. 72-1356, Idaho Code. (3-19-99)

04. Lien Interest. Lien interest on a delinquent account shall be assessed against the remaining unpaid balance computed from the day following the recording of a tax lien, at a rate established by law. (See Section 056). Ref. Sec. 72-1360, Idaho Code. (3-19-99)

05. Penalty and Interest During Controversy. Penalty and/or interest shall be compromised for periods when a valid controversy exists if amounts determined to be due are paid in full by a date established at the conclusion of the issue. Ref. Sec. 72-1354 and 72-1360, Idaho Code. (3-19-99)

06. Confidential Information. Information obtained from an employer shall be held as confidential and shall not be released without the consent of the employer except as provided in IDAPA 09.01.08, "Rules on Disclosure of Information," Section 011 or when disclosure is necessary for collection of any amount due under the employment security law, or as otherwise provided by law or these rules. Ref. Sec. 9-340 and 72-1342, Idaho Code. (3-19-99)

07. Filing of an Employer Appeal. (3-30-01)

a. An appeal shall be in writing, signed by an interested party or representative, and shall contain words that, by fair interpretation, request the appeal process for a specific determination or redetermination of the Department. The appeal may be filed by delivering it, or faxing it, to any Idaho Commerce & Labor local office or to the ~~*Tax and Benefit Control*~~ UI Compliance Bureau of the Idaho Department of Commerce and Labor, 317 W. Main Street, Boise, Idaho 83735. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. A faxed appeal that is received by a Idaho Commerce & Labor local office or the ~~*Tax and Benefit Control*~~ UI Compliance Bureau by 5 p.m. (as of the time zone of the office receiving the appeal) on a business day shall be deemed filed on that date. A faxed appeal that is received by a Idaho Commerce & Labor local office or the ~~*Tax and Benefit Control*~~ UI Compliance Bureau on a weekend or holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. An appeal may also be filed by mailing it to any Idaho Commerce & Labor local office or to the ~~*Tax and Benefit Control*~~ UI Compliance Bureau, Idaho Department of Commerce and Labor, 317 W. Main Street, Boise, Idaho 83735. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark on the request. Ref. Sec. 72-1361, Idaho Code. ~~*(4-11-06)*~~(____)

b. An appeal should be accompanied by a specific statement, information or evidence which provides an explanation as to why the original determination is erroneous. (3-30-01)

c. In cases where a determination of amounts due is made by the Department pursuant to Section 72-1358, Idaho Code, the reports shall replace the determination and will be used to establish the employer's liability if (i) the employer files reports for the periods covered by the determination before the determination becomes final, and (ii) the Department determines that the reports are accurate and complete. If the Department determines the reports are not accurate or complete, the reports shall be treated as an appeal of the determination. (3-30-01)

08. Determinations. Determinations shall be in writing, signed by an authorized representative of the director, and shall contain provisions which advise the interested parties of their right to appeal the determination within fourteen (14) days from the date of mailing of the

determination in accordance with Section 72-1361, Idaho Code. (3-30-01)

09. Determination of Payment Date. Each amount shall be deemed to have been paid on the date that the Department receives payment thereof in cash or by check or other order for the payment of money honored by the drawer on presentment; provided, that if sent through the mail, it shall be deemed to have been paid as of the date mailed as determined by the postmark on the envelope containing same, or the date of the check in lieu of a postmark. Provided further, that in the case of payments received by means of garnishment, execution, or levy, the amount received shall be deemed to have been paid as of the date that the order of garnishment, execution, or levy is served. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

10. Release of Lien upon Payment in Full. An amount secured by a lien shall be deemed to be satisfied when payment in full is received by the Department in the form of cash, money order, or other certified funds, or proof presented that a check or other negotiable instrument has been honored by its drawer upon presentment. Ref. Sec. 45-1908, Idaho Code. (3-19-99)

11. Contribution Reports. Each contribution shall be accompanied by an employer's contribution report in a form or medium prescribed and furnished or approved for such purpose, giving such information as may be required, including number of individuals employed and wages paid or payable to each, which must be signed or furnished by the covered employer or, on their behalf by someone having personal knowledge of the facts therein stated, and who has been authorized by the covered employer to submit the information. Ref. Sec. 72-1349, Idaho Code. (4-11-06)

a. Common paymaster arrangements as referenced by Internal Revenue Code Section 3306 are prohibited for Idaho unemployment insurance purposes. Each covered employer shall complete and submit an Idaho business registration form and the Department will assign to the covered employer a unique unemployment insurance account number. The covered employer must file quarterly reports under its assigned unemployment insurance account number. The workers of one (1) covered employer may not be reported using the assigned unemployment insurance account number of a different covered employer or related entity. Ref. Sec. 72-1325 and 72-1315, Idaho Code. (____)

(BREAK IN CONTINUITY OF SECTIONS)

061. DEFINITIONS.
The definitions listed in IDAPA 09.01.35, "Unemployment Insurance Tax Administration Rules," Section 011, and the following are applicable to the ~~*Tax and Benefit Control*~~ UI Compliance Bureau. ~~*(4-11-06)*~~(____)

01. Tolerance Amount. A tolerance of four dollars and ninety-nine cents ($4.99) is established in connection with collection of amounts due; and under normal circumstances, no delinquency or credit will be issued or carried on the books of accounts for this amount or less. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

02. Wages. The term "wages" includes all remuneration from whatever source, paid or given in exchange for services performed or to be performed, including the cash value of remuneration in any medium other than cash. "Wages" in covered employment, and subject to unemployment insurance reporting, include, but are not limited to: (3-19-99)

a. Commissions, bonuses, draws, distributions, dividends and any other forms or types of payments made by corporations or other similar entities if paid in exchange for services; (4-5-00)

b. Bonuses, prizes, and gifts given to an employee in recognition of services, sales, or production; (3-19-99)

c. Commissions for past services in covered employment; (3-19-99)

d. Remuneration paid to corporate officers which is paid in exchange for services performed or to be performed for or on behalf of the corporation; (4-5-00)

e. Salary advances against commissions; (3-19-99)

f. All forms of profit sharing for services rendered unless specifically exempt under Section 72-1328, Idaho Code; (3-19-99)

g. Excess travel or employer business allowances over actual expense, or over the federal allowance per diem rate for the area of travel, unless returned to the employer; (3-19-99)

h. Vacation or "idle-time" pay, no matter when paid; (3-19-99)

i. Personal expense reimbursement, not gifts, i.e., clothing, family expenses, rent. (3-19-99)

j. The director or his authorized representative shall determine the fair market value of any other remuneration, regardless of its classification, form, or label, which is paid to a worker in exchange for services. In making such determination, consideration will be given to the prevailing wage for similar services. Ref. Sec. 72-1328, Idaho Code. (3-19-99)

k. Noncash payments for farm work, if such payments would be classified as wages for federal tax purposes. Ref. Sec. 72-1328, Idaho Code. (3-15-02)

03. Exclusions From Wages. The term "wages" described in Section 72-1328, Idaho Code, does not include the following: (3-19-99)

a. Prizes or gifts for special occasions which are expressions of good will; (3-19-99)

b. Bonuses paid for signing a contract; (3-19-99)

c. Fees paid to participate periodically in meetings of boards of directors unless exceedingly high; i.e., amounts comparable to other employers in the same industry, of relatively

the same size; (3-19-99)

d. Drawings or advances by partners of a partnership, or by members of a limited liability company treated for federal tax purposes as a partnership or sole proprietorship; (4-5-00)

e. Rental charge for personal equipment provided by the employee on the job: if (3-19-99)

i. There is a rental agreement; and (3-19-99)

ii. The worker has received a reasonable wage for services performed; and (3-19-99)

iii. The fees are held separately on the employer's records. (3-19-99)

f. Stock or membership interests issued for purposes other than services performed or to be performed; (3-19-99)

g. Reimbursement for actual employee expense, or business allowance arrangements with employees that requires them: (3-19-99)

i. To have paid or incurred reasonable job related expenses while performing services as employees; and (3-19-99)

ii. To account adequately to the employer for these expenses; and (3-19-99)

iii. To return any excess reimbursement or allowance. (3-19-99)

h. Payments for employee travel expenses, provided: (3-19-99)

i. Payments are job related expenses while performing services; and (3-19-99)

ii. Payments do not exceed actual expenses or the federal allowance per diem rate for the area of travel; and (3-19-99)

iii. Records for days of travel pertaining to per diem payments are verifiable. (3-19-99)

i. Employee fringe benefits as set forth in Section 132 of the Internal Revenue Code, which are excluded from an employee's gross income and which are not subject to federal unemployment taxes. (3-19-99)

j. Noncash payment to farmworkers. Noncash payments for farm work will be excluded from wages if they are "de minimis" in relation to the amount of cash wages paid to the farmworkers, or are not intended to be treated as the cash equivalent of wages, or as the cash payment of wages. Ref. Sec. 72-1328, Idaho Code. (3-15-02)

04. Treatment of Limited Liability Companies. For purposes of state unemployment tax coverage, a limited liability company will have the same status as it may have elected for

federal tax purposes, or as that status may be determined or required by the federal government, subject to the provisions of Subsections 061.02 and 061.03. (4-5-00)

05. Domestic Employment. Domestic employment is defined as work performed in the operation or maintenance of a private home, local college club, or local chapter of a college fraternity or sorority, as distinguished from services as an employee in pursuit of an employer's trade, occupation, profession, enterprise, or vocation. In general, domestic employment "in the operation or maintenance of a private home, local college club, or local chapter of a college fraternity or sorority" includes, but is not limited to, services rendered by: (3-15-02)

a. Cooks; (3-15-02)

b. Waiters; (3-15-02)

c. Butlers; (3-15-02)

d. Maids; (3-15-02)

e. Janitors; (3-15-02)

f. Laundresses; (3-15-02)

g. Furnacemen; (3-15-02)

h. Handymen; (3-15-02)

i. Gardeners; (3-15-02)

j. Housekeepers; (3-15-02)

k. Housemothers; and (3-15-02)

l. In-home caregivers. Ref. Sec. 72-1315, Idaho Code. (3-15-02)

06. Casual Labor. Services performed by an individual not in the course of the employer's trade or business who earns less than fifty dollars ($50) per calendar quarter per service provided and is not regularly employed by that employer to perform such service, are exempt from unemployment insurance coverage. Ref. Sec. 72-1316A(19), Idaho Code. Domestic employment exempt as casual labor may not be exempt if the employer is covered for such service under Section 72-1315(8), Idaho Code. The term, "services not in the course of the employer's trade or business", refers to services that do not promote or advance the trade or business of the employer. The casual labor exemption found under Section 72-1316A(19), Idaho Code, does not apply to services performed for corporations because all services performed for a corporation are considered to be in the course of the trade or business of the corporation. (4-11-06)

07. Willfully. When applied to the intent with which an act is done or omitted, willfully implies simply a purpose or willingness to commit the act or make the omission referred

to. It does not require any intent to violate law, in the sense of having an evil or corrupt motive or intent. It is more nearly synonymous with "intentionally," "designedly," "without lawful excuse," and therefore not accidental. Ref. Sec. 72-1372, Idaho Code. (____)

(BREAK IN CONTINUITY OF SECTIONS)

112. DETERMINING STATUS OF WORKER.

01. Determining if Worker Is an Employee. In making a determination as to whether a worker is performing services in covered employment, it shall be determined whether the worker is an employee. To determine whether a worker is an employee, the following factors ~~*shall*~~ may be considered: ~~*(3-19-99)*~~(____)

a. The way in which the business entity represented its relationship with the worker prior to the investigation or litigation, including representations to the Internal Revenue Service; (3-19-99)

b. Statements made to the department; (3-19-99)

c. Method of payment to the worker, in particular whether federal, state, and FICA taxes are withheld from paychecks; and (3-19-99)

d. Whether life, health, or other benefits are provided to the worker at the business entity's expense. (3-19-99)

02. Determining if Worker Is an Independent Contractor. If it cannot be determined that a worker is an employee pursuant to Subsection 112.01 above, then a determination shall be made whether the worker is an "independent contractor" pursuant to the terms of Section 72-1316(4), Idaho Code. For the purposes of that section and these rules, an independent contractor is a worker who meets the requirements of both Sections 72-1316(4)(a) and (b), Idaho Code. (3-19-99)

03. Proving Worker Is Free from Control or Direction in His Work. To meet the requirement of Section 72-1316(4)(a), Idaho Code, ~~*it*~~ the alleged employer must ~~*be*~~ prove~~*n*~~ that a worker has been and will continue to be free from control or direction in the performance of his work, both under his contract of service and in fact. The following factors ~~*shall*~~ may be considered in this determination: ~~*(3-19-99)*~~(____)

a. Whether the alleged employer has control over: (3-19-99)

i. The details of the work; (3-19-99)

ii. The manner, method or mode of doing the work; and (3-19-99)

iii. The means by which the work is to be accomplished, but without reference to

having control over the results of the work. (3-19-99)

b. ~~*The freedom from*~~ Whether the worker was free from the alleged employer's direction and control ~~*must exist*~~ both in theory (under a contract of service) and in fact; ~~*and*~~ ~~*(4-11-06)*~~(____)

c. ~~*The*~~ Whether the alleged employer ~~*must demonstrate that it*~~ lacked a right to control the worker~~.~~; ~~*(4-11-06)*~~(____)

d. Whether the alleged employer has direction or control where the worker performs services under the alleged employer's license, permit, or certificate, acquired pursuant to federal, state or local laws and/or regulations, and the employer under such laws is required to direct and control the activities of the worker; and (____)

e. Other factors which, viewed fairly in light of all the circumstances in a given case, may indicate the existence of or lack of the employer's exercise of direction or control over a worker's performance of his work. (____)

04. Proving Worker Is Engaged in Independently Established Business. To meet the requirement of Section 72-1316(4)(b), Idaho Code, it must be proven that a worker is engaged in an independently established trade, occupation, profession or business. The following factors ~~*shall*~~ may be considered in this determination: ~~*(3-19-99)*~~(____)

a. Skills, qualifications, and training required for the job; (3-19-99)

b. Method of payment, benefits, and tax withholding; (3-19-99)

c. Right to negotiate agreements with other workers; (3-19-99)

d. Right to choose sales techniques or other business techniques; (3-19-99)

e. Right to determine hours; (3-19-99)

f. Existence of outside businesses or occupations; (3-19-99)

g. Special licensing or regulatory requirements for performance of work; (3-19-99)

h. Whether the work is part of the employer's general business; (3-19-99)

i. The nature and extent of the work; (3-19-99)

j. The term and duration of the relationship; (3-19-99)

k. The control of the premises; (3-19-99)

l. Whether the worker has the authority to hire subordinates; (3-19-99)

m. Whether the worker owns or leases major items of equipment or incurs substantial

unreimbursed expenses, provided, that in a case where a worker leases major items of equipment from the alleged employer: (3-19-99)

i. The terms of the lease; and (3-19-99)

ii. The actions of the parties pursuant to those terms must be commercially reasonable as measured by applicable industry standards. (3-19-99)

n. Whether either party would be liable to the other party upon peremptory or unilateral termination of the business relationship; and, (3-19-99)

o. Other factors which, viewed fairly in light of all the circumstances in a given case, may indicate the existence or lack of an independently established trade occupation, profession or business. (3-19-99)

05. Meeting Criteria for Covered Employment. A worker who meets one (1), but not both, of the tests in Subsections 112.03 and 112.04 above shall be found to perform services in covered employment. (3-19-99)

06. Evidence of Contractual Liability for Termination. For purposes of making a determination under Section 72-1316(4), Idaho Code, and this regulation, the party alleging that summary termination by either party would result in contractual liability must present some evidence upon which to base such allegation. Ref. Sec. 72-1316(4), Idaho Code. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

134. PROFESSIONAL EMPLOYER ORGANIZATIONS.
A professional employer organization shall fully comply with the requirements of the Professional Employer Recognition Act, Chapter 24, Title 44, Idaho Code in order to be eligible for any transfers of experience rating as allowed by Section 72-1349B, Idaho Code. (3-15-02)

01. Methods of Reporting. To report the wages and employees covered by the professional employer arrangement between a professional employer and client, professional employers and their clients shall make reports to the Department in one (1) of the following ways, subject to the conditions in Subsections 134.02 through 134.06 of this rule: (3-15-02)

a. Report the workers included in the professional employer arrangement under the employer account number of the professional employer and transfer the rate of the client to the professional employer; or (3-15-02)

b. Report the workers included in the professional employer arrangement under the employer account number of the client without an experience rate transfer. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

02. Joint Transfer of Experience Rate. In order to effect a transfer of a client's experience rate into the experience rate of a professional employer organization, both the client

and the professional employer organization shall jointly apply for the transfer of the experience rate within the same timeframes as required of employers by Section 72-1351(~~4~~5), Idaho Code, from the date of the contract entered into between the professional employer organization and the client required by Section 44-2405, Idaho Code. Failure to submit a timely joint request for transfer of experience rate shall result in the professional employer organization reporting wages for the client under the employer account number of the client. Ref. Sec. 72-1351(~~4~~5), Idaho Code. ~~(7-1-05)~~(____)

03. Partial Transfers of Experience Rate Prohibited. In the event that a client and a professional employer organization jointly apply to transfer the experience rate of the client into that of the professional employer, the client's entire experience rate and factors of experience rate shall be transferred into that of the professional employer, and no partial transfers of experience factors or the experience rate shall be allowed. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

~~***04. Joint Application**. If the professional employer organization elects to report the workers assigned to a client under the experience rate account of the professional employer a joint application signed by the professional employer organization and the client employer must be submitted within one hundred eighty (180) days of the contract between the professional employer organization and the client. If the application is not received within this time frame, the workers assigned to the client employer must be reported under the experience rate account of the client without an experience rate transfer. Ref. Sec. 72-1351, and 72-1349B, Idaho Code.*~~
~~*(4-11-06)*~~

0~~5~~4. Partial Reporting of Workers. If some of the client's workers are included in the professional employer arrangement and some are not included, and the professional employer organization and the client elect to report the workers included in the professional employer arrangement under the employer account number of the client, then only one (1) quarterly report shall be remitted to the Department, which shall list or include all the client's workers whether or not included in the professional employer arrangement. Ref. Sec. 72-1349B, Idaho Code.
(3-15-02)

0~~6~~5. Combined Wages or Services for Purposes of Coverage. If a client employer has employees or employment, or both, that does not independently meet the coverage or threshold requirements necessary to constitute covered employment, such employees, services or employment shall nonetheless be deemed to meet the coverage requirements of the Employment Security Law if, in combination with other employees, employment or services of such other employees of the professional employer organization or any of its clients, such wages, services or employees do jointly meet coverage requirements. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

263. DETERMINATION OF REPORTABLE QUARTERS.
An employer shall be covered for all four (4) quarters in the calendar year in which the employer becomes a covered employer as well as for all four (4) quarters in the succeeding calendar year. Employers are not required to file quarterly reports until meeting the coverage criteria pursuant to Section 72-1315, Idaho Code. Upon becoming a covered employer within a calendar year, the

quarterly report(s) for the quarter(s) prior to the employer becoming covered shall be filed with the quarterly report for the quarter in which the employer became covered. Quarterly reports for the periods subsequent to coverage shall be filed when due after the end of each quarter. Ref. Sec. 72-1315 and 72-1337, Idaho Code. (____)

26~~3~~4. -- 274. (RESERVED).

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.02.01 - IDAHO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (ICDBG)

DOCKET NO. 09-0201-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-4702, 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. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the September 6, 2006 Idaho Administrative Bulletin, Volume 06-9, pages 40 through 56.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dianna Clough, Community Development Manager, (208) 334-2650 ext. 2140.

DATED this 6th day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, 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, 2006.

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

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

These proposed changes to IDAPA 09.02.01 are intended to clarify or change inaccurate terminology and grant application requirements and delete references that do not comply with federal HUD program regulations.

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

The changes are being made to IDAPA 09.02.01 to comply with changes to federal HUD program regulations, legislative committee requests and to clarify and make rules consistent with other program requirements.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: There will be no impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule change is in response to federal program regulations and legislative committee requests.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dianna Clough, Community Development Manager, (208) 334-2650 ext. 2140.

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, 2006.

DATED this August 2, 2006.

Dianna Clough
Community Development Manager
Department of Commerce and Labor
State Street Office
700 W. State Street, Boise, ID 83720-0093
(208) 334-2650 ext. 2140 / (208) 334-2631 fax

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

040. SPECIAL ECONOMIC DEVELOPMENT ACTIVITIES.

01. Economic Development Activities. Grant funds may be used for economic development activities which directly assist a specific business firm. In authorizing activities, the Department will take into account the amount of permanent employment to be generated which is available to low and moderate income persons, the necessity of the assistance or activity to stimulate private investment and the degree of impact on the economic conditions of the applicant. (7-6-94)

02. Eligible Activities. The following are eligible activities that may be carried out: (7-6-94)

a. Acquisition, construction, reconstruction, or installation of publicly-owned commercial or industrial buildings and structures, and other publicly-owned real property equipment and improvements, including public facilities, utilities, and other on site improvements, including railroad spurs, electrical, gas and telephone services. Such activities may be carried out by the grantee, sub-~~*grantee*~~ recipient, or private nonprofit firms. Rehabilitation of privately-owned commercial or industrial buildings is eligible under Subsection 040.02.b.; or Subsection 051.01. ~~*(3-20-97)*~~(9-1-06)T

b. A project may include the provision of direct financial assistance to private-for-profit businesses including, but not limited to, assistance through grants, loans, loan guarantees, interest supplements, or technical assistance and other forms of support, for any eligible activities ~~*necessary or appropriate*~~ to carry out an economic development project, excluding these described as ineligible in Subsection 052.01. In order to ensure that any such assistance does not unduly enrich the for-profit business, an analysis shall be conducted to determine that the amount of any financial assistance to be provided is not excessive, taking into account the actual needs of the business in making the project financially feasible and the extent of public benefit expected to be derived from the economic development project as described in 24 CFR Part 570.482(e) and (f). ~~*The analysis shall document any factors considered in making the determination that the assistance is "necessary or appropriate" to carry out the project. The requirement for making such a determination applies whether the business is to receive assistance from the grantee or through a sub-grantee;*~~ ~~*(7-6-94)*~~(9-1-06)T

~~**c.** *Other activities eligible under Section 022 of these rules which are necessary or appropriate to carry out an economic development project; and* *(7-6-94)*~~

~~***d.*** *When the grantee determines such ineligible activities listed in Subsection 052.02 are necessary or appropriate to achieve its community development strategy.* *(7-6-94)*~~

041. -- 044. (RESERVED).

045. SUB-GRANTS TO NONPROFIT ORGANIZATIONS.

01. Eligible Activities. A grantee may subgrant ICDBG funds to any of the types of sub-~~*grantees*~~ recipients specified below, to carry out a neighborhood revitalization or community economic development project. Such a project may include any eligible activity under these rules and ineligible activities listed in Subsection 052.02, but not those described as ineligible in Subsection 052.01~~*, when the grantee determines that such activities are necessary or appropriate to achieve its community development objectives*~~. ~~*(7-6-94)*~~(9-1-06)T

02. Grantee Responsibilities. Grantees are wholly responsible for ensuring that ICDBG funds are utilized by sub-~~*grantees*~~ recipients in a manner in compliance with the requirements of these rules and the other applicable federal, state or local laws. Grantees remain responsible for carrying out the environmental review and clearance responsibilities. ~~*(7-6-94)*~~(9-1-06)T

03. Sub-~~*Gantee*~~ Recipient Eligibility. Sub-~~*grantees*~~ recipients eligible to receive grants under ~~*this*~~ Section 045: ~~*(7-6-94)*~~(9-1-06)T

a. A neighborhood-based nonprofit organization is an association or corporation, duly organized to promote and undertake community development activities on a not-for-profit (nonprofit) basis within a neighborhood. An organization is considered to be neighborhood-based if the majority of its membership, clientele or governing body are residents of the neighborhood where activities assisted with ICDBG funds are to be carried out. A "neighborhood" is: a geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances or other local documents as a neighborhood; or the entire jurisdiction of a unit of general local government which is under twenty-five thousand (25,000) population. (7-6-94)

b. Section 301(d) Small Business Investment Companies. A Section 301(d) Small Business Investment Company is an entity organized pursuant to Section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making. (7-6-94)

c. Local Development Corporations. A local development corporation is: an entity organized pursuant to Title VII of the Headstart, Economic Opportunity and Community Partnership Act of 1974 (42 U.S.C. 2981) or the Community Economic Development Act of 1981 (42 U.S.C. 9801 et seq.); an entity eligible for assistance under Section 502 or 503 of the Small Business Investment Act of 1958 (15 U.S.C. 696); other entities incorporated under state law whose membership is representative of the area of operation of the entity (including non-resident owners of businesses in the area) and which is similar in purpose, function and scope to those specified in Subsection 045.03.a.; or a state development entity eligible for assistance under Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695). (7-6-94)

d. Colleges and Universities. An institution of higher education having a demonstrated capacity to carry out eligible activities for the benefit of the grantee. (7-6-94)

(BREAK IN CONTINUITY OF SECTIONS)

066. INVITATION TO SUBMIT APPLICATION ADDENDA.
For public facility, housing and ~~*economic development*~~ downtown revitalization applications, the Council will review the staff recommendation and the information presented. The Council will assign their points and will direct the Department to invite the highest rated applicants to submit application Addenda~~*, if required and if funding is available*~~. ~~*(4-11-06)*~~(9-1-06)T

(BREAK IN CONTINUITY OF SECTIONS)

072. FORMAT.
An Application shall be submitted on eight and one-half inch (8-1/2") by eleven inch (11") white paper. It may be printed on both sides of the paper. Maps and larger sheets shall be folded to eight and one-half inch (8-1/2") by eleven inch (11") size. Left and right margins shall be one (1) inch. The text shall be typed single-spaced with double spaces between paragraphs. Pages shall be numbered. The types of headings and numbering systems are optional to the applicant. Supporting documents should be noted and placed in an appendix. ~~*All Applications shall be bound. Type of binding is optional to the applicant.*~~ The original and an electronic Application and the addendum, if required, shall be submitted to the Department of Commerce and Labor as prescribed in the ICDBG Application Handbook. ~~*(4-11-06)*~~(9-1-06)T

073. (RESERVED).

074. SECTIONS.
The Application shall consist of the following sections: (7-6-94)

01. Cover. The cover shall contain "An application for an Idaho Community Development Block Grant by the _____ (City/County) of _____ (Name) _____ Date:_____". (one (1) page) (7-6-94)

02. Cover Letter. A cover letter signed by the Mayor or the Chairman of the Board of County Commissioners on official stationery. This is the official letter of application for a grant. (one (1) page) (7-6-94)

03. Table of Contents. (one (1) page) (7-6-94)

04. ICDBG Application Information Form. Fully completed and signed by the applicant. (one (1) page) (7-6-94)

05. Threshold Factors. The first four (4) factors must all be answered in the affirmative before an Application is to be reviewed and ranked. For public facility, housing and downtown revitalization projects an Application shall include ~~*only*~~ Subsections 074.05.a. through 074.05.d. An Addendum, where required, shall include Subsections 074.05.e. through 074.05.g. All other application types must include Subsections 074.05.a. through 074.05.g.
~~*(3-19-99)*~~(9-1-06)T

a. The applicant must be an eligible applicant (Section 012). Describe how the applicant meets the eligibility criteria. If this is a joint or in-behalf-of application, describe agreements and arrangements for managing the grant and the project. (7-6-94)

b. The project shall be an eligible activity(ies). Describe why the project and the various activities are eligible according to the rules in Section 022. (7-6-94)

c. The applicant shall adopt a citizen participation plan and shall conduct a public participation process. Applicants shall submit a copy of the Citizen Participation Plan and results of citizen involvement in developing the project. A copy of the Citizen Participation Plan must be submitted with the Application. An ICDBG may be awarded only if the grantee certifies that it is following a detailed citizen participation plan which: provides for and encourages citizen participation, with particular emphasis on participation of persons of low and moderate income who are residents of slum and blight areas or provides for participation of residents in low and moderate income neighborhoods as defined by the applicant; provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds; provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including, at least, the development of needs, the review of proposed activities, and review of program performance. Hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for persons with disabilities; provides for a timely written answer to written complaints and grievances, within fifteen (15) working days where practicable; and identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate. (3-19-99)

d. At least one (1) public hearing is required to permit public examination and appraisal of the Application. Public hearings shall be scheduled in ways and at times to provide for full participation of citizens. The building or facility must be accessible to persons with disabilities. All information presented in the hearings shall also be available, upon request, in a form usable by persons with disabilities. Proper notification shall be given by a public advertisement in a local newspaper no less than seven (7) days prior to the meeting date. The seven (7) days shall be counted beginning the date the advertisement appears and ending the day before the date of the hearing. The notice shall include: a brief description of the proposed project; the amount of funds being requested; the time and place of the public hearing, including a statement that the hearing will be held in a handicapped accessible facility; notification that both written and verbal comments will be accepted; and a description of the availability of services for persons with disabilities, upon request. It is recommended the applicant also post notification of the public hearing at various public locations and use other media notices of the hearing. At a minimum, applicants shall provide in the minutes of the meeting, evidence the following occurred

at the public hearing: The Application and Application Handbook were available for review; the amount of funds available for local community development and housing activities was discussed; the range of activities to be undertaken was presented including community impact and benefit to low and moderate income (LMI) persons; verification that citizen's comments and views on the proposed Application were considered prior to submittal and, if determined appropriate, a description of how the Application was modified; a copy of the public notice, minutes and a list of those attending the public hearing(s); a description of any plans for the project regarding citizen participation, i.e., the formation of a citizen's advisory committee; and a description of any assistance for persons with disabilities requested and provided. (3-20-97)

e. The applicant shall have the administrative capacity to administer the grant. This means having completed the procurement process for a Department-approved grant ~~*manager*~~ administrator in accordance with ~~*the*~~ Section 212. The grant ~~*manager*~~ administrator shall be included in project development and Application writing efforts. ~~*(3-20-97)*~~(9-1-06)T

f. The applicant shall have adopted a Fair Housing Ordinance or resolution. This ordinance or resolution must have been adopted and publicly advertised within the twelve (12) month period preceding the Addendum deadline date for public facility, housing and downtown revitalization projects and the twelve (12) month period preceding the application deadline date for senior/community center, imminent threat and economic development job documentation projects. Once the Fair Housing Resolution or Ordinance has been adopted, applicants do not have to re-adopt the Resolution or Ordinance. The applicant will be required to show documentation the Resolution or Ordinance was published within the previous twelve (12) month period. ~~*(3-19-99)*~~(9-1-06)T

g. The applicant shall either certify it will follow the Idaho Department of Commerce and Labor's Anti-displacement Plan or have adopted an Anti-Displacement and Relocation Plan. If the applicant adopts its own plan, the ordinance or resolution must have been publicly advertised within the twelve (12) month period preceding the Addendum deadline date for public facility, housing and downtown revitalization projects and the twelve (12) month period preceding the application deadline date for senior/community center, imminent threat and economic development job documentation projects. Once the Anti-Displacement and Relocation Plan has been adopted, applicants do not have to re-adopt the Plan. The applicant will only be required to show documentation the Plan was published within the previous twelve (12) month period. ~~*(4-11-06)*~~(9-1-06)T

06. General Project Description. This is the critical section of the Application. It should include enough information for the reviewer to clearly understand the community, its needs, the project, and how the grant will help to solve the community problem. The information in each ranking section should substantively expand upon the project description. The narrative should~~*, in three (3) pages,*~~ succinctly describe the following items: a description of the community as to size, location and economy; a thorough assessment of all the community's needs and how the proposed project is a priority in comparison with the other needs addressed. The applicant should also include a description which discusses how the existing condition came about, the number of people affected, and the seriousness of the problem(s); the particular project that is being proposed shall be described in detail. Describe the project, the various components, anticipated costs, schedule of activities, maps showing the location of the project to the community (detailed enough to locate it by car) and a map of the boundaries of the project area.

This description shall be detailed enough that it can be used to write a contract scope of work; describe the benefits of the project, how it solves the identified need, and how it will enhance the community and its economy. Provide a demographic profile of the persons to benefit. This shall include gender, minority status, persons with disabilities, and female head of household. Describe how the project meets the state objectives of the ICDBG program (see Sections 000, 010, and 011); and if program income is expected to be generated, a re-use plan must be developed according to Section 175. ~~(3-19-99)~~(9-1-06)T

07. ICDBG Budget Form Fully Completed by the Applicant. (one (1) page) (7-6-94)

08. Assurances. The applicant shall sign the Assurances Form certifying that it will comply with the following federal laws and regulations: National Environmental Policy Act of 1969; Civil Rights Act of 1964 Pub.L 88-352; Civil Rights Act of 1968 Pub.L 90-284; Age Discrimination Act of 1975; Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 as amended and the implementing regulations at 49 CFR Part 24; Rehabilitation Act of 1973, Section 504 "Handicapped Accessibility"; Housing and Community Development Act of 1974 as amended Pub. L 93-383; Davis-Bacon Act (40-USC 276a--5); Historic Preservation Act; Anti-Lobbying Certification; Excessive Force Certification; and Section 106 of the Housing and Urban Recovery Act of 1983, certifying they will: minimize displacement and follow a residential anti-displacement and relocation assistance plan, affirmatively further fair housing, provide citizen participation, not use assessments or fees on low and moderate income owner occupants to recover capital costs of ICDBG-funded public improvements; Prohibition of Use of Assistance For Employment Relocation, Section 588 of the Quality Housing and Work Responsibility Act of 1998 Pub. L 105-276. (one (1) page). (3-30-01)

09. Review and Ranking Narrative. The applicant shall address each point category in the order given in the review and ranking section of the applicable grant category, referenced below. If a particular point category is not applicable or not selected, it should be indicated. (7-6-94)

a. Economic Development Grants: (4-11-06)

i. Infrastructure (Section 096). (7-6-94)

ii. Downtown Revitalization (Section 097). (7-6-94)

b. PFH (Sections 083 through 087) and SR (Section 101) Grants: (7-6-94)

i. Program Impact and Eligible Activity Point Form. (4-11-06)

ii. National Objectives. (4-11-06)

iii. Project Categories. (4-11-06)

iv. Advisory Council Points Narrative. (4-11-06)

10. Additional Information from Applicant (Appendix). Maps, letters of support,

technical studies and appropriate background documentation should be placed in this section and bound into the Application (no page limit). (7-6-94)

(BREAK IN CONTINUITY OF SECTIONS)

090. PROJECT CATEGORIES.
Two hundred and twenty (220) points. PFH Applications shall address each of the categories below. The project description and its benefits should be discussed in previous sections. This section is a measure of the preparedness of the project and the community to undertake the project. To earn points, the applicant must demonstrate that the appropriate actions, procedures, agencies, permits, financing and inspections to initiate and complete the project were discovered and show how much has been completed. The object is to have well thought out projects which will then be quickly executed if funded. The items identified in the following categories must be related to each other. (3-30-01)

01. Planning, Previous Actions and Schedule (one hundred and eighty (180) points). According to the categories listed below, the applicant shall describe and document the process used to plan the project and describe the components of the project. The completeness of the process and project detail earn more points. (4-11-06)

a. Design Professional (twenty (20) points). A maximum of twenty (20) points will be awarded if the applicant has issued an RFP and completed a design professional selection process. The process must have met state and federal procurement requirements as described in the most recent ICDBG Administration manual. A copy of the RFP, proof of published notice if applicable, and completed evaluation rating sheets must be submitted to receive full points. (4-11-06)

b. Grant Administration (twenty (20) points). A maximum of twenty (20) points will be awarded if the applicant has issued an RFP and completed the administrator selection process. The process must have met state and federal procurement requirements as described in the most recent ICDBG Administration manual. A copy of the RFP, solicitation process, and completed evaluation rating sheets must be submitted to receive full points. (4-11-06)

c. Plan/Studies (twenty (20) points). A maximum of twenty (20) points will be awarded in this category if the applicant documents a plan or a study has been completed which includes a survey of the existing condition of the system or facility, develops and screens alternatives to enable the system to meet future needs, selects a recommended alternative, and evaluates the potential impact of the project on the environment. For pre-fab buildings, provide a letter from local building officials that the building meets state of Idaho building, electrical, and plumbing codes. Include additional information by project type: (4-11-06)

i. Water and sewer system projects. A conditional approval issued by DEQ on the facilities study or the project's specification and drawings. (4-11-06)

ii. Health care facility projects. A letter of intent submitted to the Idaho Bureau of

Facilities Standards describing the proposed scope of work. Provide a copy of the letter and any response from the Bureau of Facilities Standards. (4-11-06)

iii. Road and transportation system projects. Conditional approval of construction plans by the Idaho Transportation Department or local highway district. (4-11-06)

iv. Housing projects. Project meets the community's comprehensive plan and zoning ordinance. Also, completed a financial performance and management plan. (4-11-06)

v. Fire or EMT station projects. A public works or design professional facilities review. The review shall include survey of existing condition of the building (if applicable), an analysis of costs including rehabilitation costs versus new construction, site location consideration including environmental issues, existing building problems, and the need for the size of the facility. (4-11-06)

d. Environmental Scoping (ten (10) points). A maximum of ten (10) points will be awarded if the applicant or sub-recipient has completed a Field Notes Checklist as prescribed in the ICDBG Application Handbook and mailed out environmental information request letters before submission of application. (4-11-06)

e. Agency Viability (thirty (30) points). A maximum of thirty (30) points will be awarded in this category if the applicant documents the following per project type: (4-11-06)

i. Sewer or water projects. Completion of ICDBG financial viability worksheet with the utility rate reviewed by at least one (1) of the following: The USDA Rural Development, Boise State University Environmental Finance Center, the Rural Community Assistance Corporation, or the Idaho Rural Water Association. (4-11-06)

ii. Health care, transportation, housing, fire/EMT, or other projects. The applicant's or sub-recipient's viability will be based on having the following components: A lawful governing body, completion of ICDBG financial viability profile, a stable funding source and positive cash flow, and capital improvement and facility management plans. (4-11-06)

iii. Youth center projects. Projects must ~~*be modeled after the Boys and Girls Club of America and*~~ assist youth ages six (6) to eighteen (18) in developing skills to overcome challenges and become responsible leaders. The applicant or sub-recipient must provide information on management and operation of the center, outreach activities, a cost analysis of rehabilitation versus new construction and document that local operating funds are committed.
~~*(4-11-06)*~~(9-1-06)T

f. Property Acquisition (twenty (20) points). A maximum of twenty (20) points shall be awarded if the applicant or sub-recipient has achieved project site control. (4-11-06)

i. The applicant or sub-recipient has ownership of the property including easements or right of way permits. Identify if there are existing buildings on the property and whether or not businesses, individuals, or farms will be displaced and provide documentation of site control; or (4-11-06)

ii. If property (land, buildings, rights of way, easements) is not secured but is identified on a plat map five (5) points will be awarded. Identify if individuals or businesses, including farms will be displaced. (4-11-06)

g. Funding Commitments (forty (40) points). A maximum of forty (40) points will be awarded if one hundred percent (100%) of match funds are committed to the project. A commitment letter must be included with the application addendum. A support letter is not a commitment. If match is a bond, provide documentation the bond has passed and identify who will buy it. (4-11-06)

h. Schedule (five (5) points). A maximum of five (5) points will be awarded in this category if the dates to start and complete construction have taken into account weather conditions, other funding availability, environmental mitigation issues, real estate site control, and bidding time frame. (4-11-06)

i. Administrative Capacity (fifteen (15) points). A maximum of fifteen (15) points will be awarded in this category. (4-11-06)

i. ICDBG project track record and general stability of applicant and sub-recipient. Review may include financial audit reports, board make-up, staff turnover and recall elections (five (5) points). (4-11-06)

ii. Completion of Section 504 Self Evaluation and Transition plan. Submit the transition plan and the name of the ADA coordinator to certify which elements have been completed (five (5) points). (4-11-06)

iii. Document that Fair Housing Accessibility Standards have been adopted either separately or inclusively with the most current building code utilized by the applicant (five (5) points). (4-11-06)

02. Cost Analysis (forty (40) points). Cost estimates for the project should be an accurate and realistic analysis of the administrative, legal, accounting, engineering or architectural services, property acquisition, construction and closeout costs. The various sources of funding should be assigned to the appropriate parts of the project. In order to receive points, construction costs will need to be: (4-11-06)

a. Identified by a licensed design professional's cost estimate within four (4) weeks of the application due date; (4-11-06)

b. Completed Project Cost Estimate. Estimate should reflect: (4-11-06)

i. Acquisition costs including appraisals, land, relocation, and closing costs; (4-11-06)

ii. Construction costs including divisions 1 - 16 as described in the most recent MASTERFORMAT, Davis Bacon wage rate, overhead, profit, contingency, bonding, permits; (4-11-06)

iii. Design professional fees including design fees, construction administration, and reimbursable fees; (4-11-06)

iv. Grant administration fees including writing and administration; (4-11-06)

v. Soft costs including soil studies, market study, environmental; and (4-11-06)

vi. Financing expenses. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

096. REVIEW AND RANKING NARRATIVE FOR BUSINESS EXPANSION PROJECTS.
The following are the review and ranking narrative requirements for those projects which assist business expansion through the provision of infrastructure and creation of jobs. The following minimum criteria must be included in the application by the application deadline in order for staff to review and rank the project and recommend it to the Economic Advisory Council for consideration. (3-30-01)

01. Minimum Criteria. (7-6-94)

a. The project must meet the national objective of benefiting LMI persons through job creation. Fifty-one percent (51%) of all the new jobs created or retained must be held by or made available to a member of a low and moderate income family. (LMI as defined in Section 016). Family income must be certified by the employee at time of hire and must be able to be verified or may be documented through a Department of Commerce and Labor screening referral agency. (3-19-99)

b. The applicant must certify compliance with applicable federal circulars A-87, A-110, and A-122 and meet the necessary assurances as listed in Subsection 074.08 as applicable. (4-11-06)

c. A public hearing shall be held on the Application in accordance with Subsection 074.05.d. (7-6-94)

d. The project may qualify as a Special Economic Development Project under Subsection 040.02.a. ~~*If the project qualifies under Subsection 040.02.b., a determination of Necessary or Appropriate is required*~~ and 040.02.b. if the project meets the Public Benefit Standards described in 24 CFR Part 570.482 (e) and (f). ~~*(7-6-94)*~~(9-1-06)T

e. Attach an eight and one-half inch (8-1/2") by eleven inch (11") map showing the location of the proposed project in the community. Attach a site plan of the proposed project showing existing and proposed improvements both business and infrastructure; existing and proposed land uses in the surrounding area and natural features and conditions on the site and nearby. (3-20-97)

f. Attach a brief analysis of the business to be assisted, including the market for the product/services to be produced, the business' position in the market, and the financial and managerial capabilities of the business(es) to be assisted. This should also include financial statements and balance sheets for the business(es) to be assisted indicating sales, income, and net position for the prior three (3) years, and the names and experience of senior managers of the business. (4-11-06)

g. Attach a letter of commitment from the business(es) stating their agreement to be part of the grant project, their ability to accomplish their expansion, their understanding of and compliance with all applicable federal regulations, their understanding of and compliance with the payback liability if the jobs creation does not meet federal standards; and their willingness to make available all records and information necessary to document all jobs created by completing and signing the Grant Assistance Agreement and Certification of Compliance with Grant Conditions. (4-11-06)

h. Attach a description of the type and number of all the jobs to be created, a calculation of fulltime equivalents (FTE), and a beginning payroll of the business(es) at the location of the proposed project, a detailed description of the hiring process and any training to be provided. The information should include both current job information and the job creation projected for two (2) years beyond the completion of the grant funded construction. If training is necessary, a training plan and schedule outlining the responsibilities must be included in the application. A description of the quality of new and retained jobs shall be included. A description of the median annual income and fringe benefits package for new or retained jobs shall be provided. (4-11-06)

02. Ranking Criteria (one thousand (1,000) points possible). (7-6-94)

a. Direct new or retained jobs, in fulltime equivalents (FTE's), created within two (2) years of grant construction completion. Net new jobs are those created as a result of the ICDBG, over and above employment at the business site prior to the grant, and which do not include relocated jobs from the assisted business in the same labor market area. Retained jobs are those that would be lost without the ICDBG assistance. A job creation cost of more than ten thousand dollars ($10,000) ICDBG per job will not be considered. If jobs are not being created or retained, a project cannot be funded. (4-11-06)

b. Quality of New or Retained Jobs (one hundred (100) points). Points in this category are assigned based upon a comparison of the full time equivalent (FTE) wages or salaries created (excluding benefits, and the average county salary as determined by the most recent quarterly Idaho Department of Commerce and Labor survey. To convert part time or seasonal positions, take the total number of hours of employment created for a given pay rate and divide by one thousand five hundred sixty (1,560). If the average county wage exceeds the state average wage; comparison with the state average will be used. The grantee will be awarded points based upon the percentage of FTE's exceeding the state or county average salary. The formula is: Percentage of jobs above state or county average salary x one hundred (100) = Wage Quality Points. (4-11-06)

c. Fringe Benefits (one hundred (100) points). The businesses creating or retaining

jobs as a result of ICDBG assistance shall document their fringe benefit plans. Points will be given as follows: fifty (50) points for an employer funded health plan and fifty (50) points for an employer funded pension plan. The business must provide both to receive full points. (4-11-06)

d. Business Risk and Management (zero (0) to one hundred twenty-five (125) points). The probability of achieving the projected jobs and payroll within one (1) and two (2) years, as determined by the Department. The determination may be made on the basis of: the business plan and schedule, the financial position and a credit analysis of the business; the performance record of senior management of the business project; and other criteria reasonably required by the Department. Projects receiving less than seventy-five (75) points in this category will be eliminated from further consideration. (4-11-06)

e. Planning, Schedule and Cost (one hundred and seventy (170) points possible). Describe planning efforts to enhance economic development. A detailed and reliable cost estimate and a project construction schedule is required of all Applications. Cost analysis and schedule will receive equal emphasis. Because of the priority the Department and Economic Advisory Council places on project costs and schedule, applicants are advised to seek experienced construction management counsel for their Application. (4-11-06)

i. Planning (fifty (50) points). Describe planning efforts to identify and detail all steps related to the implementation of the entire project. Identify all participants in the process. Describe all the partnerships and relationships involved in implementing the project. This will include local government actions, the business actions, other agency and utility actions, real estate, environmental, legal, financial and grant considerations. (4-11-06)

ii. Schedule (fifty (50) points). A detailed and reliable schedule of all actions identified in the plan. Also a separate grant funded project construction schedule is required of all Applications. (4-11-06)

iii. Cost (fifty (50) points). Detailed cost estimates of all actions, permits, construction, real estate, etc. should be prepared by an engineer or architect. Because of the priority the Department and Economic Advisory Council places on project costs and schedule, applicants are advised to seek experienced construction management counsel for their Application. (4-11-06)

iv. Environmental Scoping (twenty (20) points). A maximum of twenty (20) points will be awarded if the applicant has completed a Field Notes Checklist as prescribed in the ICDBG Application Handbook. (4-11-06)

f. Minority Benefit (fifteen (15) points). Applicants for job creation projects that are for business expansion or retention shall receive minority points if the business documents minority hiring on their current payrolls. If the percentage of minority participation is equal to or greater than the county in which they are locating, they shall receive full points. (4-11-06)

g. Local Investment Leverage (maximum of one hundred (100) points). The total of all local match will be divided by the total of all local match plus the ICDBG amount requested to determine the percentage of local match in the project. This percentage will then be multiplied by one hundred (100) to determine the point value. Applicants shall state if there is a Revolving Loan

Fund (RLF) available in their region and, if so, describe what attempts have been made to secure funds from the RLF for the project. Program Income from previous grants to be used in this project may be considered as local match. (4-11-06)

h. Distressed Areas (twenty (20) points). Maximum points will be given if the project is located in a historically underutilized business (HUB) zone. (4-11-06)

i. Existing Idaho Business (twenty (20) points). To qualify for points, a business must have a significant Idaho presence. (4-11-06)

j. Private Leverage (one hundred (100) points). The points in this category will be calculated by dividing the total of all private investment provided by the business in the project by the ICDBG amount requested and multiply it by one hundred (100). The business' private investment is the capital facilities, real estate and site development costs. Applicants shall provide documentation on the status of private investment, i.e. financing approvals. Payroll and start-up costs are not included in this calculation. (4-11-06)

k. Activities (twenty-five (25) points). Points will only be awarded for the percentage of ICDBG dollars committed to the acquisition, construction, or reconstruction of public infrastructure (Section 024); and for publicly-owned commercial building acquisition and/or rehabilitation for the purpose of assisting a business or businesses. (4-11-06)

l. Grant Management (twenty-five (25) points). If the grant funded activities are managed by the grantee, twenty-five (25) points will be awarded. Grantee management includes management under contract with a Department approved Grant Manager. (4-11-06)

m. Economic Advisory Council Evaluation (two hundred (200) points). The EAC will evaluate each Application on the basis of overall value, including its ability to make a significant impact on the Idaho economy and the commitment of the community to the project. The EAC evaluation process shall be prescribed in the ICDBG Application Handbook. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

101. REVIEW AND RANKING PROCESS.
The Application shall be reviewed according to the following point categories and shall be based upon the information submitted and any additional information requested by the Department. (one thousand (1,000) points possible). (7-6-94)

01. Physical Conditions (three hundred fifty (350) points). Points will be assigned to the needs of the center based upon the number of needs and the urgency of the needs. Department staff shall, upon review of the documentation and descriptions in the application, determine a rating from one (1) to three (3) based upon the criticalness and urgency of each of the following problems. The ratings will be totaled and ranked. Those Applications ranking the highest will receive the most points. ~~*(The number of Applications divided into three hundred fifty (350) points equals the points per rank.)*~~

TABLE 5 -- "CRITICALNESS AND URGENCY OF PROBLEMS"				
		Problem or Need Rating		
		Violation of Laws/ Bldg. Codes/ Health and Safety Concerns	Health and Safety Problems	No Violations or Health and Safety Concerns
Identified in Project Description Narrative	Identification of Problem	Critical 13	Urgent 2	Nice to Have 31
	Physical Conditions: Structural Problems			
	Roof			
	Walls			
	Foundation			
	Floors			
	Weatherization			
	Expansion for adult day care			
	New Center			
	Other			
	Interior Problems:			
	Asbestos/lead based paint			
	Bathrooms			
	Access for persons with Disabilities			
	Electrical/plumbing /lighting			
	Heating/air conditioning			
	Fire safety			
	Unusable space			
	New Center			
	Unusable space			
	Other			
	Kitchen and Food Storage:			
	Health inspection			
	Capacity of dry storage			

TABLE 5 -- "CRITICALNESS AND URGENCY OF PROBLEMS"				
		Problem or Need Rating		
		Violation of Laws/ Bldg. Codes/ Health and Safety Concerns	Health and Safety Problems	No Violations or Health and Safety Concerns
Identified in Project Description Narrative	Identification of Problem	Critical 13	Urgent 2	Nice to Have 31
	Capacity of cold storage			
	Equipment			
	New Center			
	Other			
	Access for Persons with Disabilities			
	Parking			
	Entry			
	Bathrooms			
	New Center			
	Other			
	TOTALS:			
		ASSIGNED RANKING		

~~(3-30-01)~~(9-1-06)T

02. Planning and Schedule (two hundred (200) points). Points will be assigned according to the apparent effort made to determine the needs of the center, the nature of the problems, the solutions, and the costs of the project and a realistic schedule for implementing the project. (7-6-94)

a. Pre-Planning (fifty (50) points). This is a measure of the effort made to quantify the problems through building code inspections, health inspections, and architectural and engineering review. (7-6-94)

b. Project Planning (fifty (50) points). This is a measure of the effort made to coordinate all of the various agencies that may be involved in funding and planning the project. Also included is all relevant information that all grant responsibilities and requirements have been included in the planning. (7-6-94)

c. Schedule (fifty (50) points). This is a measure of the effort to schedule all the project activities, including the different grant requirements and contractors that may be involved. (7-6-94)

d. Costs (fifty (50) points). This is a measure of the effort to determine reasonable cost estimates for the various elements of the project. (7-6-94)

03. Benefits (one hundred fifty (150) points). (7-6-94)

a. Activities Provided (one hundred (100) points). This is a measure of how well the center is meeting the needs of its members, neighborhood, or community. It is based upon the number and quality of activities and services the center is providing on an annual basis. Service days will be calculated by taking the number of days an activity or service is offered during the course of the month multiplied by twelve (12). Activities can include health, recreational, social, educational, and transportation services. Quartile points will be assigned to this area.

TABLE 6 - "Ranking By Quartiles"	
Highest Quartile	One hundred (100) points
Second Quartile	Sixty (60) points
Third Quartile	Thirty (30) points
Fourth Quartile	zero (0) points

(3-30-01)

b. Low and Moderate Income and Minority Outreach Activities (fifty (50) points). This is a measure of existing or proposed efforts made to include low and moderate income and minority participation in the center's activities. (7-1-98)

04. Match (one hundred (100) points). Cash and in-kind donations which are committed to the project shall receive points according to the percentage committed up to the total points in the category of match. (4-11-06)

a. The sixty (60) points for cash match shall be assigned on a quartile basis by taking the percentage resulting from the division of cash match by the total project. Quartile points will be assigned to this area in a descending order based upon the percentage of cash match in the project. (3-30-01)

i. First Quartile -- sixty (60) points. (3-30-01)

ii. Second Quartile -- thirty (30) points. (3-30-01)

ii. Third Quartile -- fifteen (15) points. (3-30-01)

iv. Fourth Quartile -- zero (0) points. (3-30-01)

b. The forty (40) points for in-kind match shall be assigned on a quartile basis by taking the percentage in-kind match divided by the total project. Quartile points will be assigned to this area in a descending order based upon the percentage of in-kind match in the project. (3-30-01)

i. First Quartile -- forty (40 points. (3-30-01)

ii. Second Quartile -- twenty (20) points. (3-30-01)

iii. Third Quartile -- ten (10) points. (3-30-01)

iv. Fourth Quartile -- zero (0) points. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

107. AWARD PROCESS.
The Department shall review the Applications submitted with the EAC during its ~~*March*~~ April meeting. The EAC, after reviewing the Applications, and staff recommendations, will assign the points and recommend Applications to the Governor for funding and standby status.
~~*(4-11-06)*~~(9-1-06)T

(BREAK IN CONTINUITY OF SECTIONS)

152. GRANT AWARD.

01. Funding Allocations. Each year the Department will receive an allocation from the Department of Housing and Urban Development. This allocation is derived from the formula contained in 42 USC, Sec. 5301, the Housing and Community Development Act of 1974, as amended. The allocation shall be generally divided in the following manner to establish target amounts for decision making by the Economic Advisory Council (EAC): first, one hundred thousand dollars ($100,000) plus two percent (2%) of the total shall be reserved for the Department's administrative costs; second, one percent (1%) of the total shall be reserved for Technical Assistance ~~*Grants*~~; third, five percent (5%) or three hundred thousand dollars ($300,000), whichever is less, of the total allocation shall be set aside for Imminent Threat (IT) grants; fourth, six percent (6%) or six hundred thousand dollars ($600,000) whichever is less, of the total allocation, shall be set aside for Community Center (CC) or Senior Citizen Center (SR) grants; fifth, any program income, recaptured funds, or carryover funds from the previous fiscal years shall be added to the remainder; and finally, of the remainder, fifty percent (50%) shall be reserved for Public Facilities or Housing (PFH) grants and fifty percent (50%) for Economic Development (ED) grants. These targeted amounts may be more or less than the actual amount funded in each category depending on the needs and requests identified in the applications submitted and may shift according to Subsection 152.02. ~~*(7-1-98)*~~(9-1-06)T

02. Shifting of Funds. The above allocation divisions are to establish target amounts for decision making by the Economic Advisory Council (EAC). This division shall be made for the January EAC meeting. These targets may be modified at any time by the Department Director with the advice of the EAC depending on the needs and requests identified in the applications submitted. ~~*The allocation system shall be updated quarterly before each quarterly EAC meeting*~~

~~*to include any additional recaptured funds, program income, or carryover funds. Of the allocation for ED grants, one quarter of the amount shall be set aside for funding full-applications during the quarter following each EAC meeting. The quarterly set-aside amount may be modified at the discretion of the Department Director upon the advice of the Council. Any funds not awarded in the PFH category shall be shifted to the first quarter ED category.*~~ If in any quarter there are surplus funds in the ED category, the Department Director, with the advice of the EAC, may shift funds back to the PFH or CC and SR category to fund standby projects. Otherwise, surplus funds not awarded to ED projects in a quarter shall be carried into the succeeding quarter ED set-aside. ~~*(7-1-98)*~~(9-1-06)T

03. Standby Applications. At its quarterly meeting in April of each year, the Economic Advisory Council (EAC) may recommend PFH or CC and SR Applications for funding even though not enough funds are available to fund the project(s). These Applications become "standby projects". Standby projects shall be eligible for funding should additional funds become available or surplus funds exist in the ED category. At any subsequent quarterly meeting, the Advisory Council may review and recommend a standby project to the Governor for funding. Standby status shall continue through the fourth quarterly meeting. Any standby projects not funded shall automatically be invited to submit an Addendum for the next Fiscal Year, thus bypassing the Application stage of the application process. However, the Application must remain eligible and must continue to meet all requirements of the program rules. The standby applicant shall update its Application during the Addendum process. (7-1-98)

04. Termination of Project Selection for Funding. (7-6-94)

a. If, during the period between the award of a grant and signing of a grant contract, a project loses its viability, its status of being selected for funding may be terminated by the Department. The Department shall, by letter, notify the applicant that in the judgment of the Department, the applicant's project is no longer viable and that the applicant has a clearly stated period of time no less than fourteen (14) days to demonstrate the project's viability. If viability cannot be demonstrated within the stated period of time the award of the grant status shall be considered terminated and the funds be made available for the next standby project. (7-6-94)

b. After a grant contract has been executed, the Department shall periodically evaluate the progress of the project. If, at any time, the project loses viability and/or cannot be completed as described in the Application, the Department shall, by letter, notify the grantee that the grant contract shall be terminated within a clearly stated period of time of no less than fourteen (14) days from the date of the letter. The grantee may, within the stated period of time, demonstrate substantial progress on the project and request the Department revoke the termination. If viability cannot be demonstrated within the specified amount of time, the grant shall be considered terminated. (7-6-94)

c. Loss of viability will be defined to include: the inability to secure the other project financing; the lack of due diligence to pursue the implementation of project requirements; the lack of local coordination with all funding and regulatory agencies; the inability to develop agreements necessary to manage the cash flow and ownership of the project where several different entities are involved in the project; and the inability to complete a project of the same general size and benefits as presented in the application. (7-6-94)

05. Excessive Funds. In the event a project can be completed for less than the grant amount, the difference between actual project costs and the grant amount shall be reserved by the Department for standby projects, or added to the total of the next fiscal year allocation for distribution. The Department shall amend the grant contract to reflect the reduced costs. In extraordinary circumstances the excess funds may be used for an eligible activity which further enhances the project as described in the Application. Before the Department decides to allow the additional activity, the grantee must demonstrate the activity will provide an equal or greater benefit than the original project; it will increase the benefits to low and moderate income persons, it will be completed within the original time frame, and the additional activity will be completed with the excess funds. The grantee must also show completion of the original project, its objectives and benefits. (7-6-94)

06. Amendment of Project. A funded project as described in the Application shall not be changed without prior approval from the Department Director. Any amendment of the project shall be reviewed to determine if the project will retain its competitive ranking in the Application review and ranking system. Any amendment shall provide equal or greater benefits than the original project. In unusual circumstances, the Department Director may approve a grant amendment increasing the grant amount, provided unobligated funds are available. In unusual circumstances the Department Director may waive the ten percent (10%) limitation on administrative costs when, in the opinion of the Department, the complexity of the project warrants an increase. (7-6-94)

07. Allowable Costs. Once an applicant has been invited to submit an Addendum and prior to the effective date of a grant contract an applicant submitting an Addendum may obligate and spend out of local funds for the purpose below. If awarded a grant and after the effective date of the grant contract, the grantee may be reimbursed for these costs provided such locally funded activities are undertaken in compliance with the program requirements (including but not limited to procurement, financial, acquisition, environmental and the ten percent (10%) limitation on administrative costs). Other project costs shall not be incurred until the Special Terms and Conditions of the contract are completed by the grantee and the funds released by the Department. (See Section 080.) (7-6-94)

a. Planning, Design and Administration. Procure and proceed with administrative and architectural or engineering services, adopting the Fair Housing Resolution and the Anti-Displacement Plan, and having public hearings. (7-6-94)

b. Project Costs, such as: preliminary and final Engineering Design, preliminary and final Architectural Design, conducting the Environmental Assessment, and completing procedural requirements for acquisition, but not the cost of the property. (7-6-94)

08. Audit Requirements. All ICDBG projects shall be audited annually or biannually in accordance with Sections 50-1010 and 31-1701, Idaho Code, the Single Audit Act of 1984, the implementing regulations in OMB Circular A-133, and all applicable federal audit standards, and other applicable state laws. Audits shall include any management letters associated with the audit. The audit shall be submitted to the Legislative Auditors Office within thirty (30) days of completion. Grantees shall require sub-grantees to provide audits conducted according to applicable federal and state laws, regulations and standards. The grantee shall have these audits reviewed as part of the grantee's audit. This review shall be commented and noted in the audit

report. This review shall opine that sub-grantees are in compliance with the applicable program laws, regulations, contracts, and standards. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

212. APPROVED GRANT ~~*MANAGERS*~~ ADMINISTRATORS.

01. List of Approved ~~*Managers*~~ Administrators. The Department requires all grantees to use approved grant ~~*managers*~~ administrators in all ICDBG projects. The Department will maintain a list of individuals which are approved by the Department to manage block grant projects. ~~*(7-6-94)*~~(9-1-06)T

02. Criteria. The Department will use the following five (5) criteria to evaluate the qualifications of individuals desiring to become approved grant ~~*managers*~~ administrators: past record of experience with all types of grants; local government experience and background; record of past performance (if any) in administering ICDBG projects, including: monitoring findings, complaints, and commendations; timeliness of decision making, and successful coordination of projects; successful completion of a technical examination developed and administered by the Department, which may modify the examination to reflect program changes; and division staff review of a person's ability to successfully administer a grant, communicate, solve problems, apply regulations and requirements, and complete project and program requirements in a timely manner. ~~*(7-6-94)*~~(9-1-06)T

213. GRANT ~~*MANAGER*~~ ADMINISTRATOR APPLICATION PROCESS AND ANNUAL REVIEW.
To apply for grant ~~*manager*~~ administrator certification status individuals shall submit an application to the Department. Applicants shall submit a letter requesting approval and a resume describing their experience and performance. The Department will review the application, the examination results and the Department's experience with the individual (Subsection 212.02). This application and review will occur on an annual basis beginning with the annual grant awards. The Department will determine when an individual has sufficient qualification and experience to be placed on the approved grant ~~*manager*~~ administrator list. ~~*(7-6-94)*~~(9-1-06)T

214. SANCTIONS INVOLVING APPROVED GRANT ~~*MANAGERS*~~ ADMINISTRATORS.
The Department, in order to ensure the highest level of performance by approved grant ~~*managers*~~ administrators, may require remedial actions be undertaken upon receipt of a valid complaint or finding. Such recommendation will be made only after a timely and impartial investigation process in which the rights of all parties are protected. ~~*(7-6-94)*~~(9-1-06)T

215. BASIS OF IMPOSING SANCTIONS.
The Department may take sanctions against an approved grant ~~*manager*~~ administrator as a result of any of the following actions: inability to complete project administration; findings of non-compliance or violation of federal or state rules and regulations; termination by a grantee of an administrative contract for cause; lack of cooperation in completing or complying with program

requirements; or gross negligence. ~~(7-6-94)~~(9-1-06)T

216. PROCESS TO IMPOSE SANCTIONS.

01. Written Complaint. Upon receipt of a written complaint alleging conduct in the immediate preceding paragraph, or upon discovery of a problem through project monitoring, the Department shall immediately investigate the circumstances giving rise to such complaint, document the findings, and endeavor to make a determination of action within fifteen (15) days of the receipt of the complaint. The actions in Section 215 will serve as a conduct guide. (7-6-94)

02. Response. The approved grant ~~*manager*~~ administrator shall be given a copy of the complaint and the investigation report and have fifteen (15) days to respond to the complaint in writing. The Department shall then review the complaint and the response, and determine the appropriate sanction, if any, to be imposed. All parties to the complaint shall be notified in writing of the determination. ~~(7-6-94)~~(9-1-06)T

03. Administrative Appeal. Any person who is aggrieved by a decision regarding the imposition of sanctions shall be entitled to an administrative appeal pursuant to Title 67, Chapter 52, Idaho Code, Idaho Administrative Procedures Act. (7-6-94)

217. REMEDIAL ACTIONS.
The Department may decide to use any one (1) or all of the following remedial actions appropriate to approved grant ~~*managers*~~ administrators: issue a letter of warning to correct deficient actions; require mandatory ICDBG administrative training to maintain approved grant ~~*manager*~~ administrator status; remove an individual from the approved grant ~~*managers*~~ administrators list for a time period determined by the Department; require that corrective action be taken by the approved grant ~~*manager*~~ administrator to resolve the problem or conflict; or recommend initiation of appropriate legal proceedings in egregious situations. ~~(7-6-94)~~(9-1-06)T

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.02.03 - RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM

DOCKET NO. 09-0203-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-4702, 67-4715, 67-4717 and 67-4718, 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. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the September 6, 2006 Idaho Administrative Bulletin, Volume 06-9, pages 57 through 64.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Carl Wilgus, Assistant Deputy Director, (208) 334-2470 ext. 2149.

DATED this 6th day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 67-4702, 67-4715, 67-4717 and 67-4718, 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, 2006.

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 changes to IDAPA 09.02.03 will standardize and clarify the documentation of grant costs for Familiarization Tours (FAMS); eliminate fulfillment documentation requirements by allowing 10% of the total grant award to be used for fulfillment costs; raising the amount of total project costs to $20,000 before grantees must utilize a formal bid process for purchases or services or to secure a vendor; eliminates the requirement of an in-kind match as a part of the grant process and to make housekeeping changes.

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: There is no impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the nature of the proposed changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Carl Wilgus, Tourism Administrator, (208) 334-2470 ext. 2149.

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, 2006.

DATED this August 2, 2006.

Carl Wilgus
Tourism Administrator
Department of Commerce and Labor
State Street Office
700 W. State Street, Boise, ID 83720-0093
(208) 334-2470 ext. 2149 / (208) 334-2631 fax

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.
These rules have been adopted pursuant to Sections 67-4715, 67-4717 and 67-4718, Idaho Code, which imposes a two percent (2%) tax on the sale of hotel/motel and private campground accommodations and created the Idaho Travel and Convention Industry Committee, herein referred to as the Idaho Travel Council (ITC). The revenues generated by this ~~new~~ tax are to be invested one-half (1/2) by the state and one-half (1/2) by the local regions within Idaho in well-planned promotional programs. The Idaho Travel Council, through the Idaho Department of Commerce and Labor (IDC), has been given the responsibility of administering this program which includes the local regional grant program. ~~(5-3-03)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS, REGIONAL/LOCAL/SPECIAL INTEREST PROMOTION.
The applicant must establish that the plan will attract more visitors to the region and keep them in the region longer. All plans must identify Idaho and market various attractions and events throughout the region. Regional applications must be a true region-wide promotion, and must promote the planning region as defined in the legislation. The following items are eligible projects: (5-3-03)

01. Advertising. Ranked Primary. Priority will be given to advertising that is image-driven and targets specific attractions or events within the region and ties to the state advertising plan. Markets, concepts, attractions and events will be defined in the application. If developed as a co-op, pre-approval is required by the Department of Commerce and Labor. Applicant must state in the application: (5-3-03)

a. Objective and placement of advertising. (2-22-93)

b. Geographic target audience. (2-22-93)

c. Demographic target audience. (2-22-93)

d. Fulfillment plans. (2-22-93)

02. Hospitality. Ranked Primary. Hospitality training will be an allowable item under the grant program. A detailed plan for the training must be included in the application. (2-22-93)

03. Convention Promotion. Ranked Primary. Trade shows (to be approved prior to the application process) and convention advertising. Concept and placement must be submitted with application. (2-22-93)

04. Site Visits/Familiarization Tours (FAMS). Ranked Primary. Tour Operators, Travel Writers, Convention Planners, Winters Sports Clubs and Airline Sales People are groups that can be invited for site visits and FAMS. Grant funds can be used for one hundred percent (100%) of travel and lodging expenses for FAM participants. Grant funds can also be used for in-

state transportation, fuel expenses, rental vans, motorcoaches, invitations, baggage tags, information folders and miscellaneous snacks, such as coffee, soda pop, and candy bars. ~~*Airfare for FAM participants, up to fifty percent (50%) of the total cost, and lodging at fifty percent (50%) of the state rate will be eligible with prior ITC staff approval.*~~ Grant funds cannot be used to pay for alcoholic beverages, and attractions. ~~*Familiarization tours will be allowed per diem for meals in accordance with state guidelines. Partial reimbursement, per state guidelines, will be made if participant is not being hosted on the FAM tour a complete day.*~~ FAMS must be coordinated and approved in writing by the Department of Commerce and Labor. ~~*(5-3-03)*~~(____)

05. Fulfillment. Ranked Primary. Includes expenses directly related to implementing ITC funded plan. Eligible costs are for shipping, stuffing, sorting, envelopes, postage, eligible website costs per ITC guidelines, long distance phone calls and watts line. ~~*(Only one 1-800 line per Region, and it must be centrally located and made available for use within the Region for travel and convention promotion). A distribution plan must be outlined in the application and expenses must be properly documented before reimbursement will be made.*~~ Once the remaining elements of the grant are awarded, ten percent (10%) of the total award will be awarded for fulfillment. ~~*(5-3-03)*~~(____)

06. Travel and Trade Shows. Ranked Primary. Specific shows and the number of attendees per show shall be approved prior to the application process. The applicant must identify in the application whether or not a portable display booth is available and what literature will be distributed at the show. (2-22-93)

07. Slide Shows/Videos. Ranked Tertiary. Applicant must state in the application the purpose of the slide show/video, how it will be used to promote the area, and how the slide show/video ties in with the applicant's overall marketing. (2-22-93)

08. Marketing Research. Ranked Primary. To allow marketing research in conjunction with the statewide marketing and research efforts. (2-22-93)

09. Capital Outlay. Ranked Secondary. Equipment with a useful life of more than one (1) year, costing one hundred fifty dollars ($150) or more per unit. No more than one (1) piece of any like equipment per Region. (7-1-98)

a. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant will vest upon acquisition with the grantee. (2-22-93)

b. Useful Life. The useful life of all equipment acquired through the travel grant program is five (5) years. (2-22-93)

c. Use. (2-22-93)

i. Equipment shall be used by the grantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the ITC. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by the ITC. (2-22-93)

ii. The grantee shall also make equipment available for use on other projects or

programs currently or previously supported by the ITC, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the ITC. (2-22-93)

iii. The grantee may not use equipment acquired with grant funds to provide services for a fee. (2-22-93)

iv. When acquiring replacement equipment, the grantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property; or, the proceeds will be reinvested into the grantee's current grant program, subject to the approval of the ITC. Sale proceeds are not cash match. (2-22-93)

d. Management Requirements. Capital outlay purchased with grant funds must be accounted for on the property record supplied by the ITC. When the property is initially purchased, the grantee will provide all the required information on the property record. Send the original to the Department of Commerce and Labor and keep a copy for your files. The property is tracked through its useful life. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements: (2-22-93)

i. Property records maintained must include a description of the property; a serial number or other identification number; the acquisition date and cost of the property; the location, use and condition of the property; and any ultimate disposition information including the date of disposal and sale price of the property. (2-22-93)

ii. The grantee will conduct an annual physical inventory of the property and the results will be reported to the ITC for reconciliation with the property records. This report will accompany the final narrative progress report, and must be received before final ITC reimbursement, to the grantee, is made. The ITC will conduct a physical inventory of the property at least once every two (2) years. (2-22-93)

iii. A control system must be developed to ensure adequate safeguards to prevent loss, damage or theft of the property. (2-22-93)

iv. Adequate maintenance procedures must be developed to keep the property in good condition. (2-22-93)

e. Disposition. Disposition of equipment purchased with ITC funds will be made as follows: (7-1-98)

i. Items of equipment which have exceeded their useful life may be retained, sold or otherwise disposed of. It is recommended the sale proceeds be used to acquire like equipment or enhance the grantee's current grant program. Sale proceeds are not cash match. (2-22-93)

ii. Items of equipment which have not exceeded their useful life may be sold with written authorization from the ITC. The grantee will be required to use the proceeds to purchase like equipment or to enhance the current grant program. (2-22-93)

f. Procurement. When procuring equipment under the travel grant program, the grantee will follow the same policies and procedures for purchases over five thousand dollars ($5,000) as outlined in the Bid Process section of the administrative rules. (3-20-04)

g. Purchasable Equipment. A list of purchasable equipment under the travel grant program is listed below: (2-22-93)

i. Travel Show Booth (per ITC requirements). (2-22-93)

ii. Video Equipment: Player/Recorder, Television, Monitor, Camera. (2-22-93)

iii. Movie Projector. (2-22-93)

iv. Slide Projector. (2-22-93)

v. Computer Hardware per ITC guidelines. (5-3-03)

vi. Equipment not listed above may be fundable at the discretion of the ITC. (2-22-93)

h. Rental Costs. Grantees are encouraged to complete projects in the most cost effective manner. If the purchase of equipment is not feasible due to a low use factor, the grantee will be allowed to enter into rental agreements to meet their equipment needs. Rental costs exceeding five thousand dollars ($5,000) will not be exempt from the travel grant program's bid process. (3-20-04)

i. Application. When applying for grant funds to acquire equipment, the applicant must stipulate need for equipment, its location, intended use, and contact person. (2-22-93)

10. Brochure. Ranked Primary. Includes expenses for brochure photography, design, and printing. Applicant shall state the purpose of the brochure, indicate if it is a reprint or new design, provide an estimated amount to be printed, and give a brief description of its layout and design. Additionally, applicant shall indicate its target audience, distribution plan, and include samples of the brochure, if available. For printing requirements, see Subsection 204.08. (2-22-93)

11. Other Items. Any other items not included above may be eligible as pre-approved by the Department of Commerce and Labor. (2-22-93)

(BREAK IN CONTINUITY OF SECTIONS)

204. PLAN REQUIREMENTS.
Applicants must follow these requirements: (2-22-93)

01. Goals/Objectives. The needs of the plan must be consistent with the ITC Strategic Objectives. (2-22-93)

02. Adequate Management. The applicant must show his/her ability to properly operate and maintain the management and accounting system for the plan. (7-1-98)

03. Previous Grant Versus New Application. The ITC encourages successful applicants to complete all grants in a timely fashion. When considering applicants for funding, the ITC will scrutinize the applicant's historic grant record in terms of timeliness and effectiveness of implementation. (2-22-93)

04. Application Completeness. The applicant must submit applications to the Department of Commerce and Labor on the appropriate forms which will be provided by the department. The application must include a complete plan, grant summary sheet signed by the grantee, a detailed scope of work and a budget which includes sufficient funds for sales tax and an audit. (7-1-98)

05. Application Amendments/Withdraws. Amendments to either the scope of work or the budget on grant applications will be allowed only if changes are submitted to the Department of Commerce and Labor ten (10) working days prior to the grant awards utilizing the same format as the application submittal. Any other changes must occur on the floor during awards by the Council and can only be amended by a member of the Council. Applicants wishing to withdraw applications must provide written notice to the Department of Commerce and Labor ten (10) working days prior to grant awards. (3-20-04)

06. Plan Duration. Applicants are encouraged to limit the duration of their plan to fourteen (14) months or less. (2-22-93)

07. Local/Regional Support. Applicants may show local/regional support of the plan by submitting up to three (3) letters of support. One (1) letter summarizing local match must be submitted with the application. (2-22-93)

08. Credit Logo and Printing Identification. All plans funded by the Idaho Regional Travel and Convention Grant Program shall credit said program. (5-3-03)

a. A logo, as determined and provided by the ITC, with the following guidelines, will be placed on all ITC funded brochures. Special permission to adjust the size of the approved ITC logo, except where specified in these rules, must be granted by the state. (5-3-03)

i. The approved ITC logo will be used in all publications in a color in keeping with the design of the piece and must be pre-approved by ITC staff before final printing. (5-3-03)

b. Eight and one-half by eleven inch (8 1/2" x 11") or larger brochures will incorporate the use of a logo at least one-half inch (1/2") ~~*logo*~~ in height; eight by ten inch (8" x 10") or smaller brochures, will incorporate the use of a logo at least one-fourth inch (1/4") ~~*logo*~~ in height. ~~*(5-3-03)*~~(____)

c. Printing Identification: ITC grant year, assigned ITC grant number, printed quantity. (5-3-03)

d. State 800 Telemarketing Number: "For additional information on Idaho, call 1-800-VISIT-ID." (2-22-93)

e. The word "IDAHO" shall appear prominently on the front of the brochure. The ITC approved logo will appear on either the front cover, the inside front cover, or the back cover of the brochure. (5-3-03)

f. Other printed materials, websites, and print advertising shall include the approved ITC logo. Size of logo to be proportional to the size of the website or publication. ~~*See www.tourism.idaho.gov/grants for current downloadable graphic elements*.~~ Approved logos and graphic elements will be available on the Department's tourism grant web site. ~~*(4-11-06)*~~( )

i. Slide shows, videos, films, TV productions or commercials will include the approved ITC logo. Size to be proportional to the size of the ~~*grantee*~~ approved content. ~~*(5-3-03)*~~( )

ii. Radio advertisements will include the following ITC acknowledgement: "Visit Scenic Idaho". (3-20-04)

iii. Billboards will include the approved ITC logo. Size to be proportional to the size of the display. (5-3-03)

iv. Trade show booths will display the approved ITC logo in a size and location easily viewable by the public. (5-3-03)

g. FAMS funded by the Idaho Regional Travel and Convention Grant Program will credit that program with the approved ITC logo in materials appropriate to the event. (5-3-03)

h. Failure to comply with crediting the ITC for project funding could jeopardize payment for that project and future plan funding. (2-22-93)

09. Consultants. Indirect personnel costs are inherently eligible when applying for a specific project to be subcontracted to a consultant. The following regulations apply to hiring a consultant: (7-1-98)

a. The contract between the consultant and the grantee must be approved by the Department of Commerce and Labor and shall include language stating the contractor has sufficient Workmen's Compensation or liability insurance. Payment will not be reimbursed until the Department of Commerce and Labor has approved the contract. (2-22-93)

b. Consultant's billing must be itemized. Lump sum billings will not be eligible for payment. (2-22-93)

c. The Council will not fund retainers or other regular ongoing fees for consultant services or pay a consultant to administer a grant. (2-22-93)

(BREAK IN CONTINUITY OF SECTIONS)

209. BID PROCESS.

01. Bids. Regional Travel and Convention Program grantees must utilize a bid process for purchases or services over ~~*five*~~ twenty thousand dollars ($~~5~~20,000). ~~*(3-20-04)*~~( )

02. Documentation. Prior to reimbursement for each cost, the appropriate information shall be submitted to the Department of Commerce and Labor which documents the following: (2-22-93)

a. Item or service to be purchased. (7-1-98)

b. Informal bids are required for projects between one thousand five hundred dollars ($1,500) and ~~*five*~~ twenty thousand dollars ($~~5~~20,000). This consists of contacting three (3) vendors. Formal bids are required for projects greater than ~~*five*~~ twenty thousand dollars ($~~5~~20,000). This requires three (3) written bids from vendors. ~~*(3-20-04)*~~( )

c. List vendors contacted and their response (list those contacted whether or not a response was received). (7-1-98)

d. Justify why the successful vendor was selected. (2-22-93)

e. Annual renewal of the subcontract can be made without rebidding, upon execution of a new contract between the grantee and the subcontractor and approval by the Department of Commerce and Labor. This can be done only after the initial three (3) bids have been processed. Subcontract renewal is authorized for up to three (3) years beyond the initial contract year. (7-1-98)

f. If a vendor is going to donate part of his/her charges as match, he/she shall have been the lowest bidder. (2-22-93)

(BREAK IN CONTINUITY OF SECTIONS)

221. PLAN EVALUATION.
The plan application is evaluated by the following prior to selection by the Idaho Travel Council: (7-1-98)

01. Department of Commerce and Labor. Applications are submitted to the department initially for a technical and programmatic review. Strict attention is given to application content, strengths and weaknesses, cost analysis, and past performance. Comments are developed and presented to the ITC for its consideration prior to funding. (7-1-98)

02. Idaho Travel Council. The department provides each Idaho Travel Council

member with a copy of all plan applications submitted for that grant period. ITC members review and evaluate all applications. Evaluation from the department is considered in the selection process. (7-1-98)

03. **Matching Funds**. Match must be documented in the application. (2-22-93)

a. The Idaho Regional Travel and Convention Grant Program requires match from all organizations applying for funding as a way to: increase the regional/local commitment to the plan, to assist in generating more dollars to tourism promotion, and to allow the ITC to participate in more promotional efforts. (2-22-93)

b. All regional and local/special interest plans must provide ~~*fifty percent (50%)*~~ cash match~~*, two dollars ($2) to one dollar ($1) local/regional. Of the fifty percent (50%) required match, up to seventy five percent (75%) will be accepted as in-kind. Up to ten percent (10%) of ITC funds awarded will be allowed as in-kind match for administrative expenses*~~ of twelve and one-half percent (12.5%) of the amount awarded. All match must be outlined in the scope of work within the grant contract. ~~*Reimbursement will be made by the Department of Commerce and Labor as the match can be documented.*~~ Audits are exempt from match requirements. ~~*(7-1-98)*~~(____)

c. Cash match is defined as ~~*cash or in-kind (*~~documented cash contributions/donations~~*)*~~. ~~*Expenditures claimed for components necessary to the completion of the plan such as staff time, rent, travel, audits and watts line, will be allowed as match.*~~ Expenditures claimed for projects funded previously by the grantee, such as brochures and publications, will not be allowed as match. ~~*(2-22-93)*~~(____)

04. **Technical Review**. The following criteria are elements considered in the review of the application: (2-22-93)

a. Application Completeness: Summary sheet, scope of work, and budget filled out correctly. (2-22-93)

b. Agency/Jurisdiction Commitment: Evidence the plan has local/regional support. (2-22-93)

c. Demonstrated Accounting and Management System: History of adequate accounting and management system for monitoring the plan. (2-22-93)

d. Need: Addresses identified needs of the travel economy in the impacted region. (2-22-93)

e. Regional Impact: Will increase local/regional awareness, encourage visitors to stay longer or promote intra-regional travel. (2-22-93)

f. Continuing Benefits: Assurance that results will continue to be used beyond grant support. (2-22-93)

g. Plan Design: Plan designed to enable achievement of anticipated benefits or results

(achieving goals and objectives within a reasonable time frame). (2-22-93)

h. Plan Innovation: Plan demonstrates clear solution to the stated needs. (2-22-93)

i. Evaluation: Plan demonstrates a sound methodology for measuring achievement of the stated project objectives. (2-22-93)

j. Cost Analysis: Applicant shows evidence that other resources are not available to support the plan fully, and requested funds are sufficient to accomplish plan objectives. (2-22-93)

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.03.01 - RULES OF THE BROADBAND DEVELOPMENT MATCHING FUND PROGRAM

DOCKET NO. 09-0301-0601 (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 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-4702, Idaho Code and Senate Bill No. 1498.

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. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Volume 06-8, pages 93 through 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 resulting from this rulemaking: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jay Engstrom, Deputy Director, (208) 332-3570 ext. 2121.

DATED this 6th day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 1, 2006.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 67-4702, Idaho Code, and Senate Bill No. 1498.

DEPARTMENT OF COMMERCE & LABOR Docket No. 09-0301-0601 (New Chapter)
Broadband Development Matching Fund PENDING RULE

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, 2006.

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 establish a Broadband Development Matching Fund program that benefits rural Idaho communities. This fund was established during the 2006 Legislative session in Senate Bill No. 1498.

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 rule is being promulgated in response to Senate Bill No. 1498.

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:

Senate Bill No. 1498 appropriated $5,000,000 from the General Fund to the Economic Recovery Reserve Fund for the creation and funding of a new Rural Broadband Development Matching Fund Program.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is in response to Senate Bill No. 1498.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jay Engstrom, Assistant Deputy Director, (208) 332-3570 ext. 2121.

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 23, 2006.

DATED this 30th day of June, 2006.

Jay Engstrom
Assistant Deputy Director
Administrative Services Division
Idaho Department of Commerce and Labor
317 W. Main Street, Boise, ID 83735
(208) 332-3570 ext. 2121
(208) 334-6430 Fax

THE FOLLOWING IS THE TEXT OF THE TEMPORARY AND PROPOSED RULE

IDAPA 09
TITLE 03
CHAPTER 01

09.03.01 - RULES OF THE RURAL BROADBAND DEVELOPMENT MATCHING FUND PROGRAM

000. LEGAL AUTHORITY.
These rules are promulgated under the legal authority of Section 67-4702, Idaho Code. (5-1-06)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 09.03.01, "Rules of the Rural Broadband Development Matching Fund Program". (5-1-06)T

02. Scope. These rules implement Senate Bill 1498, enacted by the Second Regular Session of the Fifty-eighth Idaho Legislature and signed into law on April 12, 2006. These rules implement the Department's procedures for project selection, award and disbursement of grant funds for the Rural Broadband Development Matching Fund Program. (5-1-06)T

002. WRITTEN INTERPRETATIONS.
The Department has no written interpretations of these rules. (5-1-06)T

003. ADMINISTRATIVE APPEALS.
The award of grants under the Rural Broadband Development Matching Fund Program is a function to be performed by the Department in its sole discretion. In light of the discretionary nature of awarding these grants, there is no administrative appeal under these rules. (5-1-06)T

004. OFFICE -- OFFICE HOURS -- ADDRESS AND CONTACT INFORMATION.
The mailing address of the Department for information regarding the Rural Broadband Development Matching Fund Program is: Idaho Department of Commerce and Labor, Broadband

Grant Program, 317 West Main Street, Boise, ID 83735. The telephone number is (208) 332-3570 ext. 3229 and the facsimile machine number is (208) 334-6430. Office hours are between 8 a.m. and 5 p.m. on regular business days Monday through Friday. (5-1-06)T

005. PUBLIC RECORDS ACT COMPLIANCE.
All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (title 9, chapter 3, Idaho Code). (5-1-06)T

006. -- 012. (RESERVED).

013. DEFINITIONS.

01. Broadband Service. The availability to the average residential or small-business subscriber of a transmission signal at a rate of at least two hundred and fifty-six thousand (256,000) bits per second (256 kbps) from a subscriber (upstream) and at least five hundred and twelve thousand (512,000) bits per second (512 kbps) to a subscriber (downstream). (5-1-06)T

02. Department. Idaho Department of Commerce and Labor. (5-1-06)T

03. Fund. The Rural Broadband Development Matching Fund. (5-1-06)T

04. Project. Discrete activities proposed by an applicant directly related to the provision of rural broadband services to potential new subscribers. (5-1-06)T

05. Proposal. One (1) or more projects submitted to the Rural Idaho Broadband Investment Program. (5-1-06)T

06. Qualified Entity. Any legal entity in good standing and authorized to conduct business in the state of Idaho as an incorporated organization, cooperative, or limited liability company organized on a for profit or not-for-profit basis; an Indian tribe or tribal organization as defined in 25 U.S.C. 450b(e) and (l); or a local unit of government. (5-1-06)T

07. Rural. Any city or unincorporated area of less than ten thousand (10,000) in population based upon the most recently published population statistics of the U.S. Bureau of the Census. Excluded from the definition of "rural" is any territory, incorporated or unincorporated, included in an urbanized area, as defined by the U.S. Bureau of the Census as of August 10, 1993. (5-1-06)T

014. PROGRAM PROPOSAL SUBMISSION GUIDE.
The Department shall develop a "Rural Idaho Broadband Investment Program Proposal Submission Guide." This Guide shall give a general description of the Rural Idaho Broadband Investment Program and provide the forms and instructions for submitting a project proposal. Copies of the Guide are available for public inspection and copying at the address indicated above or at http://cl.idaho.gov. (5-1-06)T

015. REQUIRED PROJECT PROPOSAL FORMAT.

01. Format and Order. Project proposals shall be submitted using the format and

order contained in the most recent "Rural Idaho Broadband Investment Program Proposal Submission Guide." Proposed projects not following the required format and order will be deemed to be unresponsive and will not be considered for selection. (5-1-06)T

02. Multiple Projects. Multiple projects can be submitted together as one proposal. However, each individual project will be evaluated and scored based upon its own merits. Each project must be described separately, with its own project budget and related project pages. Applicants must indicate whether the approval of one project in the proposal is a prerequisite to the applicant's ability to complete any other project in the proposal. Multiple projects without prerequisites must be numbered and described in the proposal before those having prerequisites. (5-1-06)T

016. ELIGIBLE APPLICANTS.
To be eligible for reimbursement from the Fund, an applicant must be a qualified entity or a partnership of qualified entities; have the legal capacity and authority to enter into contracts; and have the legal capacity and authority to own and operate the broadband service facilities being proposed. Eligible applicants shall not include individuals. (5-1-06)T

017. ELIGIBLE PROJECTS.
To be eligible for reimbursement from the Fund, eligible applicants must propose projects that provide broadband services to potential new subscribers in a rural area. In their project proposals, applicants must clearly identify and document the following: (5-1-06)T

01. The Source, Amount and Availability of Matching Contributions. The source, amount and availability of matching contributions must be clearly identified and described. If matching contributions are to be provided by a third party, documentation of the third party's commitment must be provided to the Department no later than the date specified in the most recent "Rural Idaho Broadband Investment Program Proposal Submission Guide." Applicants who fail to timely document the commitment of third party matching contributions to the sole satisfaction of the Department will not be eligible for project funding. (5-1-06)T

02. The Number of Potential New Subscribers. The number of potential new subscribers in a rural area to be served by the project and a description of the methodology used for determining that number. (5-1-06)T

03. Marketing Plan. The marketing plan to be used for advertising the availability of broadband services to potential new subscribers in the project's rural area. (5-1-06)T

04. Start-Up Costs. The start-up costs, if any, to be paid for broadband services by potential new subscribers. Start-up costs include charges for equipment, one-time charges, initial set-up charges, installation charges, or any other charge to a potential new subscriber that is over and above the regular monthly subscription charge. (5-1-06)T

05. Budget. An itemized budget for the proposed project. (5-1-06)T

018. MATCHING CONTRIBUTIONS.
Applicants must contribute a matching contribution of at least fifty percent (50%) of the total project cost. For example, if the total project cost is $100,000, an applicant's matching

contribution must be at least $50,000. Proposals from applicants providing greater than a 50% matching contribution will receive greater weight in the evaluation process. Applicants may use matching contributions from any source, but all matching contributions from third party sources must be guaranteed as available to the applicant no later than the date specified in the most recent "Rural Idaho Broadband Investment Program Proposal Submission Guide." Applicants who fail to timely document the commitment of third party matching funds to the sole satisfaction of the Department will not be eligible for project funding. Matching contributions shall not include contributions incurred by the applicant, or others on behalf of the applicant, for facilities or equipment installed, or other services rendered prior to project approval. (5-1-06)T

019. RECAPTURE.
Eligible projects from eligible applicants selected for funding must actually result in broadband services being offered to potential new subscribers in a rural area. Applicants selected for funding who fail to deliver broadband services as required by the terms of their contract with the Department shall repay to the Department all amounts from the Fund that have been disbursed to the applicant. (5-1-06)T

020. SCORING CRITERIA.
In its discretion as to the weight of each criterion, the Department shall assign points and evaluate and score projects based upon the following: an applicant's successful completion of similar projects; the number of potential new subscribers for the project; the cost to the Fund per potential new subscriber; the affordability of broadband services proposed by the project; the number of free access points for public use; the start-up costs to be paid by potential new subscribers; and the level of project matching funds. The Department shall also assign points to be awarded by the Idaho Economic Advisory Council based upon the Council's independent assessment of project merit. (5-1-06)T

021. PROJECT PROPOSAL REVIEW AND SELECTION PROCESS.
Project proposals that have been submitted in a timely manner will go through the following process: (5-1-06)T

01. Technical Review. The Department will perform an initial technical review against the selection criteria and determine applicant and project eligibility. Projects that do not meet both applicant and project eligibility standards in the sole discretion of the Department will not be eligible for funding. (5-1-06)T

02. Preliminary Scoring. Following the technical review, eligible projects from eligible applicants will be awarded points by the Department as outlined in the most current "Rural Idaho Broadband Investment Program Proposal Submission Guide". (5-1-06)T

03. Submission to Idaho Economic Advisory Council. Scored projects will then be presented to the Idaho Economic Advisory Council. The Council will award its points as outlined in the most current "Rural Idaho Broadband Investment Program Proposal Submission Guide" based upon the Council's independent assessment of project merit. (5-1-06)T

04. Ranking and Award. The Department will calculate a cumulative point total and give a final priority ranking to each project with the highest number of total points ranked first and the lowest number of total points ranked last. The Department will send Notices of Award and

begin the contracting process. Projects will be funded in the order of their priority ranking until all moneys in the Fund have been obligated. (5-1-06)T

022. CONTRACT REQUIREMENT.
All applicants that are awarded funding shall execute a contract with the Department within thirty (30) days of the date of their Notice of Award. Applicants who fail to execute a contract within this time period shall lose their eligibility for funding. A sample copy of the contract that must be executed by the applicant is included in the most recent "Rural Idaho Broadband Investment Program Proposal Submission Guide". (5-1-06)T

023. STANDBY PROJECTS.
Ranked projects meeting the eligibility and selection criteria, but not receiving an award due to a lower priority ranking, may become standby projects. Standby projects may be eligible for funding should applicants with a higher priority ranking fail to timely execute a contract with the Department. The Department reserves the right, in its sole discretion, to either award or not award funding to standby projects. (5-1-06)T

024. -- 999. (RESERVED).

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.03.04 - RULES OF THE BUSINESS AND JOBS DEVELOPMENT GRANT FUND

DOCKET NO. 09-0304-0601 (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 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-4702, 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. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Volume 06-8, pages 98 through 100.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jay Engstrom, Deputy Director, (208) 332-3570 ext. 2121.

DATED this 6th day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 1, 2006.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 67-4702, 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, 2006.

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:

These rules implement the Department's procedures for awarding grant funds for public costs associated with the recruitment of new businesses to Idaho for business and jobs development.

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 rule is being promulgated in response to Senate Bill No. 1499, enacted by the Second Regular Session of the Fifty-eighth Idaho Legislature and signed into law on April 12, 2006.

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:

Senate Bill No. 1499 appropriated $1,000,000 from the General Fund to the Economic Recovery Reserve Fund for the creation and funding of a new Jobs Development Fund for public costs associated with the recruitment of companies to Idaho.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is in response to Senate Bill No. 1499.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jay Engstrom, Assistant Deputy Director, (208) 332-3570 ext. 2121.

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 23, 2006.

DATED this 30th day of June, 2006.

Jay Engstrom
Assistant Deputy Director
Administrative Services Division
Idaho Department of Commerce and Labor
317 W. Main Street, Boise, ID 83735
(208) 332-3570 ext. 2121 / (208) 334-6430 Fax

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

IDAPA 09
TITLE 03
CHAPTER 04

09.03.04 - RULES OF THE BUSINESS AND JOBS DEVELOPMENT GRANT FUND

000. LEGAL AUTHORITY.
These rules are promulgated under the legal authority of Section 67-4702, Idaho Code. (5-1-06)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 09.03.04, "Rules of the Business and Jobs Development Grant Fund". (5-1-06)T

02. Scope. These rules implement Senate Bill 1499, enacted by the Second Regular Session of the Fifty-eighth Idaho Legislature and signed into law on April 12, 2006. These rules implement the Department's procedures for awarding grant funds for public costs associated with the recruitment of new businesses to Idaho for business and jobs development. (5-1-06)T

002. WRITTEN INTERPRETATIONS.
The Department has no written interpretations of these rules. (5-1-06)T

003. ADMINISTRATIVE APPEALS.
The award of grants under the Business and Jobs Development Fund are made at the discretion of the Director of the Department of Commerce and Labor. In light of the discretionary nature of awarding these grants, there is no administrative appeal under these rules. (5-1-06)T

004. OFFICE -- OFFICE HOURS -- ADDRESS AND CONTACT INFORMATION.
The mailing address of the Department for information regarding the Business and Jobs Development Fund is: Idaho Department of Commerce and Labor, Business and Jobs Development Fund, 317 West Main Street, Boise, ID 83735. The telephone number is (208) 332-3570 ext. 3229 and the facsimile machine number is (208) 334-6430. Office hours are between 8

a.m. and 5 p.m. on regular business days Monday through Friday. (5-1-06)T

005. PUBLIC RECORDS ACT COMPLIANCE.
All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (title 9, chapter 3, Idaho Code). (5-1-06)T

006. -- 012. (RESERVED).

013. DEFINITIONS.

01. Department. Idaho Department of Commerce and Labor. (5-1-06)T

02. Public Cost. any cost incurred by the state of Idaho or a political subdivision of the state of Idaho for the purpose of recruiting businesses to Idaho. (5-1-06)T

014. GRANT AWARDS.
The Director of the Department may, in his sole discretion, award Business and Jobs Development Grant Funds to administrative agencies and political subdivisions of the state of Idaho for public costs incurred for the purpose of recruiting businesses to Idaho. No grant shall be awarded unless and until the Director is satisfied, in his sole discretion, that funds from all other community, state and federal sources are not available to the grantee to pay for public costs incurred for the purpose of recruiting businesses to Idaho. (5-1-06)T

015. AWARD AMOUNTS.
The amount of each grant shall be determined by the Director, in his sole discretion, but no grant shall exceed $200,000. (5-1-06)T

016. -- 999. (RESERVED).

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 10 - BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

10.01.01 - RULES OF PROCEDURE

DOCKET NO. 10-0101-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 6, 2006 Idaho Administrative Bulletin, Volume 06-9, pages 65 through 69.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact David L. Curtis, P.E., Executive Director, at (208) 373-7210.

DATED this 2nd day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(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, 2006.

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 amendments will define what courses would be required to be completed by an applicant for assignment to the Fundamentals of Surveying or Principles and Practice of Surveying examination if they do not have an approved degree in surveying but they do have a degree in a related science. The courses constitute the core technical curriculum of an approved four year surveying program.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees associated with these proposed amendments.

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: There will be no impact to the State General Fund or the agency dedicated funds.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the July 5, 2006 Idaho Administrative Bulletin, Volume 06-7, page 26. A public meeting was held on July 26, 2006 and three persons in attendance spoke in support of the preliminary language presented. No written comments were received.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David L. Curtis, P.E., Executive Director, at (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 September 27, 2006.

DATED this 28nd day of July, 2006.

David L. Curtis, P.E., Executive Director
Board of Registration of Professional Engineers and Professional Land Surveyors
5535 W. Overland Road
Boise, Idaho 83705-2728
Phone (208) 373-7210
Fax 373-7213

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

017. EXAMINATIONS.

01. Semiannually or Annually; Special or Oral Examination. Examinations for professional engineer, professional land surveyor, engineer-in-training and land surveyor-in-training will be held annually or semi-annually, the exact time and place to be determined by the Board. Special oral or written examinations during the year may be given by the Board. (7-1-93)

02. Eligibility for Examinations, Educational Requirements. The application for registration for professional engineer, professional land surveyor or certification of engineer-in-training or land surveyor-in- training, together with the written examination, shall be considered in the determination of the applicant's eligibility. Each applicant must meet the minimum requirements as set forth in Section 54-1212, Idaho Code, before admittance to any examination. (7-1-93)

a. In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs which are accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET). Non-EAC/ABET accredited engineering 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. (3-20-04)

b. An applicant who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed a minimum of fifteen (15) semester credits of Engineering Science at a Sophomore and Junior level, six (6) semester credits of Engineering Design related courses at a Senior level, twelve (12) semester credits of Advanced Mathematics including Calculus and Differential Equations, and twelve (12) semester credits of basic science courses including Chemistry, calculus-based Physics and other appropriate basic science courses before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for assignment to the examination for certification as an Engineer-in-Training or as required by Section 54-1212(1)(b), Idaho Code, for assignment to the examination for licensure as a professional engineer. (3-20-04)

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

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

c. Beginning July 1, 2010, an applicant who has completed a four (4) year bachelor

degree program in a related science must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(4)(b), Idaho Code, for assignment to the examination for certification as a Land Surveyor-in-Training or as required by Section 54-1212(2)(b), Idaho Code, for assignment to the examination for licensure as a professional land surveyor: ( )

i. Three (3) credits in Surveying Law and Boundary Descriptions; ( )

ii. Three (3) credits in Route Surveying; ( )

iii. Three (3) credits in Public Land Surveying; ( )

iv. Three (3) credits in Surveying Software Applications; ( )

v. Three (3) credits in Research and Evidence in Surveying; ( )

vi. Three (3) credits in Surveying Adjustments and Coordinate Systems; ( )

vii. Three (3) credits in Subdivision Planning and Platting; ( )

viii. Three (3) credits in Geodesy; and ( )

ix. Three (3) credits in Survey Office Practice and Business Law in Surveying. ( )

~~c~~d. In addition to the minimum requirements set forth in Section 54-1212, Idaho Code, a person who desires to be qualified by examination in the field of structural engineering shall meet the following requirements: (4-22-94)

i. Be a registered professional engineer in Idaho. (7-1-93)

ii. Have two (2) years of work experience in the field of structural engineering after being registered as a professional engineer. The Principles and Practice of Engineering examination for Structural Engineering will cover the practice of structural engineering to test the applicant's fitness to assume responsibility for engineering work affecting the public health, safety and welfare. The examination shall be sixteen (16) hours. (7-1-93)

~~d~~e. The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has received a master's degree from an U.S. institution which has a bachelor degree program accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology in the discipline of the applicant's master's degree, and, in addition, has completed the coursework requirements of Subsection 017.02.b. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (4-5-00)

03. Notification to Applicant by Board. Notification of assignment or non-assignment to the examination will be furnished to the applicant at least thirty (30) days prior to the date of the examination. (4-5-00)

04. Notification to Board by Applicant. The applicant shall, at least fifteen (15) days before an examination, notify the Executive Director of the Board whether or not he will appear for the examination. Examinations will be given only to those who have so notified the Board. (4-5-00)

05. 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)

06. Two Examinations for Engineering Registration. The complete examining procedure for registration as a professional engineer consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer-in-training certification, and the second is the Principles and Practice of Engineering for professional engineer registration. Each examination shall be eight (8) hours in length. 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 curriculum. A certificate as an Engineer-in-Training 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. (4-22-94)

07. 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. (4-5-00)

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

09. Two Examinations for Land Surveying Registration. The complete examining procedure for registration as a professional land surveyor consists of two (2) separate written examinations. The first is the Fundamentals of Land Surveying examination for land surveyors-

in-training certification, and the second is the Principles and Practice of Land Surveying registration. Each examination will be a total of eight (8) hours in length. Having passed the Fundamentals of Land Surveying examination, applicants will be required to take the Principles and Practice of Land Surveying examination at a later date when qualified by experience. The examination shall cover the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of Land Surveying examination may consist of separate modules, each of which must be passed. (4-5-00)

10. 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)

11. Special Examinations. A special examination, written or oral or both, may be required in certain instances where the applicant is seeking registration through comity 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 registration 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. (7-1-93)

12. Grading. Each land surveyor-in-training, engineer-in-training and professional engineer applicant must normally attain a scaled score of seventy (70) or above on the entire eight (8) hour examination before being awarded certification or registration. Examinees on the Principles and Practice of Land Surveying examination must normally attain a scaled score of seventy (70) or above on each section of the examination. (4-5-00)

13. Use of NCEES Examinations. Examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) for professional engineer, engineers-in-training, professional land surveyors, and land surveyors-in-training may be used by the Board. The examination for the field of structural engineering shall be the sixteen (16) hour examination as determined by the Board. (7-1-93)

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

15. Disposal of Used Examination Pamphlets and Answer Sheets. The Executive Director of the Board is authorized by the Board to dispose of used examination solution pamphlets and answer sheets after the first anniversary date after the examination was given. (3-30-01)

16. Proctoring of Examinations. Unless otherwise approved, the Board will not proctor an examination for another jurisdiction except State-Specific examinations. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Interstate Registration Evaluation. Each application for Idaho professional engineer license or professional land surveyor license submitted by an applicant who is licensed as a professional engineer, or licensed as a professional land surveyor, respectively, in one (1) or more states, territories or foreign countries, shall be considered by the Board on its merits, and the application evaluated for substantial compliance with respect to the requirements of the Idaho law. Graduates of programs accredited by organizations signatory to the "Washington Accord" and graduates from programs evaluated by ABET as being substantially equivalent to EAC/ ABET programs shall be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. Individuals who have passed examinations considered by the Board to be of comparable difficulty and duration as those utilized by the Board shall be considered to have satisfied the examination requirement for issuance of a license as a professional engineer or professional land surveyor. (3-20-04)

a. The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has been licensed in another jurisdiction of the United States for an minimum of ten (10) years and has not had any disciplinary action against them and there is not 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. (4-5-00)

b. An applicant who was originally licensed in another jurisdiction after June 30, 1996 and who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed a minimum of fifteen (15) semester credits of Engineering Science at a Sophomore and Junior level, six (6) semester credits of Engineering Design related courses at a Senior level, twelve (12) semester credits of Advanced Mathematics including Calculus and Differential Equations, and twelve (12) semester credits of basic science courses including Chemistry, calculus-based Physics and other appropriate basic science courses before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code. ~~(3-20-04)~~( )

c. An applicant who was originally licensed in another jurisdiction after June 30, 2010 who has completed a four (4) year bachelor degree program in a related science must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying

curriculum as required by Section 54-1212(2)(b), Idaho Code, for licensure as a professional land surveyor: ( )

i. Three (3) credits in Surveying Law and Boundary Descriptions; ( )

ii. Three (3) credits in Route Surveying; ( )

iii. Three (3) credits in Public Land Surveying; ( )

iv. Three (3) credits in Surveying Software Applications; ( )

v. Three (3) credits in Research and Evidence in Surveying; ( )

vi. Three (3) credits in Surveying Adjustments and Coordinate Systems; ( )

vii. Three (3) credits in Subdivision Planning and Platting; ( )

viii. Three (3) credits in Geodesy; and ( )

ix. Three (3) credits in Survey Office Practice and Business Law in Surveying. ( )

02. Denials or Special Examinations. An application from a registrant of another state, territory or foreign country may be denied by the Board for any just cause and the application fee retained; or the Board may approve the applicant for a special written and/or oral examination. If the applicant is assigned to examination no additional fee shall be required. (7-1-93)

03. Business Entity Requirements. No application for a certificate of authorization to practice or offer to practice professional engineering or professional land surveying, or both, in Idaho by a business entity authorized to practice professional engineering or professional land surveying or both in one (1) or more states, territories or foreign countries shall be considered by the Board unless such application includes the name and address of the individual or individuals, duly registered 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. (3-15-02)

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 12 - DEPARTMENT OF FINANCE

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 26-3105(1)(e), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons given that this agency has adopted the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Administrative Bulletin, Volume 06-10, pages 156 through 158.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: The pending rule will have no negative impact on the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions or for further information regarding this pending rule contact Anthony Polidori at (208) 332-8084.

DATED this 15th day of November, 2006.

THE NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 26-3105(1)(e), 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, 2006.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

The proposed rulemaking will amend agency access information and appropriately change existing Rules to address amendments to federal law and regulation, incorporated by reference within the Rules.

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: Negotiated rulemaking was not conducted due to the simple nature of the changes made through the proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions or for further information regarding this proposed rulemaking, 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, 2006.

DATED this 16th day of August, 2006.

Michael Larsen
Consumer Finance Bureau Chief
Idaho Department of Finance
700 West State Street, 2nd Floor
P.O. Box 83720
Boise, ID 83720-0031
(208)-332-8000 Phone
(208)-332-8099 Fax

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

002. WRITTEN INTERPRETATIONS -- AGENCY ACCESS -- FILINGS (RULE 2).
Written interpretations of these rules are available by mail from the Department of Finance, P.O. Box 83720, Boise, Idaho 83720-0031. The street address of the agency is Department of Finance, ~~*Joe R. Williams Building, 700 West State Street*~~ 800 Park Boulevard, Suite 200, Boise, Idaho, 837~~0~~12. The telephone numbers of the agency include (208) 332-8000 - Administration; and (208) 332-8002 - ~~*Residential Mortgage*~~ Consumer Finance Bureau. The telephone number of the facsimile machine is (208) 332-809~~9~~6. All filings with the agency in connection with rule-making or contested cases shall be made with the Director of the Department of Finance, and shall include an original and one (1) copy. ~~*(3-30-06)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

005. INCORPORATION BY REFERENCE (RULE 5).
IDAPA 12.01.10, "Rules Pursuant to the Idaho Residential Mortgage Practices Act," incorporates by reference the full text of the following federal laws and regulations as defined in these rules: the Real Estate Settlement Procedures Act, 12 USCA 2601, et seq., as amended to and including January 1, 2007; Regulation X, 24 CFR 3500, et seq., as amended to and including January 1, 2007; the Truth in Lending Act, 15 USCA 1601, et seq., as amended to and including January 1, 2007; and Regulation Z, 12 CFR 226, et seq., as amended to and including January 1, 2007. ~~Documents incorporated by reference may be viewed at the central office of the Department of Finance, as noted in Section 002.~~ ~~*(3-30-06)*~~(____)

006. DEFINITIONS (RULE 6).
Except where otherwise stated, terms used in these rules which are defined in the Idaho Residential Mortgage Practices Act shall have the same meaning as set forth in that Act. As used in these rules: (3-30-06)

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

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

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

04. Closing. Means the process of executing legally binding documents regarding a lien on property that is subject to a residential mortgage loan and includes the day agreed upon by a borrower and a licensee to complete such process. (3-30-06)

05. Credit Hour. Means sixty (60) minutes of accredited instruction attained through actual attendance of a course or an allotted increment of time of accredited instruction through

independent study, as predetermined by the director. (3-30-06)

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

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

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

09. **Real Estate Settlement Procedures Act**. Means the act set forth in 12 USCA 2601, et seq., as amended to and including January 1, 200~~6~~7. ~~(3-30-06)~~(____)

10. **Regulation X**. Means Regulation X as promulgated by the Department of Housing and Urban Development and codified in 24 CFR 3500 et seq., as amended to and including January 1, 200~~6~~7. ~~(3-30-06)~~(____)

11. **Regulation Z**. Means Regulation Z as promulgated by the Board of Governors of the Federal Reserve System and codified in 12 CFR 226 et seq., as amended to and including January 1, 200~~6~~7. ~~(3-30-06)~~(____)

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

13. **Truth in Lending Act**. Means the act set forth in 15 USCA 1601, et seq., as amended to and including January 1, 200~~6~~7. ~~(3-30-06)~~(____)

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 17 - IDAHO INDUSTRIAL COMMISSION

17.02.06 - EMPLOYERS REPORTS

DOCKET NO. 17-0206-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

1. **To reconcile conflicting time periods by changing the second time period to fifteen (15) days from ten (10) days;**
2. **To allow sureties sufficient time to capture data they are required to submit on the Summary of Payments by extending the reporting time period from sixty (60) days to one hundred twenty (120) days;**
3. **To allow auditing of total and permanent benefit payments in a time frame within which useful feedback may be given and corrections made by changing the language of the rule to "…In the context of death claims and permanent total disability claims, interim summaries of payments shall be filed annually…"**

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Volume 06-10, pages 324 through 328.

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 Mindy Montgomery at 334-6000.

DATED this 30th day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 72-508, 72-720, 72-721, 72-722, and 72,723, 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, 2006.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

1) **To reconcile conflicting time periods by changing the second time period to fifteen (15) days from ten (10) days;**
2) **To allow sureties sufficient time to capture data they are required to submit on the Summary of Payments by extending the reporting time period from sixty (60) days to one hundred twenty (120) days;**
3) **To allow auditing of total and permanent benefit payments in a time frame within which useful feedback may be given and corrections made by changing the language of the rule to "…In the context of death claims and permanent total disability claims, interim summaries of payments shall be filed annually… "**

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: There is no fiscal impact with the adoption of this rule change.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these are technical changes without any party known to be interested in negotiating any of these changes deemed to be non-controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mindy Montgomery 208-334-6000.

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, 2006.

DATED this 22nd Day of August, 2006.

Mindy Montgomery, Director
Industrial Commission
317 Main Street
P.O. Box 83720, Boise, ID 83720-0041
Phone: 334-6000 / Fax: 334-2321

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. INCORPORATION BY REFERENCE.
No documents have been incorporated by reference into these rules. ( )

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
This office is open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday, and legal holidays. The department's mailing address is: P.O. Box 83720, Boise, ID 83720-0041. The principal place of business is 317 Main Street, 2nd Floor, Boise, ID 83702-7274. ( )

006. PUBLIC RECORDS ACT COMPLIANCE.
Any records associated with these rules are subject to the provisions of the Idaho Public Records Act Title 9, Chapter 3, and Title 41, Idaho Code. ( )

00~~4~~7. -- 020. (RESERVED).

021. SUMMARIES OF PAYMENT.

01. Authority and Definitions. Pursuant to Sections 72-432, 72-508, 72-602 and 72-707, Idaho Code, the Industrial Commission of the State of Idaho promulgates this rule governing the procedure for submission of summaries of payment to the Industrial Commission. This procedure applies to all workers' compensation claims. The following definitions shall be applicable to this Rule. (2-20-95)

a. "Commission," means the Idaho Industrial Commission. (2-20-95)

b. "Medical Only Claim," means the injured worker will neither suffer a disability lasting more than five calendar days as a result of a job-related injury or occupational disease nor be admitted to a hospital as an in-patient. (2-20-95)

c. "Time loss claim," means the injured worker will suffer, or has suffered, a disability that lasts more than five calendar days as a result of a job-related injury or occupational disease, or the injured worker requires, or required, in-patient treatment as a result of such injury or disease. (2-20-95)

d. "Impairment rated claim," means those claims in which a provider establishes an impairment rating for the injured worker. (2-20-95)

e. "Termination of disability," means the date upon which the obligation of the Employer/Surety/Adjuster becomes certain as to duration and amount whether by settlement, decision or periodic payments in the ordinary course of claims processing. If resolved by lump sum settlement (LSS), the termination of disability shall occur on the date the LSS is approved and an order approving is filed by the Industrial Commission. If resolved by decision, the termination of disability shall occur on the date the decision resolving all issues becomes final. In the context of periodic payments in the ordinary course of business, the termination of disability shall occur on the date on which final payment is made to the claimant. (2-20-95)

f. "Death claim," means the injured worker died as a result of a work-related injury or occupational disease. (2-20-95)

g. "Employer" is defined in Idaho Code, Section 72-102(11) and includes agents of employers such as attorneys, sureties and adjusters. (2-20-95)

h. "Closure," means that the file will be retired following an audit by the Commission. (2-20-95)

02. Summaries Requirement. A summary of payment shall be filed, in duplicate, by the Employer/Surety/Adjuster within ~~*sixty*~~ one hundred twenty (~~*6*~~120) days of termination of disability for all time-loss claims upon which an Employer/Surety/Adjuster has made payments, except for those claims which are resolved by lump sum settlement. In the case of medical and related benefits only cases, no summaries of payment need to be filed. In the context of death claims and permanent total disability claims, interim summaries of payments shall be filed annually within the first quarter of each calendar year. Interim summaries shall be submitted setting forth substantially the same information required by Final Summaries of Payment, including the balance of payments made to the beginning of the current calendar year, payments during the calendar year, and a total of payments made. This total balance shall be carried forward as the amount of payments made to the beginning of the current year. The Final Summary shall be so designated. Supporting documentation shall be attached to any summary of payment filed with the Commission. ~~*(2-20-95)*~~(_____)

03. Form. The summary of payment forms are available, pre-printed, from the Industrial Commission, which has designated the form as IC Form 6. The summary of payment shall be submitted on eight and one-half by eleven inch (8 1/2" X 11") paper in a format substantially similar to the following: (2-20-95)

a. For death claims: (2-20-95)

SUMMARY OF PAYMENTS
FATAL CASE

Surety No. _____	I.C. No. _____
Injured Person:	Employer:
Social Security Number:	Address:
Address:	

Character of Injury:

Date of Accident: Actual Weekly Wages:

DEPENDENTS

Name of Dependent	Relationship	Date of Birth (if under 18)

AWARDS OF PAYMENTS COMPENSATION

Payments % AWSW	Amount	Weeks	Total	Remarks

Total Compensation Payments:

BURIAL AND OTHER EXPENSES

Payment for funeral expenses $

Payment to hospital(s) $

Payment to doctor(s) $

Payment for misc. $

Total Medical Expenses (do not include funeral expenses) $

COMMENTS:

Claims Examiner Date

INDUSTRIAL COMMISSION APPROVAL

APPROVED: _____, 20____

BY: _____

b. For time-loss claims:

(2-20-95)

SUMMARY OF PAYMENTS TIME-LOSS CASE

Surety No. _____ I.C. No. _____

Injured Person:

Social Security Number: Employer:

Address: Address:

Character of Injury:

Date of Accident: Actual Weekly Wages:

Date Able to Resume Work: Compensation

Rate:

Actual Time Lost: Weeks Days

Date of First Payment:

AWARDS OF PAYMENTS

Payments of Compensation		Amount		Type (TT or PP)
Begin	Weeks	Days	Return to Work	

Payment of Medical Benefits	Amount
Doctor(s)	
Hospital(s)	
Physical Therapy	
Mileage	
Miscellaneous	

Comments:

Claims Examiner Date

INDUSTRIAL COMMISSION APPROVAL

APPROVED: _____, 20____

BY: _____

(2-20-95)

04. Approval. Within ninety (90) days of receipt of Summary of Payment as set forth above, the Industrial Commission shall notify the Employer/Surety/Adjuster that such summary has been approved or shall notify of its inability to reconcile the summary to its records and request additional information. If the Employer/Surety/Adjuster does not receive either an approval or request for additional information within the ninety (90) day period, the Employer/

Surety/Adjuster may proceed with closure. In the event the Commission requests additional information, whether in writing or telephonic, the Employer/Surety/Adjuster shall submit the requested information within fifteen (15) working days. If the Employer/Surety/Adjuster is unable to furnish the requested information, the Employer/Surety/Adjuster shall notify the Commission, in writing, of its inability to respond and the reasons therefor within the ~~ten~~ fifteen (1~~0~~5) working days. The Commission may schedule a show cause hearing to determine whether or not the Employer/Surety/Adjuster should be allowed to continue its status under the workers' compensation laws, including whether the Employer should be allowed to continue self-insured status. ~~(2-20-95)~~(____)

05. Changes in Status. In case of any default by the Employer or in the event the Employer shall fail to pay any final award or awards, by reason of insolvency or because a receiver has been appointed, the Employer shall submit a summary of payments for every time-loss and death claim within sixty (60) days of the default, insolvency, or appointment of a receiver. This summary will be designated as an interim summary and does not relieve the Employer, successor or receiver from continued reporting requirements. The receiver or successor shall continue to report to the Commission, including the submission of summaries of payments and schedules of outstanding awards. (2-20-95)

~~***06. Effective Date**. This rule shall become effective on August 15, 1994. (2-20-95)*~~

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-0602

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The pending rule implements the requirements mandated by Section 72-803, Idaho Code.

The Commission made the following changes as a result of input received from public hearings, written comments received, and research conducted:

1. **Adds a definition for ambulatory surgery centers (ASCs)**
2. **Changes definition of large and small hospitals from 50 beds to 100 beds.**
3. **Changes percentages of appropriate charges made by hospitals and ASCs.**
4. **Adds acceptable charge for hospital outpatient and ASCs.**
5. **Adds acceptable charge for surgically implanted hardware.**
6. **Expands the number of CPT Code ranges with conversion factors to 37.**
7. **Changes the first inflationary adjustment period from FY2008 to FY2009.**
8. **Deleted subsection 032.10 Investigation of Claim Compensability.**
9. **Changed the 30% administrative cost award in the dispute process to exempt hospitals except when payment is delayed after an administrative order.**

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 329 through 335.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Mindy Montgomery, Director, 208-334-6000.

DATED this 15th day of November 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

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

Date	**October 11, 2006**	**October 19, 2006**	**October 25, 2006**
Time	**2:00 p.m. - 5:00 p.m.**	**2:00 p.m. - 5:00 p.m.**	**2:00 p.m. - 5:00 p.m.**
Location	**Ameritel Inn** **333 Ironwwood Ave.** **Coeur d'Alene, ID**	**Industrial Commission** **317 Main Street** **Boise, ID**	**Ameritel Inn** **2501 S. 25th East** **Idaho Falls, ID**

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 previously enacted temporary rule is improperly being applied to hospitals by some payors. This is outside the intent of the law. This proposed rule clarifies that it will not apply to hospitals. Also, the medical fee schedule in the temporary rule has caused some physicians to refuse to cooperate with the worker's compensation system, so the schedule is fine tuned in the proposed rule to respond to these concerns. The proposed rule clarifies that the fee schedule does not apply to hospitals and substitutes an alternative method to compute fees for hospitals. It reduces the number of conversion factors used for physician fees, and it allows health care providers to be fully paid after going through a dispute resolution process.

In April 2006 this rule adopted as a temporary rule with an effective date of April 1, 2006. The temporary rule was published in the Idaho Administrative Bulletin, Volume 06-4, April 4, 2006, pages 83 and 89. With this publication the Department is initiating proposed rulemaking.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the large number of potentially interested parties and the desire to hold public hearings.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mindy Montgomery, Director, 208-334-6000.

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, 2006.

DATED this 22nd day of August, 2006.

Mindy Montgomery, Director
Industrial Commission
317 Main Street
PO Box 83720
Boise, Id 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 1, 2006.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

Incorporates recommendations submitted by an industry work group, including representatives from the Idaho Medical Association, using the Resource-Based Relative Value Scale (RBRVS) and the Relative Value Unit (RVU) assigned for all medical services with a Physicians' Current Procedural Terminology (CPT) code. A Conversion Factor for additional various categories of CPT coded services is proposed. Unnecessary language is proposed to be deleted from the rule.

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:

This temporary rule is needed to comply with the statutory directive to have conversion factors set prior to the effective date of April 1, 2006.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Thomas E. Limbaugh, Commissioner, 208-334-6000.

DATED this 23rd day of March, 2006.

Thomas E. Limbaugh, Commissioner
Idaho Industrial Commission
317 Main Street
P.O. Box 83720
Boise, ID 83720-0041

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. INCORPORATION BY REFERENCE.
No documents have been incorporated by reference into these rules. ( )

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
This office is open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday, and legal holidays. The department's mailing address is: P.O. Box 83720, Boise, ID 83720-0041. The principal place of business is 317 Main Street, 2nd Floor, Boise, ID 83702-7274. ( )

006. PUBLIC RECORDS ACT COMPLIANCE.
Any records associated with these rules are subject to the provisions of the Idaho Public Records Act Title 9, Chapter 3, and Title 41, Idaho Code. ( )

00~~4~~7. -- 030. (RESERVED).

031. ACCEPTABLE CHARGES FOR MEDICAL SERVICES UNDER THE IDAHO WORKERS' COMPENSATION LAW.
Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission (hereinafter "the Commission") hereby ~~*substitutes*~~ adopts the following ~~*for the January 28, 1975*~~

~~amendment to the "Rules and Regulations Governing Charges for Medical Services Provided under the Idaho Workers' Compensation Law," dated May 2, 1973~~ rule for determining acceptable charges for medical services provided under the Idaho Workers' Compensation Law: ~~(6-1-92)~~(____)

~~**01. Acceptable Charges Under the Idaho Workers' Compensation Law**. Payors shall pay a Provider's reasonable charge for Medical Services furnished to industrially injured patients. (6-1-92)~~

0~~2~~1. Definitions. Words and terms used in this rule are defined in the subsections which follow. (6-1-92)

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

b. *"Ambulatory Surgery Center (ASC)" means a facility providing surgical services on an outpatient basis only.* (____)

c. "Hospital" is any acute care facility providing medical or hospital services and which bills using a medicare universal hospital billing form. (____)

i. Large hospital is any hospital with more than *one hundred* (*100*) acute care beds. (____)

ii. Small Hospital is any hospital with *one hundred* (*100*) acute care beds or less. (____)

~~a~~*d*. "Provider" means any person, firm, corporation, partnership, association, agency, institution or other legal entity providing any kind of medical service~~s~~ related to the treatment of an industrially injured patient which are compensable under Idaho's Workers' Compensation Law. ~~(6-1-92)~~(____)

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

~~c~~*f*. "Medical Service~~s~~" means medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicine~~s~~, apparatus, appliance~~s~~, prostheses, and related service~~s~~, facilit~~ies~~y, equipment and suppl~~ies~~y. ~~(7-1-95)~~(____)

~~d~~*g*. "Reasonable," ~~except as provided in Subsections 031.02.g. and 031.02.h.,~~ means a charge does not exceed the Provider's "usual" charge and does not exceed the "customary" charge, as defined below. ~~(7-1-95)~~(____)

~~e~~*h*. "Usual" means the most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. ~~(7-1-95)~~(____)

~~f~~*i*. "Customary" means a charge which shall have an upper limit no higher than the

90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. ~~(7-1-95)~~(____)

~~g.~~ Provided, however, that for medical services which are not represented by CPT codes, reasonableness of charges shall be determined based on all relevant evidence available, including industry standards, invoices and catalog prices. (7-1-95)

~~h.~~ Provided, further, that where a Medical Service is one that is exceptional, unusual, variable, rarely provided, or so new that a determination cannot be made as to whether the charge for the Medical Service meets the criteria of Subsections 031.02.d. through 031.02.f. above, or where the Industrial Commission staff determines that its database is statistically unreliable, reasonableness of charges shall be determined based on all relevant evidence available. (7-1-95)

02. **Acceptable Charge**. Payors shall pay providers the acceptable charge for medical services. (____)

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

i. For large hospitals: Eighty-*five* Percent (85%) of the *appropriate inpatient* charge. (____)

ii. For small hospitals: Ninety percent (90%) of the *appropriate inpatient* charge. (____)

iii. For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of the appropriate charge. (____)

iv. Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%). (____)

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

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

CPT CODE:	DESCRIPTION:	CONVERSION FACTOR:
00000 - 09999	Anesthesia	$58.19
10000 - 69999	Surgery:	
10000 - 19999	Integumentary System	$67.00
20000 - 21800	Musculoskeletal System	$110.00
22100 - 22999	Spine	$135.00
23000 - 23999	Shoulder	$110.00
24000 - 24999	Upper arm and Elbow	$110.00
25000 - 26989	Forearm and Hand	$120.00
27000 - 27299	Pelvis and Hip	$120.00
27300 - 27899	Leg	$105.00
28000 - 28999	Foot and Toes	$88.00
29000 - 29750	Casts and Strapping	$60.00
29800 - 29999	Endoscopy and Arthroscopy	$125.00
30000 - 39999	Respiratory and Cardiovascular	$88.00
40000 - 49999	Digestive System	$88.00
50000 - 59999	Urinary System	$80.00
60000 - 60999	Endocrine System	$88.00
61000 - 61999	Skull, Meninges and Brain	$125.00
62000 - 62258	Repair, Neuroendoscopy and Shunts	$135.00
62263 - 62368	Spine and Spinal Cord	$88.00
63000 - 63999	Spine and Spinal Cord	$145.00
64400 - 64530	Nerves and Nervous System	$88.00
64550 - 64999	Nerves and Nervous System	$125.00
65000 - 69990	Eye and Ear	$88.00
70000 - 79999	Radiology	$85.00
80000 - 89999	Pathology and Laboratory	To be Determined
90465 - 90749	Immunization	$35.00
90780 - 90784	Infusions and Injections	$59.00
90788 - 90799	Injections	$35.00
90801 - 92998	Psychiatry and Medicine	$60.00
93000 - 93999	Cardiography and Studies	$70.00
94000 - 94750	Pulmonary	$60.00
94760 - 94762	Pulse Oximetry	$40.00

CPT CODE:	DESCRIPTION:	CONVERSION FACTOR:
94770 - 95999	Allergies; Testing	$70.00
96000 - 96999	Assessments and Special Procedures	$60.00
97000 - 97799	*Physical Medicine and Rehabilitation*	*$44.00*
97802 - 98999	*Acupuncture, Osteopathy, Chiropractic*	*$43.00*
99000 - 99499	*Miscellaneous Services*	*$63.00*

( )

c. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare & Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Codes 01995 and 01996. ( )

d. Adjustment of Conversion Factors. The conversion factors set out in this rule shall be adjusted prior to the beginning of each state fiscal year (FY), starting with FY 200*9*. The Commission shall determine the adjustment, which shall equal the percent change in the all item consumer price index for the west urban area, as published by the U.S. Department of Labor, for the twelve-month (12) month period ending with December of the prior year. ( )

e. Services Without CPT Code, RVU or Conversion Factor. The acceptable charge for medical services that do not have a CPT code, a currently assigned RVU or a conversion factor, will be the reasonable charge for that service, based upon the usual and customary charge and other relevant *evidence*, as determined by the Commission. Where a service with a CPT Code, RVU and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 031.02.b., determine the *acceptable* charge for that service, based on all relevant *evidence* in accordance with the procedures set out in Subsection 032.1*0*. ( )

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

i. Modifier 50: Additional fifty percent (50%) for bilateral procedure. ( )

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

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

iv. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to

MD and non-MD assistants. (____)

032. BILLING AND PAYMENT REQUIREMENTS FOR MEDICAL SERVICES AND PROCEDURES PRELIMINARY TO DISPUTE RESOLUTION.

01. Authority and Definitions. Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission hereby promulgates this rule augmenting IDAPA 17.02.08.031 ~~*(formerly 17.01.03.803.A, which became effective June 1, 1992)*~~. The definitions set forth in IDAPA 17.02.08.031 are incorporated by reference as if fully set forth herein. ~~*(1-1-93)*~~(____)

02. Time Periods. None of the periods herein shall begin to run before the Notice of Injury/Claim for Benefits has been filed with the Employer as required by law. (1-1-93)

03. Provider to Furnish Information. A Provider, when submitting a bill to a Payor, shall inform the Payor of the nature and extent of medical services furnished and for which the bill is submitted. This information shall include, but is not limited to, the patient's name, the employer's name, the date the medical service was provided, the diagnosis, if any, and the amount of the charge or charges. Failure to submit a bill complying with Subsection 032.03 to the Payor within one hundred twenty (120) days of the date of service will result in the ineligibility of the Provider to utilize the dispute resolution procedures of the Commission set out in Subsection 032.1*0* for that service. ~~*(1-1-93)*~~(____)

a. CPT and ICD Coding. A Provider's bill shall, whenever possible, describe the Medical Service provided, using the American Medical Association's appropriate Current Procedural Terminology (CPT) coding, including modifiers, for the year in which the service was performed and using current International Classification of Diseases (ICD) diagnostic coding, as well. (7-1-95)

b. Contact Person. The bill shall also contain the name, address and telephone number of the individual the Payor may contact in the event the Payor seeks additional information regarding the Provider's bill. (1-1-93)

c. Report to Accompany Bill. If ~~*required*~~ requested by the Payor, the bill shall be accompanied by a written report as defined by IDAPA 17.02.04.322.01.f. Where a bill is not accompanied by such Report, the periods expressed in Subsections 032.04 and 032.06, below, shall not begin to run until the Payor receives the Report. ~~*(7-1-95)*~~(____)

04. Prompt Payment. ~~*If*~~ *Unless* the Payor ~~*acknowledges*~~ *denies* liability for the claim ~~*and does not*~~ *or, pursuant to Subsection 032.06,* send*s* a Preliminary Objection ~~*to, or*~~ Request for Clarification ~~*of*~~, *or both, as to* any charge, ~~*as provided in Subsection 032.06, below,*~~ the Payor shall pay the charge within thirty (30) calendar days of receipt of the bill. ~~*The Commission will strictly apply all time limits and deadlines established by this rule. However, a reasonable good faith effort to comply with the other provisions of this rule will generally be sufficient to protect a party's rights hereunder.*~~ ~~*(1-1-93)*~~(____)

05. Partial Payment. If the Payor acknowledges liability for the claim and, pursuant to Subsection 032.06 below, sends a Preliminary Objection, a Request for Clarification, or both, as to only part of a Provider's bill, the Payor must pay the charge or charges, or portion thereof, as

to which no Preliminary Objection and/or Request for Clarification has been made, within thirty (30) calendar days of receipt of the bill. ~~*The Commission will strictly apply all time limits and deadlines established by this rule. However, a reasonable good faith effort to comply with the other provisions of this rule will generally be sufficient to protect a party's rights hereunder.*~~ ~~*(7-1-95)*~~(____)

06. Preliminary Objections and Requests for Clarification. (1-1-93)

a. Preliminary Objection. Whenever a Payor objects to all or any part of a Provider's bill on the ground that such bill contains a charge or charges that do not comport with the applicable administrative rule, the Payor shall send a written Preliminary Objection to the Provider within thirty (30) calendar days of the Payor's receipt of the bill explaining the basis for each of the Payor's objections. (1-1-93)

b. Request for Clarification. Where the Payor requires additional information, the Payor shall send a written Request for Clarification to the Provider within thirty (30) calendar days of the Payor's receipt of the bill, and shall specifically describe the information sought. (1-1-93)

c. Provider Contact. Each Preliminary Objection and Request for Clarification shall contain the name, address and phone number of the individual located within the state of Idaho that the Provider may contact regarding the Preliminary Objection or Request for Clarification. ~~*(1-1-93)*~~(____)

d. Failure of Payor to Object or Request or Provide Contact. Where a Payor does not send a Preliminary Objection to a charge set forth in a bill and/or a Request for Clarification within thirty (30) calendar days of receipt of the bill, or provide an in-state contact in accord with Subsection 032.06.c., it shall be precluded from objecting to such charge as failing to comport with the applicable administrative rule. ~~*(1-1-93)*~~(____)

07. Provider Reply to Preliminary Objection and/or Request for Clarification. (1-1-93)

a. Where a Payor has timely sent a Preliminary Objection, Request for Clarification, or both, the Provider shall send to the Payor a written Reply, if any it has, within thirty (30) calendar days of the Provider's receipt of each Preliminary Objection and/or Request for Clarification. (1-1-93)

b. Failure of Provider to Reply to Preliminary Objection. If a Provider fails to timely reply to a Preliminary Objection, the Provider shall be deemed to have acquiesced in the Payor's objection. (1-1-93)

c. Failure of Provider to Reply to Request for Clarification. If a Provider fails to timely reply to a Request for Clarification, the period in which the Payor shall pay or issue a Final Objection shall not begin to run until such clarification is received. (1-1-93)

08. Payor Shall Pay or Issue Final Objection. The Payor shall pay the Provider's bill in whole or in part and/or shall send to the Provider a written Final Objection, if any it has, to all

or part of the bill within thirty (30) calendar days of the Payor's receipt of the Reply. (1-1-93)

09. Failure of Payor to Finally Object. Where the Payor does not timely send a Final Objection to any charge or portion thereof to which it continues to have an objection, it shall be precluded from further objecting to such charge as unacceptable. (1-1-93)

~~***10. Investigation of Claim Compensability**. Where a Payor is investigating the compensability of a claim as to which a Provider has submitted a bill, the Payor must send a Notice of Investigation of Claim Compensability to the Provider and the Patient within fifteen (15) calendar days of receipt of the Provider's bill. The Payor shall complete its investigation of claim compensability and notify the Commission, the Provider and the Patient of its determination within thirty (30) calendar days of the date the Notice of Investigation of Claim Compensability is sent. Where a Payor does not timely notify the Commission, the Provider and the Patient of its determination, the Payor shall be precluded from objecting to such charge as failing to comport with the applicable administrative rule. (1-1-93)*~~

~~***a.** Single Objection Sufficient. A single objection stating that liability has been denied shall be sufficient for each Provider from whom a bill is received. (1-1-93)*~~

~~***b.** Effect of Commission Determination of Claim Compensability. The thirty (30) day period in which the Payor must pay the bill or send a Preliminary Objection and/or Request for Clarification shall recommence running on the date of entry of a final Commission order determining that the claim is compensable. (1-1-93)*~~

~~***c.** Effect of Determination of Compensability. If the Payor, absent a Commission determination of claim compensability, concludes that it is liable for a claim, the thirty (30) day period in which the Payor must pay the bill or send a Preliminary Objection and/or Request for Clarification shall begin running on the date the Payor notifies the Commission, Provider and Patient that it accepts liability for the claim. (1-1-93)*~~

1~~1~~*0*. Dispute Resolution Process. If, after completing the applicable steps set forth above, a Payor and Provider are unable to agree on the appropriate charge for any Medical Service, a Provider which has complied with the applicable requirements of this rule may move the Commission to resolve the dispute as provided in the Judicial Rule Re: Disputes Between Providers and Payors as Referenced in ~~*IDAPA 17.02.08.*~~ Sections 031 and 032 of this rule ~~*(formerly 17.01.03.803.a. and 803.b.)*~~. *If Provider's motion disputing CPT coded items prevails, Payor shall pay the amount found by the Commission to be owed, plus an additional thirty percent (30%) of that amount to compensate Provider for costs and expenses associated with using the dispute resolution process. For motions filed by a hospital or ambulatory surgical center, under section 031.02.a.v., or by a provider under 031.02.e, the additional thirty percent (30%) shall be due only if the Payor does not pay the amount found due within thirty (30) days of the administrative order.* ~~*(1-1-93)*~~(____)

~~***12. Requirements Regarding Disputes Arising Before the Effective Date of This Rule**. (1-1-93)*~~

~~***a.** Written Demand Required. If, prior to January 1, 1993, a Payor notifies or has*~~

~~*notified a Provider that it does not intend to fully pay any charge for Medical Services incurred prior to January 1, 1993, the Provider seeking payment for such charge must send a written Demand for Payment to the Payor no later than January 31, 1993. (Note: Should the matter ultimately proceed to the dispute resolution phase set forth in the Judicial Rule, the Commission will resolve the dispute by applying the administrative rule which was in effect at the time the charge was incurred. Hence, if the charge in dispute was incurred prior to June 1, 1992, the Commission will use this dispute resolution process to determine whether the Provider's charge is acceptable pursuant to the provisions of IDAPA 17.01.03.803, then in effect. However, if the charge in dispute was incurred on or after June 1, 1992, the Commission will use this dispute resolution process to determine whether the Provider's charge is acceptable pursuant to the provisions of IDAPA 17.02.08.031, now in effect.)*~~ ~~*(1-1-93)*~~

~~***b.*** *All Provisions of this Rule Will Apply. Such a Demand shall substitute for the bill and Report referenced in Subsection 032.03 above, and must contain all the information required by that section. Service of a timely Demand for Payment will bring the other provisions of this rule into operation.*~~ ~~*(1-1-93)*~~

~~***c.*** *Failure of Provider to Make Written Demand. Providers failing to make a written Demand for Payment within thirty (30) calendar days of the effective date of this rule shall be forever barred from invoking the Dispute Resolution Process set forth in the applicable Judicial Rule. Demands and/or billings submitted previously either to the Payor or to the Commission will not suffice.*~~ ~~*(1-1-93)*~~

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.24 - ADVERTISEMENT OF DISABILITY (ACCIDENT AND SICKNESS) INSURANCE

DOCKET NO. 18-0124-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

Based upon public comment, proposed new wording in Section 013.01.k. of the rule that would prohibit marketing devices designed to create undue fear or anxiety in the minds of consumers is being removed. Only the section that has been changed is printed in this bulletin. The original text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Vol. 06-8, pages 12 through 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: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Martha Hopper at (208) 334-4315.

DATED this 2nd day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 41, Chapters 2 and 13, Idaho Code.

DEPARTMENT OF INSURANCE ***Docket No. 18-0124-0601***
Advertisement of Disability (Accident & Sickness) Insurance ***PENDING RULE***

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 on or before August 16, 2006.

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 regulates the advertisement of disability insurance. The proposed changes update the existing rule to cover internet advertising, clarify that long term care insurance is covered by the rule, specifically prohibit advertisements that do not clearly state the type of insurance being offered or that are designed to create undue fear in the minds of those to whom they are directed, eliminate an unnecessary paper filing requirement for insurers, and bring the rule into conformance with Department of Administration style 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 fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the primary changes simply clarify that long term care insurance is covered by the rule (it falls within the statutory definition of disability insurance) and eliminate an unnecessary paper filing.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Martha Hopper at (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 on or before August 23, 2006.

DATED this 28th day of June, 2006.

Shad Priest, Acting Director
Idaho Department of Insurance
700 West State St., 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.
This rule is promulgated and adopted pursuant to the authority vested in the Director under Title 41, Chapters 2 and 13, Idaho Code. ~~(7-1-93)~~(____)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 18.01.24, "Advertisement of Disability (Accident and Sickness) Insurance." (____)

02. Scope. The purpose of these rules is to assure truthful and adequate disclosure of all material and relevant information in the advertising of accident and sickness insurance, including Medicare supplement accident and sickness insurance and long term care insurance. This purpose is intended to be accomplished by the establishment of, and adherence to, certain minimum standards and guidelines of conduct in the advertising of disability (accident and sickness) insurance in a manner which prevents unfair competition among insurers and is conducive to the accurate presentation and description to the insurance buying public of a policy of such insurance offered through various advertising media. ~~(7-1-93)~~(____)

~~**002. -- 003. (RESERVED).**~~

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying in accordance with the public records act.
(____)

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." (____)

004. INCORPORATION BY REFERENCE. THERE ARE NO DOCUMENTS TO BE INCORPORATED BY REFERENCE.

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

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

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

03. **Street Address**. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. ( )

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

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

~~*006. -- 010. (RESERVED).*~~

00~~4~~7. APPLICABILITY.

01. **Disability and Medicare Supplement Insurance**. These rules shall apply to any disability (accident and sickness) insurance "advertisement," including Medicare supplement and long term care insurance "advertisement," as that term is hereinafter defined, intended for presentation, distribution or dissemination in this State when such presentation, distribution or dissemination is made either directly or indirectly by or on behalf of an insurer~~*, agent, broker*~~ or ~~*solicitor*~~ producer as those terms are defined in the Insurance Code of this State and these rules. ~~*(7-1-93)*~~( )

02. **Control over Advertisement**. Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All such advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer whose policies are so advertised. (7-1-93)

008. -- 009. (RESERVED).

0~~05~~10. DEFINITIONS.

01. **Advertisement**. An advertisement for the purpose of these rules shall include: (7-1-93)

a. Printed and published material, audio visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, TV scripts, web sites and other internet displays or communications, other forms of electronic communications, billboards and similar displays; and ~~*(7-1-93)*~~( )

b. Descriptive literature and sales aids of all kinds issued by an insurer~~*, agent*~~ or ~~*broker*~~ producer for presentation to members of the insurance buying public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters; and ~~*(7-1-93)*~~( )

c. Prepared sales talks, presentations and material for use by ~~*agents, brokers and solicitors*~~ producers whether prepared by the insurer or the producer. ~~*(7-1-93)*~~( )

02. Policy. "Policy" for the purpose of these rules shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement which provides accident or sickness benefits, or medical, surgical or hospital expense benefits, whether on an indemnity, reimbursement, service or prepaid basis, except when issued in connection with another kind of insurance other than life, and except disability, waiver of premium and double indemnity benefits included in life insurance and annuity contracts. The term includes contracts for Medicare supplement insurance and long term care insurance. ~~(7-1-93)~~( )

03. Insurer. "Insurer" for the purpose of these rules shall include any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, health maintenance organization, and any other legal entity which is defined as an "insurer" in the Insurance Code of this State and is engaged in the advertisement of a policy as "policy" is herein defined. (7-1-93)

04. Exception. "Exception" for the purpose of these rules shall mean any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy. (7-1-93)

05. Reduction. "Reduction" for the purpose of these rules shall mean any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction not been used. (7-1-93)

06. Limitation. "Limitation" for the purpose of these rules shall mean any provision which restricts coverage under the policy other than an exception or a reduction. (7-1-93)

~~***006. -- 010. (RESERVED).***~~

(BREAK IN CONTINUITY OF SECTIONS)

013. ADVERTISEMENTS OF BENEFITS PAYABLE, LOSSES COVERED OR PREMIUMS PAYABLE.

01. Prohibitions. Deceptive Words, Phrases Or Illustrations Prohibited: (7-1-93)

a. No advertisement shall omit information or use words, phrases, statements, references or illustrations if the omission of such information or use of such words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered or premium payable. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements. (7-1-93)

b. No advertisement shall contain or use words or phrases such as, "all"; "full"; "complete"; "comprehensive"; "unlimited"; "up to"; "as high as"; "this policy will help pay your

hospital and surgical bills"; "this policy will help fill some of the gaps that Medicare and your present insurance leave out"; "this policy will help to replace your income" (when used to express loss of time benefits); or similar words and phrases, in a manner which exaggerates any benefits beyond the terms of the policy. (7-1-93)

c. An advertisement shall not contain descriptions of a policy limitation, exception, or reduction, worded in a positive manner to imply that it is a benefit, such as, describing a waiting period as a "benefit builder", or stating "even pre-existing conditions are covered after two years". Words and phrases used in an advertisement to describe such policy limitations, exceptions and reductions shall fairly and accurately describe the negative features of such limitations, exceptions and reductions of the policy offered. (7-1-93)

d. No advertisement of a benefit for which payment is conditional upon confinement in a hospital or similar facility shall use words or phrases such as "tax free"; "extra cash"; "extra income"; "extra pay"; or substantially similar words or phrases in such a manner as to have the capacity, tendency or effect of misleading the public into believing that the policy advertised will, in some way, enable them to make a profit from being hospitalized. (7-1-93)

e. No advertisement of a hospital or other similar facility benefit shall advertise that the amount of the benefit is payable on a monthly or weekly basis when, in fact, the amount of the benefit payable is based upon a daily pro - rata basis relating to the number of days of confinement. When the policy contains a limit on the number of days of coverage provided, such limit must appear in the advertisement. (7-1-93)

f. No advertisement of a policy covering only one (1) disease or a list of specified diseases shall imply coverage beyond the terms of the policy. Synonymous terms shall not be used to refer to any disease so as to imply broader coverage than is the fact. (7-1-93)

g. An advertisement for a policy providing benefits for specified illnesses only, such as cancer, or for specified accidents only, such as automobile accidents, shall clearly and conspicuously in prominent type state the limited nature of the policy. The statement shall be worded in language identical to, or substantially similar to the following: "THIS IS A LIMITED POLICY"; "THIS IS A CANCER ONLY POLICY"; "THIS IS AN AUTOMOBILE ACCIDENT ONLY POLICY." (7-1-93)

h. An advertisement of a direct response insurance product shall not imply that because "no insurance agent will call and no commissions will be paid to agents" that it is a "low cost plan", or use other similar words or phrases because the cost of advertising and servicing such policies is a substantial cost in the marketing of a direct response insurance product.(7-1-93)

i. No advertisement shall contain or use words or phrases such as, "Medicare supplement"; "Medigap"; "this policy will help fill some of the gaps that Medicare leaves out"; or similar words and phrases, unless the policy is issued in compliance with IDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act." (7-1-93)

j. <u>An advertisement must state clearly the type of insurance coverage being offered.</u> <u>( )</u>

~~**k.** *An advertisement, including invitations to inquire or invitations to contract, shall not employ devices that are designed to create undue fear or anxiety in the minds of those to whom they are directed. An example is the use of phrases such as "cancer kills somebody every two minutes" or use of statistics such as the number of injuries due to accidents without reference to the total population from which the statistics are drawn.* (____)~~

02. Exceptions, Reductions and Limitations. (7-1-93)

a. When an advertisement refers to either a dollar amount, or a period of time for which any benefit is payable, or the cost of the policy, or specific policy benefit, or the 1oss for which such benefit is payable, it shall also disclose those exceptions, reductions and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity or tendency to mislead or deceive. (7-1-93)

b. When a policy contains a waiting, elimination, probationary or similar time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for such loss, an advertisement which is subject to the requirements of the preceding paragraph shall disclose the existence of such periods. (7-1-93)

c. An advertisement shall not use the words "only"; "just"; "merely"; "minimum"; or similar words or phrases to describe the applicability of any exceptions and reductions, such as: "This policy is subject to the following minimum exceptions and reductions". (7-1-93)

03. Pre-Existing Conditions. (7-1-93)

a. An advertisement which is subject to the requirements of Subsection 013.02 shall, in negative terms, disclose the extent to which any loss is not covered if the cause of such loss is traceable to a condition existing prior to the effective date of the policy. The ~~*use of the*~~ term "pre-existing condition" without an appropriate definition or description shall not be used. ~~*(7-1-93)*~~(____)

b. When a policy does not cover losses resulting from pre-existing conditions, no advertisement of the policy shall state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim thereunder. This rule prohibits the use of the phrase "no medical examination required" and phrases of a similar import, but does not prohibit explaining "automatic issue". If an insurer requires a medical examination for a specified policy, the advertisement shall disclose that a medical examination is required. (7-1-93)

c. When an advertisement contains an application form to be completed by the applicant and returned by mail for a direct response insurance product, such application form shall contain a question or statement which reflects the pre-existing condition provisions of the policy immediately preceding the blank space for the applicant's signature. For example, such an application form shall contain a question or statement substantially as follows: "Do you understand that this policy will not pay benefits during the first _____ year(s) after the issue date for a disease or physical condition which you now have or have had in the past?" ___ YES.

Or substantially the following statement: "I understand that the policy applied for will not pay benefits for any loss incurred during the first ____ year(s) after the issue date on account of disease or physical condition which I now have or have had in the past." (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

024. ENFORCEMENT PROCEDURES.

~~***01. Advertising File.***~~ Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its blanket, franchise and group policies hereafter disseminated in this or any other state whether or not licensed in such other state, with a notation attached to each such advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to regular and periodical inspection by this Department. All such advertisements shall be maintained in said file for a period of either four (4) years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time. ~~*(7-1-93)*~~(____)

~~***02. Certificate of Compliance.*** *Each insurer required to file an Annual Statement which is now or which hereafter becomes subject to the provisions of these rules must file with this Department with its Annual Statement a Certificate of Compliance executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of these rules and the insurance laws of this State as implemented and interpreted by these rules.*~~ ~~*(7-1-93)*~~

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.27 - SELF-FUNDED EMPLOYEE HEALTH CARE PLANS

DOCKET NO. 18-0127-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211, 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 6-10, pages 336 through 339.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Georgia Siehl at (208) 334-4250.

DATED this 15th day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

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 Idaho Code § 41-211 and Chapter 40, Title 41, Idaho Code.

DEPARTMENT OF INSURANCE ***Docket No. 18-0127-0601***
Self-Funded Employee Health Care Plans ***PENDING RULE***

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, 2006.

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 proposed rule deletes obsolete wording and implements changes to requirements for employer sponsored self-funded health plans made by House Bill 822. These changes include requirements for information to be submitted to the Department of Insurance to register the plan and requirements for maintaining and reporting reserves and surplus. In addition, changes have been made to conform the rule to Office of Administrative Rules standards.

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:

Amends existing rule to incorporate changes to governing law made by House Bill 822.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: The rulemaking does not impose a fee or charge.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes made by this rulemaking were needed to conform the existing rule to changes in governing law (HB 822).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Georgia Hill, 208-334-4314.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 25, 2006.

DATED this 23rd day of August, 2006.

Shad Priest, Acting Director
Idaho Department of Insurance
700 West State St., 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

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 the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying ~~*at cost in the main office of this agency*~~ in accordance with the public records act. ~~*(4-5-00)*~~(7-1-06)T

003. ADMINISTRATIVE APPEALS.
~~*All contested cases shall be governed by the provisions of*~~ 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," Sections 101 through 400. ~~*(4-5-00)*~~(7-1-06)T

004. INCORPORATION BY REFERENCE.
There are no documents to be incorporated by reference. (7-1-06)T

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. (7-1-06)T

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (7-1-06)T

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. (7-1-06)T

04. Web Site Address. The department's web address is http://www.doi.idaho.gov. (7-1-06)T

006. PUBLIC RECORDS ACT COMPLIANCE.
Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (7-1-06)T

00~~5~~7. -- 009. (RESERVED).

~~004~~010.DEFINITIONS.
All terms defined in Title 41, Chapter 40, Idaho Code, which are used in this rule shall have the same meaning as used in that Chapter. (4-5-00)

011. -- 020. (RESERVED).

0~~10~~21. QUALIFICATION OF PLAN.
In order for a plan to qualify under Title 41, Chapter 40, Idaho Code, the plan's trust must be established by agreement between the employer or employers and the trustee of the trust, for the sole purpose of providing health care benefits to employees of the employer or employers.
~~(4-5-00)~~(7-1-06)T

0~~11~~22. REGISTRATION.

01. Registration Required. No self-funded plan, unless exempted from registration by Section 41-4003(2), Idaho Code, shall be organized and permitted to operate in the state of Idaho without securing a Certificate of Registration from the director of insurance. (4-5-00)

02. Specific Plans. Any plans covering the employees of a common employer shall be deemed to be a single plan in respect to the exemption for registration allowed in Section 41-4003(2)(a), Idaho Code. Any combinations of plans under the effective control of a single administrator, trustee, and/or employer, or group of administrators, trustees and/or employers utilizing or attempting to utilize the exempt dollar amounts permitted under Section 41-4003(2)(a), Idaho Code in order to avoid registration of any such plans is deemed to be contrary to the intent of Chapter 40, Title 41, Idaho Code, and is expressly prohibited by this rule. (4-5-00)

03. Beneficiary Within State. Registration is required of Plans that cover any beneficiary working or residing within this state, unless the plans ~~is~~ are otherwise exempted by Section 41-4003(2), Idaho Code.
~~(4-5-00)~~(7-1-06)T

0~~1~~23. APPLICATION FOR REGISTRATION.

01. Application. ~~*In addition to the*~~ The application must include each of the requirements set out in Section 41-4005, Idaho Code~~*, a written statement of projected income and disbursements of the Fund for the twelve (12) month period commencing with the date of application must be filed with the application for registration. This statement must show the amount reserved as of the beginning and end of such period for claims incurred and not paid and incurred and not reported. The statement must be certified by an actuary who is a member of the American Academy of Actuaries*~~. The ~~*certification must be*~~ projected income and disbursement statement referenced in Section 41-4005(2)(d), Idaho Code, must be certified by an actuary meeting the qualifications of Section 41-4005(6), Idaho Code, and accompanied by a description of assumptions used in projecting income and disbursements together with bases used to estimate amounts reserved for claims. ~~(4-5-00)~~(7-1-06)T

02. Trust Agreement. (7-1-06)T

a. The trust agreement must comply with Title 41, Chapter 40, Idaho Code, and, to the extent not in conflict with Title 41, the trust agreement must also comply with Title 68, Idaho Code, and Title 15, Chapter 7, Idaho Code. The trust agreement must contain, at a minimum, the conditions set forth in Section 41-4004, Idaho Code. (7-1-06)T

b. The term irrevocable as used in Section 41-4004(1), Idaho Code, means that the plan sponsor cannot retain the power to alter, amend, revoke or terminate the transfer in trust. The trustee may, pursuant to the terms of the trust agreement, amend the terms of the trust agreement for the purpose of complying with applicable law. (7-1-06)T

03. Biographical Affidavit. The application must be accompanied by a biographical affidavit for each trustee on a form acceptable to the director. (7-1-06)T

0~~13~~24. INVESTIGATION OF PROPOSED APPLICATION FOR REGISTRATION.
The director may make an investigation of matters accompanying the application for registration as deemed necessary including an examination specified in Section 41-4013, Idaho Code. Costs of any investigation and/or examination shall be borne by the trust fund of the plan. (4-5-00)

0~~14~~25. CONTRIBUTIONS RECEIVABLE.
The trust fund may take credit in any financial statement for contributions receivable which are not in excess of ninety (90) days past due. (7-1-93)

0~~15~~26. TRUST FUND RESERVES AND SURPLUS.

01. Reserve Requirements. The trust fund of the plan must continuously maintain reserves sufficient to fully fund payment of all benefits in effect at the time a claim thereunder arises. This reserve must adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any. (7-1-93)

02. Reserves for Disability Income Benefits. Reserves established for disability income benefits shall be in an amount not less than reserves determined by ~~*application of factors in the 1964 Commissioner's Disability Table with interest at four percent (4%),*~~ the Minimum Reserve Standards for Group Health Insurance Contracts set forth the in the NAIC's Accounting Practices and Procedures Manual as adopted by the director unless it can be ~~*proved*~~ proven to the satisfaction of the director that a lower reserve can be actuarially justified. ~~*(7-1-93)*~~(7-1-06)T

03. Certification by Actuary. Reserves must be certified annually by an actuary who ~~*is a member of the American Academy of Actuaries, and*~~ meets the requirements of Section 41-4005(6), Idaho Code, such certification must be accompanied by a statement describing bases used in reserve determination. The certification shall be in a form acceptable to the director. ~~*(7-1-93)*~~

04. Insolvent Condition. If determination of ~~*reserves*~~ surplus reveals ~~*an insolvent condition*~~ a deficiency in surplus, the director may, in his discretion, allow the plan a period of time ~~*deemed adequate and reasonable*~~ not exceeding ninety days to accumulate required ~~*reserves*~~ surplus. The plan shall be deemed to be insolvent when the assets are not sufficient to meet all liabilities, including required reserves. ~~*(7-1-93)*~~(7-1-06)T

05. **Surplus**. The trust fund of a self-funded plan shall maintain a surplus equal to thirty percent (30%) of unpaid claim liability of the plan. The total unpaid claim liability to which the thirty percent (30%) is calculated against includes total claims reported and not yet paid, claims incurred but not yet reported, adjustment expenses, litigation expenses, extended benefits and maternity benefits, if any. A newly formed self-insured plan with no prior operating history shall maintain surplus of not less than ten percent (10%) of unpaid claim liability of the plan during the first year and not less than twenty percent (20%) of the unpaid claim liability of the plan during its second year of operation. The unpaid claim liability includes total claims reported and not yet paid, claims incurred but not yet reported, adjustment expenses, litigation expenses, extended benefits and maternity benefits, if any. (7-1-06)T

06. **Letter of Credit**. To qualify as surplus, the clean, irrevocable, unconditional and "evergreen" letter of credit must be issued by a qualified United States financial institution having a branch office in Idaho. Qualified financial institution shall have the same definition as set forth in Section 41-514(3), Idaho Code. (7-1-06)T

0~~16~~27. BONDING.

01. **Certified Copy of Bond**. A certified copy of the fidelity bond or equivalent coverage, as required under Section 41-4014(3), Idaho Code, shall be furnished to the director by the plan. ~~(4-5-00)~~(7-1-06)T

02. **Cancellation of Bond Requirements**. ~~*Section 41-4014(3), Idaho Code, requires thirty (30) days advance notice, in writing, of the effective date of cancellation of a surety bond.*~~ The bond must contain language stating that it is noncancellable except upon not less than thirty (30) days advance notice in writing to the trustee and the director. A copy of any notice cancelling a bond required under ~~*the Act*~~ Chapter 40, Title 41, Idaho Code, is to be forwarded to the director by the surety at the same time it is forwarded to the trustee. ~~(4-5-00)~~(7-1-06)T

0~~17~~28. ANNUAL STATEMENT.
The trustee shall file an annual statement within ~~*sixty*~~ ninety (~~6~~90) days after the close of each fiscal year of the Plan and at such other time as may be determined by the Director. A quarterly statement shall be filed with the director within sixty (60) days of the end of each quarter in a form acceptable to the director. ~~(7-1-93)~~(7-1-06)T

0~~18~~29. SEVERABILITY CLAUSE.
If any provision of this rule, or the application thereof to any person or circumstance, is held invalid, the remainder of the rule, or the applicability of such provision to other persons or circumstances, shall not be affected thereby. (7-1-93)

0~~19~~30. -- 999. (RESERVED).

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.28 - GOVERNMENTAL SELF-FUNDED EMPLOYEE HEALTH CARE PLANS

DOCKET NO. 18-0128-0601 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2006. This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211, Idaho Code.

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

In response to public comment, the following changes were made to the rule:

Section 022.01 of the proposed rule was amended to add the words "joint public agency" to modify "self-funded plan" in order to more closely reflect the wording to the underlying law.

Section 026.02.a of the proposed rule, requiring certain levels of reserves, was removed.

Under Section 027 of the proposed rule, references to "dishonesty policy" were added to more closely reflect the wording of the underlying law.

The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 340 through 344.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Georgia Siehl at (208) 334-4250.

DATED this 30th day of November, 2006.

DEPARTMENT OF INSURANCE ***Docket No. 18-0128-0601***
Governmental Self-Funded Employee Health Care Plans ***PENDING RULE***

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

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 41-211, Idaho Code, and Chapter 41, Title 41, 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, 2006.

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

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

This rulemaking is necessary to implement House Bill 825, which created requirements for registering, funding and operating self-funded health plans offered by public entities and created through joint powers agreements.

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:

Compliance with deadlines in amendments to governing law.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is needed to implement changes to governing law (HB 825) that became effective July 1, 2006.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Georgia Hill (208) 334-4314.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 25, 2006.

DATED this 23rd day of August, 2006.

Shad Priest, Acting Director
Idaho Department of Insurance
700 West State St, 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

IDAPA 18
TITLE 01
CHAPTER 28

18.01.28 - GOVERNMENTAL SELF-FUNDED EMPLOYEE HEALTH CARE PLANS RULE

000. LEGAL AUTHORITY.
This rule is promulgated and adopted pursuant to the authority vested in the director under Title 41, Chapter 2, Idaho Code. (7-1-06)T

001. TITLE AND SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rule, IDAPA 18.01.28, "Governmental Self-Funded Employee Health Care Plans Rule." (7-1-06)T

02. Scope. The purpose of this rule is to supplement the provisions of Title 41, Chapter 41, Idaho Code, Joint Public Agency Self-Funded Health Care Plans by providing: (7-1-06)T

a. Dates of application for registration; (7-1-06)T

b. Requirements for application for registration; (7-1-06)T

c. Rules regarding investigation of applications; (7-1-06)T

d. Definition of required liabilities; and establishment of reserve bases; and (7-1-06)T

e. To provide an effective date. (7-1-06)T

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 the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying in accordance with the public records act. (7-1-06)T

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, Sections 100 through 400. (7-1-06)T

004. INCORPORATION BY REFERENCE.
There are no documents to be incorporated by reference (7-1-06)T

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. (7-1-06)T

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (7-1-06)T

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. (7-1-06)T

04. Web Site Address. The department's web address is http://www.doi.idaho.gov. (7-1-06)T

006. PUBLIC RECORDS ACT COMPLIANCE.
Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (7-1-06)T

007. -- 009. (RESERVED).

010. DEFINITIONS.
All terms defined in Title 41, Chapter 41, Idaho Code, which are used in this rule shall have the same meaning as used in that Chapter. (7-1-06)T

011. -- 020. (RESERVED).

021. QUALIFICATION OF PLAN.
In order for a plan to qualify under Title 41, Chapter 41, Idaho Code, the plan's trust must be

established by agreement between the public agency employers or joint powers entity and the trustee of the trust, for the sole purpose of providing health care benefits to employees of the public agency employer or employers. (7-1-06)T

022. REGISTRATION.

01. Registration Required. No *joint public agency* self-funded plan, unless exempted from registration by Section 41-4103, Idaho Code, shall be organized and permitted to operate in the state of Idaho without securing a certificate of registration from the director of insurance. ~~*(7-1-06)T*~~(7-1-06)T

02. Beneficiary Within State. Registration is required of plans that cover any beneficiary working or residing within this state, unless the plans are otherwise exempted by Section 41-4103, Idaho Code. (7-1-06)T

023. APPLICATION FOR REGISTRATION.

01. Application. The application must include each of the requirements set out in Section 41-4105, Idaho Code. The projected income and disbursement statement referenced in Section 41-4105(2)(d), Idaho Code, must be certified by an actuary meeting the qualifications of Section 41-4105(2)(d), Idaho Code, and accompanied by a description of assumptions used in projecting income and disbursements together with bases used to estimate amounts reserved for claims. (7-1-06)T

02. Joint Powers Agreement. The joint powers agreement must comply with Title 41, Chapter 41 and, to the extent not in conflict with Title 41, the joint powers agreement must also comply with Title 67, Chapter 23, Idaho Code. The joint powers agreement must contain, at a minimum, the conditions set forth in Section 41-4104, Idaho Code. (7-1-06)T

03. Trust Agreement. (7-1-06)T

a. The trust agreement must comply with Title 41, Chapter 41, Idaho Code and, to the extent not in conflict with Title 41, the trust agreement must also comply with Title 68, Idaho Code, and Title 15, Chapter 7, Idaho Code. The trust agreement must contain, at a minimum, the conditions set forth in Section 41-4104, Idaho Code. (7-1-06)T

b. The term irrevocable as used in Section 41-4104(1), Idaho Code, means that the plan sponsor cannot retain a power to alter, amend, revoke or terminate the transfer in trust. The trustee may, pursuant to the terms of the trust agreement, amend the terms of the trust agreement for the purpose of complying with applicable law. (7-1-06)T

04. Biographical Affidavit. The application must be accompanied by a biographical affidavit for each trustee on a form acceptable to director. (7-1-06)T

024. INVESTIGATION OF PROPOSED APPLICATION FOR REGISTRATION.
The director may make an investigation of matters accompanying the application for registration as deemed necessary including an examination specified in Section 41-4113, Idaho Code. (7-1-06)T

025. CONTRIBUTIONS RECEIVABLE.
The trust fund may take credit in any financial statement for contributions receivable which are not in excess of ninety (90) days past due. (7-1-06)T

026. TRUST FUND RESERVES.

01. Reserve Requirements. (7-1-06)T

a. The trust fund of a self-funded plan in existence as of July 1, 2006 has three (3) years from July 1, 2006 to fully fund all actuarially required reserves. The trust fund must show progress towards coming in compliance with this requirement by a minimum twenty precent (20%) increase in funded reserves at the end of the first year from the effective date and a minimum of forty percent (40%) increase by the end of the second year from the effective date. At the end of the third year of the effective date and thereafter, the plan must continuously maintain reserves sufficient to fully fund payment of all benefits in effect at the time a claim thereunder arises. This reserve must adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any. (7-1-06)T

b. The trust fund of a plan not in existence as of July 1, 2006, must continuously maintain reserves, pursuant to Section 41-4110, Idaho Code, from inception of the plan, that are sufficient to fully fund payment of all benefits at the time a claim thereunder arises. This reserve must adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any. (7-1-06)T

~~***02. Reserves for Disability Income Benefits**. Reserves established for disability income benefits shall be in an amount not less than reserves determined by the Minimum Reserve Standards for Group Health Insurance Contracts set forth the in the NAIC's Accounting Practices and Procedures Manual as adopted by the director, unless it can be proven to the satisfaction of the director that a lower reserve can be actuarially justified. (7-1-06)T***~~

0~~3~~2. Certification by Actuary. Reserves must be certified annually by an actuary who meets the requirements of Section 41-4105(2)(d), Idaho Code, and such certification must be accompanied by a statement describing bases used in reserve determination. The certification shall be in a form acceptable to the director. (7-1-06)T

0~~4~~3. Insolvent Condition. (7-1-06)T

a. For a self-funded plan in existence as of July 1, 2006, three (3) years after the effective date of Chapter 41, if the determination of reserves reveals an insolvent condition, the director may, in his discretion, allow the plan a period of time not exceeding ninety (90) days to accumulate required reserves. (7-1-06)T

b. For plans formed after July 1, 2006. if the determination of reserves reveals an insolvent condition, the director may, in his discretion, allow the plan a period of time not exceeding ninety (90) days to accumulate required reserves. (7-1-06)T

0~~5~~4. Insolvency. Insolvency means that the plan is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities, including required reserves. (7-1-06)T

027. BONDING OR DISHONESTY INSURANCE.

01. Certified Copy of Bond. A certified copy of the fidelity bond or ~~*equivalent coverage*~~ *dishonesty policy*, as required under Section 41-4114(3), Idaho Code, shall be furnished to the director by the plan. ~~*(7-1-06)T*~~(7-1-06)T

02. Cancellation of Bond Requirements. The bond *or dishonesty policy* must contain language stating that ~~*it*~~ *the bond or policy* is noncancellable except upon not less than thirty (30) days advance notice in writing to the trustee and the director. A copy of any notice cancelling a bond *or dishonesty policy* required under Chapter 41 is to be forwarded to the director by the surety *or policy provider* at the same time it is forwarded to the ~~*trustee*~~ *board*. ~~*(7-1-06)T*~~(7-1-06)T

028. ANNUAL STATEMENT.
The trustee shall file an annual statement within ninety (90) days after the close of each fiscal year of the plan and at such other time as may be determined by the director. A quarterly statement shall be filed with the director within sixty (60) days of the end of each quarter in a form acceptable to the director. (7-1-06)T

029. SEVERABILITY CLAUSE.
If any provision of this rule, or the application thereof to any person or circumstance, is held invalid, the remainder of the rule, or the applicability of such provision to other persons or circumstances, shall not be affected thereby. (7-1-06)T

030. -- 999. (RESERVED).

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.34 - CERTIFICATE OF LIABILITY INSURANCE FOR MOTOR VEHICLES

DOCKET NO. 18-0134-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 5th, 2006 Idaho Administrative Bulletin, Vol. 06-7, pages 63 through 68.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Gina McBride at (208) 334-4250.

DATED this 2nd day of October, 2006.

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

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 Title 67, Chapter 52, Idaho Code, and Sections 49-1229, 49-1231, and 49-1608A, Idaho Code.

DEPARTMENT OF INSURANCE ***Docket No. 18-0134-0601***
Certificate of Liability Insurance for Motor Vehicles ***PENDING RULE***

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, 2006.

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:

House Bill 653, enacted this year, requires that the Director of the Department of Insurance prescribe a form for proof of liability insurance to be used by motor vehicle dealers. The purpose of this rulemaking is to comply with this requirement. Additional changes to the rule have been made to bring it into conformance with Office of the Administrative Rules Coordinator format and style requirements for rules.

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 rulemaking is needed to comply with changes to governing law made by House Bill 653, which becomes effective July 1, 2006.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the change is needed to comply with a newly enacted law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Shad Priest at (208) 334-4250.

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, 2006.

DATED this 30th of May, 2006.

Shad Priest, Deputy Director
Idaho Department of Insurance
700 W. State St. 3rd Floor
PO Box 83720
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334- 4298

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.
The statutory authority for this rule is Title 67, Chapter 52, ~~*Idaho Code,*~~ and Sections 49-1229, ~~*and*~~ 49-1231, and 49-1608A, Idaho Code. ~~*(7-1-93)*~~(7-1-06)T

001. TITLE AND SCOPE.
~~*Inasmuch as IDAPA 18.01.34, "Certificate of Liability Insurance for Motor Vehicles," was promulgated and became effective August 1, 1983, under the authority of then existing Sections 49-243 and 49-244, Idaho Code, and said Section 49-243 having been repealed by the Idaho legislature (1988 Idaho Sess.Laws, ch.265, sec. 3, p. 571) and Section 49-244 having been amended and redesignated by the Idaho Legislature (1988 Idaho Sess.Laws, ch. 265, sec. 319, p. 738) to its present codification at Section 49-1231, Idaho Code, the Director of the Idaho Department of Insurance deems it advisable to modify and restate this rule to conform to the recent amendments to the statutory framework. The purpose of this rule is to supplement the provisions of Sections 49-1229 and 49-1231, Idaho Code, pertaining to a form for a certificate of liability insurance to be prescribed by the Director of the Department of Insurance; to provide that a currently valid original contract, or a copy thereof, of insurance which demonstrates the existence of current liability insurance coverage against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance or use of a motor vehicle or motor vehicles described thereon in an amount not less than that required by Sections 49-117(16) and 49-1229(1), Idaho Code, and also demonstrates the current existence of any other coverage required by Title 41, Idaho Code, qualifies as a certificate of liability insurance in a form prescribed by the Director of the Department of Insurance; to provide minimum specifications of other documents which will be deemed to qualify as a certificate of liability insurance in a form prescribed by the Director of the Department of Insurance; to provide minimum specifications of other documents which will be deemed to qualify as a certificate of liability insurance in a form prescribed by the Director of the Department of Insurance in lieu of the insurance contract or a copy thereof; to provide an example of a form of a certificate of liability insurance, which is not exclusive, but which shall demonstrate the format of a certificate of liability insurance which will qualify as a form prescribed by the Director of the Department of Insurance; to provide that forms for certificate of liability insurance in lieu of the insurance contract or a copy thereof which deviate from the example of the form of a certificate of liability insurance provided in this rule will also be deemed to be a form prescribed by the Director of the Department of Insurance provided that such forms meet the minimum qualifications of this rule; to provide a form for a certificate of liability insurance which may be issued by the Director of the Department of Insurance pursuant*~~

~~to Idaho Code Sections 49-1229(2) and 49-1231; to provide for the separability of this rule; and to provide for an effective date.~~ ~~(7-1-93)~~

01. **Title**. These rules shall be cited as IDAPA 18.01.34, "Certificate of Liability Insurance for Motor Vehicles". (7-1-06)T

02. **Scope**. These rules identify requirements for a certificate of liability insurance for motor vehicles pursuant to Sections 49-1229, 49-1331 and 49-1608A, Idaho Code. (7-1-06)T

002. WRITTEN INTERPRETATIONS.
This agency does not rely on written interpretations for these rules. (7-1-06)T

003. ADMINISTRATIVE APPEALS.
All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (7-1-06)T

004. INCORPORATION BY REFERENCE.
There are no documents incorporated by reference. (7-1-06)T

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

01. **Office Hours**. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. (7-1-06)T

02. **Mailing Address**. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (7-1-06)T

03. **Street Address**. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. (7-1-06)T

006. PUBLIC RECORDS ACT COMPLIANCE.
Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho. (7-1-06)T

00~~2~~7. -- 010. (RESERVED).

011. CONTRACT OF INSURANCE, OR COPY THEREOF -- CERTIFICATE OF LIABILITY INSURANCE.
The original contract of liability insurance, or copy thereof, which demonstrates the current existence of liability insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance or use of a motor vehicle or motor vehicles described therein in an amount not less than that required by Sections 49-117(18), ~~and~~ 49-1212, and 49-1608A, Idaho Code, and also demonstrates the current existence of any other coverage required by Title 41, Idaho Code, is a form of a certificate of liability insurance prescribed as such by the Director of the Department of Insurance, provided said contract of liability insurance is issued by an insurer or surety authorized to do business in this state. For the purpose of this rule a written binder qualifies as a contract of liability insurance provided that it binds coverage in an amount not less

than that required by Section 49-117(18), Idaho Code, and demonstrates the existence of any other coverage required by this rule, and provides further that the binder is not valid beyond issuance of the policy with respect to which it was given or beyond ninety (90) days from its effective date, whichever period is shorter. ~~(7-1-93)~~(7-1-06)T

012. MINIMUM SPECIFICATIONS FOR A CERTIFICATE OF LIABILITY INSURANCE IN LIEU OF THE CONTRACT OF INSURANCE, OR COPY THEREOF. A document, which meets the minimum specifications provided in this rule, is deemed to be a certificate of liability insurance in a form prescribed by the Director of the Department of Insurance which is acceptable in lieu of an original contract of liability insurance or copy thereof, demonstrating the current existence of liability insurance as ~~*heretofore*~~ described in Section 011 of this rule. The minimum requirement of a document which will be deemed a certificate of liability insurance in lieu of the original contract of liability insurance, or copy thereof, are as follows: ~~(7-1-93)~~(7-1-06)T

01. Individual-Owned Motor Vehicles. (7-1-06)T

~~*01*~~**a. Name of Insurer**. The document shall contain the name of the insurer or surety company authorized to do business in this state. (7-1-93)

~~*02*~~**b. Name and Address of Motor Vehicle Owner**. The document shall set forth the name and address of the owner of the motor vehicle that is insured. (7-1-93)

~~*03*~~**c. Description of Motor Vehicles**. The document shall set forth a description of the motor vehicle including identification number, if there be one, or in lieu of the identification number, the last three digits of the identification number which is commonly known in the insurance industry as the VIN (Vehicle Identification Number), if there be one vehicle, or in lieu of the vehicle identification number, the words "all owned vehicles" may be used if more than one vehicle is insured. (7-1-93)

~~*04*~~**d. Effective Date**. The document shall set forth the effective date the liability insurance coverage commences. (7-1-93)

~~*05*~~**e. Title of Document**. The document may, but is not required to be entitled "Certificate of Liability Insurance" or "Liability Insurance Identification Card". The words "State of Idaho" may be added to the title at the insurer's option, but the words "State of Idaho" are not required. (7-1-93)

~~*06*~~**f. Date Coverage Ceases**. The document may set forth the date the liability insurance coverage ceases, or in lieu thereof and at the insurer's option, the document may state "not valid beyond _____", provided that the phrase is completed to indicate termination of coverage at the end of a fixed period, or "not valid for more than one year," or "continuous until cancelled". (7-1-93)

~~*07*~~**g. Policy Number**. The number of the insurance policy or the document is suggested, but is nevertheless optional and need not be placed on the document. (7-1-93)

~~*08*~~**h. Suggested Language**. The sentence "KEEP THIS CERTIFICATE IN YOUR

AUTOMOBILE AT ALL TIMES" is suggested, but nevertheless is optional and need not be placed on the document. (7-1-93)

02. Dealer and Manufacturer Vehicles. (7-1-06)T

a. Name of Insurer. The document shall contain the name of the insurer or surety company authorized to do business in this state. (7-1-06)T

b. Name and Address of Dealer or Manufacturer. The document shall set forth the name and address of the dealership and identify the owner(s) (name of dealer, partners, corporation or LLC members) of the motor vehicle that is insured. (7-1-06)T

c. Effective Date. The document shall set forth the effective date the liability insurance coverage commences. (7-1-06)T

d. Title of Document. The document may, but is not required to be entitled "Certificate of Liability Insurance" or "Liability Insurance Identification Card". The words "State of Idaho" may be added to the title at the insurer's option, but the words "State of Idaho" are not required. (7-1-06)T

e. Date Coverage Ceases. The document may set forth the date the liability insurance coverage ceases, or in lieu thereof and at the insurer's option, the document may state "not valid beyond ", provided that the phrase is completed to indicate termination of coverage at the end of a fixed period, or "not valid for more than one year," or "continuous until cancelled". (7-1-06)T

f. Policy Number. The number of the insurance policy or the document is suggested, but is nevertheless optional and need not be placed on the document. (7-1-06)T

013. EXAMPLE OF A NONEXCLUSIVE FORMAT FOR A DOCUMENT WHICH MEETS THE REQUIREMENTS OF A CERTIFICATE OF LIABILITY INSURANCE IN A FORM PRESCRIBED BY THE DIRECTOR OF THE DEPARTMENT OF INSURANCE.

01. Exhibit A. ~~*Appendix*~~ Exhibit "A" to this rule is a format for a document which meets the requirements of a certificate of liability insurance as required by Section 49-1231, Idaho Code, in a form prescribed by the Director of the Department of Insurance; provided, however, that the following form is not exclusive, and other formats for documents which meet the minimum specifications provided in Section ~~*004*~~ 012 of this rule are also deemed to qualify as a certificate of liability insurance in a form prescribed by the Director of the Department of Insurance. ~~*(7-1-93)*~~(7-1-06)T

02. Exhibit B. Exhibit "B" to this rule is a format for a document which meets the requirements of a certificate of liability insurance for dealers and vehicle manufacturers as required by Section 49-1608A, Idaho Code, in a form prescribed by the Director of the Department of Insurance; provided, however, that the following form is not exclusive, and other formats for documents which meet the minimum specifications provided in Section 012 of this rule are also deemed to qualify as a certificate of liability insurance in a form prescribed by the

Director of the Department of Insurance. (7-1-06)T

014. EXAMPLE OF CERTIFICATE OF LIABILITY INSURANCE TO BE ISSUED BY THE DIRECTOR OF THE DEPARTMENT OF INSURANCE.
The Director of the Department of Insurance will issue a certificate of liability insurance to the owner(s) of a motor vehicle who posts an indemnity bond in a form approved by the Director of the Department of Insurance, pursuant to Section 49-1229(2), Idaho Code in an amount of not less than fifty thousand dollars ($50,000) for any one (1) accident of which fifteen thousand dollars ($15,000) shall be for property damage for each vehicle registered up to a maximum of one hundred twenty thousand dollars ($120,000) for five (5) or more vehicles. Exhibit "~~B~~C" to this rule reflects the format for a certificate of liability insurance to be issued by the Director of the Department of Insurance when an indemnity bond is posted with the Department pursuant to Section 49-1229(2), Idaho Code, in lieu of purchasing a policy of insurance. ~~(7-1-93)~~(7-1-06)T

(BREAK IN CONTINUITY OF SECTIONS)

EXHIBIT "B"
DEPARTMENTAL RULE NO. 34
CERTIFICATE OF LIABILITY INSURANCE

DEALER AND VEHICLE MANUFACTURER

TO BE COMPLETED BY INSURANCE COMPANY LICENSED TO DO BUSINESS IN THE STATE OF IDAHO

EFFECTIVE DATE	EXPIRATION DATE	INSURANCE COMPANY NAME (NOT AGENT)

INSURANCE COMPANY ADDRESS	CITY	STATE	ZIP CODE

THIS POLICY IS ISSUED TO (NAME OF DEALER, PARTNERS, CORPORATION OR LLC NAME.)

BUSINESS NAME OF DEALER/MANUFACTURER: _____

BUSINESS ADDRESS _____

DEALER NUMBER _____

CERTIFY THAT THE FOLLOWING IS TRUE AND CORRECT
The above described policy has been issued and provides limits of coverage required under Section 49-1608A, Idaho Code; covers all vehicles manufactured, owned, operated, used or maintained by, or under the control of the named insured; covers all persons who, with the consent of the named insured, use or operate vehicles manufactured, owned or maintained by, or under the control of, the named insured.

PRINTED NAME OF INSURER'S AUTHORIZED REPRESENTATIVE	TELEPHONE NO.	DATE

SIGNATURE OF INSURER'S AUTHORIZED REPRESENTATIVE INSURER'S STAMP OR SEAL

EX*HIBIT "~~B~~C"*
DEPARTMENTAL RULE NO. 34
***CERTIFICATE OF LI*ABILITY INSURANCE**

(Name and Address of Owner(s) of Registered Motor Vehicles):

(Name) (Address)

(Name) (Address)

(Name) (Address)

The above-named owner(s) of the following described motor vehicle(s) with identification number(s):

_____

_____

in lieu of obtaining a policy of liability insurance has posted bond pursuant to Section 49-1229(2), Idaho Code, in a form approved by the Director of the Department of Insurance:

(Surety) _____

Bond No. _____

Bond Amount _____

Effective Date: _____

Expiration Date: _____

DATED this _____ day of _____, 20.

(SEAL)

Director,

Department of Insurance

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.56 - REBATES AND ILLEGAL INDUCEMENTS TO OBTAINING TITLE INSURANCE BUSINESS

DOCKET NO. 18-0156-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Vol. 06-8, pages 21 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: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dale Freeman at (208) 334-4250.

DATED this 2nd day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 41, Chapters 2 and 27, 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, August 16, 2006.

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 increases dollar limitations for expenditures by title insurance industry members on donations, promotional advertising, and business entertainment involving producers of title insurance business. The adjustments reflect changes in prices in the more than 12 years since the amounts were last set. Additional changes to the rule are made to clarify participation in trade association events and to conform to the Office of Administrative Rules style and formatting rules.

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 fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes were made in consultation with representatives of the affected industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dale Freeman at (208) 334-4250.

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 23, 2006.

DATED this 28th day of June, 2006.

Shad Priest, Acting Director
Idaho Department of Insurance
700 West State St., 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 18.01.56, "Rebates and Illegal Inducements to Obtaining Title Insurance Business Rules." ( )

02. Application of Rule. The provisions of this Rule shall apply to all title insurers and title insurance agents. This Rule does not limit the Director's authority to determine that other title insurance trade practices constitute violations of Idaho Code Sections 41-2708(3) and 41-1314. ( )

03. Purpose. The purpose of this Rule is to define certain fair trade practice standards for title insurance, the violation of which will constitute rebates and/or illegal inducements prohibited by Idaho Code, Sections 41-2708(3) and 41-1314. The Department of Insurance regulates the title insurance industry. It does not regulate producers of title business. Rule 18.01.56, "Rebates and Illegal Inducements to Obtaining Title Insurance Business," will interpret the anti-rebate and anti-illegal inducement statutes as applicable to the title insurance industry. This Rule has been thoroughly researched and is based in part on the rules of Idaho's neighbor states. In addition, written and oral comments and recommendations about the rule as well as testimony provided at five hearings conducted across the state have been carefully reviewed and have contributed to the provisions of IDAPA 18.01.56, "Rebates and Illegal Inducements to Obtaining Title Insurance Business". This Rule is intended to interpret broad anti-rebate and anti-illegal inducement statutes. The Rule was drafted after representatives of the title industry and producers of title business industries advised the Department that there was an accumulation of past and present abuses that had previously gone unreported. These entities asked the Department to step in and help rectify the situation and suggested in part that the establishment of guidelines as to what is an inducement and what is an illegal inducement would help stop past and present abuses and curtail future abuses. The guidelines can be referred to in the title entity's day to day business in interpreting what is an inducement and what is an illegal inducement. This guideline will also help the Department in its efforts to enforce the anti-rebate and anti-illegal inducement statutes. At no time has the Department of Insurance or its representatives stated that the standard practice of the title industry is to give collateral benefits and that the standard practice of the industries of producers of title business are to receive collateral benefits. The Department of Insurance recognizes as an undisputed fact that a producer of title business in most instances is involved with the consumer in assisting the consumer in the selection of a title company for title insurance services. The Department of Insurance also recognizes that abuses in the intricacies of this selection have occurred and do occur, and the occurrence of abuses is specifically acknowledged by the title industry and the Idaho Land Title Association. The Department of Insurance has taken and will continue to take action to reported violations. The Department's goal is to assure that the selection of a title company is made on the basis of the title company's ability to provide economy, promptness, accuracy and efficiency in its service. The elimination of "collateral benefits" with the interpretive guidance of IDAPA 18.01.56, "Rebates and Illegal Inducements to Obtaining Title Insurance Business," will help in accomplishing this goal -- a goal that establishes a uniform set of rules for all title entities and which ultimately benefits the consumer. ~~*(7-1-93)*~~( )

~~***002. -- 003. (RESERVED).***~~

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(1v), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying in accordance with the public records act. ( )

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". ( )

004. ~~*APPLICABILITY*~~ INCORPORATION BY REFERENCE.
~~*The provisions of this Rule shall apply to all title insurers and title insurance agents. This Rule does not limit the Director's authority to determine that other title insurance trade practices constitute violations of Idaho Code, Sections 41-2708(3) and 41-1314.*~~ No documents have been incorporated by reference into these rules. ~~*(7-1-93)*~~( )

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

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, ID 83720-0043. ( )

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

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

007. -- 009. (RESERVED).

0~~*05*~~10. 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)

~~***006. -- 010. (RESERVED).***~~

011. PROHIBITED THINGS OF VALUE.
A title entity shall not provide things of value to a producer of title business, consumer or member of the general public except as permitted in Sections 012, 013, 014, and 015 of this ~~*rule*~~ chapter. If a providing of things of value does not clearly fit into the above four Rules, then it is a prohibited act. Exhibit 1, attached hereto, is a partial, but not all -inclusive, list of acts and practices which are considered illegal inducements prohibited by Title 41, Idaho Code (the Idaho Insurance Code). ~~*(7-1-93)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

013. PERMITTED ADVERTISING WITH TRADE ASSOCIATIONS.

01. Advertisements. No advertisement may be placed in a publication that is published or distributed by, or on behalf of, a producer of title business. Advertising in a trade

association publication is only permitted if the publication is an official publication of the trade association with at least regular quarterly publications. The publications must be nonexclusive (any title entity must have an equal opportunity to advertise in the publication and at a standard rate). The title entity's ad must be purely self-promotional. (4-26-95)

02. Donations. A title entity is permitted to donate time to serve on a trade association committee and may also serve as an officer or director for the trade association. A title entity may also donate, contribute or otherwise sponsor a trade association event if the event is a recognized association event that generally benefits all members and affiliated members in an equal manner. The donation cannot benefit selected producer of title business members of the association unless through random process. Solicitation for the donation must be made of all members and affiliated members in an equal manner. Donations are per agent license or insurer and are limited to a cumulative donation value of two thousand dollars ($2,000) or equivalent things of value collectively to all trade associations per year. In addition, a title entity is allowed to participate in or attend trade association events as long as the title entity pays a fee commensurate with fees paid by other participants in the events. These events include, but are not limited to, conventions, award banquets, symposiums, breakfasts, lunches, dinners, open houses, sporting activities and all other similar activities. ~~(4-26-95)~~(____)

014. PERMITTED SELF-PROMOTIONAL ADVERTISING.

01. Self-Promotional Items. A title entity may distribute self-promotional items having an acquisition value of less than ~~five~~ ten dollars ($~~5~~10) to producers of title business, consumers, and members of the general public. These self-promotional items are limited to novelty gifts, advertising novelties, and generic business forms and specifically do not include food or beverages. ~~A generic business form is a title insurance or escrow related form of common usage. This form shall not contain the name of a producer of title business. A title entity shall only distribute novelty gifts, advertising novelties, or generic business forms in the regular course of business. Distribution may be by hand or by regular messenger service and may be mailed if the recipient is out of the title entity's county.~~ A recipient of a novelty gift or advertising novelty shall not receive gifts or advertising novelties in excess of ~~five~~ ten dollars ($~~5~~10) of cumulative value per month and no more than fifty dollars ($50) of cumulative value of gifts or advertising novelties per year. ~~A recipient of generic business forms shall not receive more than fifty (50) business forms per month and no more than twenty-five dollars ($25) of cumulative value of forms per year.~~ A title entity shall also not give novelty gifts, advertising novelties or generic business forms to producers of title business, consumers, members of the general public, or trade associations for redistribution by these entities. ~~(4-26-95)~~(____)

02. Self-Promotional Functions. Self-promotional functions ~~are only permitted on the premises of the title entity, and~~ are limited to the following ~~three~~ two (~~3~~2) types of functions: ~~(4-26-95)~~(____)

a. Educational programs - a title entity is permitted to conduct educational programs. ~~The instructor for the educational program must be a full time employee of the title entity.~~ The education programs are limited to education solely regarding title and escrow. A title entity is permitted to expend no more than ~~two~~ ten dollars ($~~2~~10) per person at an educational program. For purposes of determining the maximum permitted expenditure, all costs associated with the delivery of the educational program shall be considered, including but not limited to, costs paid

by the entity for travel, refreshments, instructor or speaking fees and facility rental. A title entity may participate in or make presentations at educational programs which are conducted or presented by other entities. The title entity is not permitted to expend any money to sponsor or cosponsor these programs, unless the educational program is a trade association event in which case Subsection 013.02 of this chapter will apply. ~~(4-26-95)~~(____)

~~**b.** *Self-promotional programs - a title entity is permitted to conduct self-promotional programs only for title insurance or escrow related matters. A title entity must not expend more than two dollars ($2) per person at a self-promotional program.* (4-26-95)~~

~~**c**~~**b.** Open houses - a title entity is permitted to have two (2) open houses per year. An open house shall be a self-promotional function at the title entity's owned or occupied facility (i.e. ~~*g.*~~ a Christmas party or any party, an open house for remodeling of its facility, an open house for a new building to become the title entity's facility). It shall be nonexclusive (an open invitation to all producers of title business is required). A title entity must not expend more than ~~*seven*~~ fifteen dollars ~~*and fifty cents*~~ ($~~*7.50*~~15) per guest per open house. A title entity cannot combine permitted expenditures for two (2) open houses to be used for one (1) open house. A title entity also cannot accumulate left over or unused expenditures from one (1) open house and use those expenditures for a second open house. ~~(4-26-95)~~(____)

015. PERMITTED BUSINESS ENTERTAINMENT.
A title entity may entertain a producer of title business ~~*in a single day*~~ with ~~*a choice of*~~ meals and/or ~~*events not to*~~ entertainment functions provided the expenditure per person entertained does not exceed ~~*fifty*~~ one hundred dollars ($~~*5*~~100) ~~*expense*~~ per individual per day according to the following guidelines: ~~(4-26-95)~~(____)

01. Meals and Events. A title entity ~~*may entertain no more than four (4) persons from an office of one (1) producer of title business in a single day. This entertainment function may take place on or off the title entity's premises, but is restricted to one (1) meal per day for each of the four (4) persons from one (1) office. Business meals shall include all meals and/or drinks, including but not limited to breakfast, brunch, lunch, dinner, cocktails. A title entity shall not expend more than fifty dollars ($50) per person for a meal. Also, no more than ten dollars ($10) total transportation cost from the client's place of business shall be expended. It must be emphasized that no more than four (4) persons from an office of one (1) producer of title business can be entertained by a title entity in any one (1) day and only for a choice of one (1) business meal*~~ shall not expend more than one hundred dollars ($100) per person per day for all meals and/or events. Meals and events shall include, but not be limited to, breakfast, brunch, lunch, dinner, cocktails, sporting events, sporting activities, trips and music and art events. These meals or events may occur on or off the title entity's premises. In addition, a title entity may entertain no more than four (4) persons who are employed by or agents of any single producer of title business in a single day. Spouses and/or guests of the producers of title business or employees or agents thereof shall be included in the count for purposes of determining the four (4) person maximum. In addition, a person may not be entertained by a title entity more than three (3) days during any ten (10) day period of time. For purposes of determining the maximum permitted expenditure, all costs associated with any meals or events shall be considered. This shall include, but not be limited to, costs paid by the title entity for travel, transportation, hotel, equipment or facility rental, meals, cocktails, refreshments, registration or entry fees and event tickets. Entertainment permitted under this rule may not be conditional upon or compensation for forwarding or

directing title business to the title entity. ~~(4-26-95)~~(____)

~~**02. Events**. A title entity may entertain no more than four (4) persons from an office of any producer of title business in a single day. This entertainment function may take place on or off the title entity's premises, but is restricted to one (1) event per day for each of the four (4) persons from one (1) office. An event shall include, but not be limited to, sporting events, sporting activities, and music and art events. The dollar limitation on event expenditures is limited to the admission price or fee to participate in the event, but shall not exceed fifty dollars ($50) per person. Also, no more than ten dollars ($10) total transportation costs from the client's place of business shall be expended. It must be emphasized that no more than four (4) persons from an office of one (1) producer of title business can be entertained by a title entity in any one (1) day and only for a choice of one event.~~ ~~(4-26-95)~~

(BREAK IN CONTINUITY OF SECTIONS)

018. PENALTY.
This Section shall emphasize and restate the general penalties authorized pursuant to Title 41, Idaho Code, (the Idaho Insurance Code) for violations of the anti-rebate and anti-illegal inducement laws. (7-1-93)

01. Section 41-2708(3), Idaho Code. Section 41-2708(3) provides that each person and entity giving or receiving a rebate, illegal inducement, or a reduction in rate shall be liable for three (3) times the amount of such rebate, illegal inducement, or reduced rate. In addition to this penalty, a title entity may also be subject to an administrative penalty as outlined below. (7-1-93)

02. Section 41-327, Idaho Code. Section 41-327 provides that the Director may impose an administrative penalty not to exceed five thousand dollars ($5,000) and/or suspend or revoke an insurer's certificate of authority if the Director finds, after a hearing thereon, that the insurer has either violated or failed to comply with the Insurance Code. (7-1-93)

03. Section 41-10~~77~~16, Idaho Code. Section 41-10~~77~~16 provides that the Director may impose an administrative penalty not to exceed one thousand dollars ($1,000) and/or suspend or revoke an agent's license if the Director finds, after a hearing thereon, that the agent has either violated or failed to comply with the Insurance Code. ~~(7-1-93)~~(____)

EXHIB~~I~~T 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 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. ~~*A letter or card in these instances will not be interpreted as providing a thing of value.*~~

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.

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.

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.60 - LONG-TERM CARE INSURANCE MINIMUM STANDARDS

DOCKET NO. 18-0160-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 56-1305, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the November 1, 2006 Idaho Administrative Bulletin, Vol. 6-11, pages 80 through 116.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joan Krosch at (208) 334-4300.

DATED this 30th day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 1, 2007.

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 41-211 and 56-1305, 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 22, 2006.

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 rule is being amended to implement the Long Term Care Partnership Program provided for at Chapter 13, Title 56, Idaho Code. Chapter 13 became effective upon repeal of restrictions to asset protection contained in the omnibus budget reconciliation act of 1993. The restrictions were repealed by the passage of the federal Deficit Reduction Act of 2005. The proposed changes incorporate the latest changes to the model Long Term Care Minimum Standards Rule adopted by the National Association of Insurance Commissioners and are intended to make Idaho's rule consistent with the standards most likely to be adopted by other states.

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: Compliance with changes to governing law.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: The rule does not impose a fee.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes made by this rulemaking were needed to implement the Long Term Care Partnership Program, Chapter 13, Title 56, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joan Krosch, 208-334-4300.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 23, 2006.

DATED this 6th day of October, 2006.

Shad Priest, Acting Director
Idaho Department of Insurance
700 West State Street, 3rd Floor, Boise, Idaho 83720-0043
Phone: (208) 334-4250 / Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

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 the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying at cost in the main office~~ *and each regional or district office of this agency*~~. ~~*(4-5-00)*~~(11-1-06)T

003. ADMINISTRATIVE APPEALS.
~~*There is no appeal to the Attorney General from application of this Rule. All such appeals must be instituted by written demand for a hearing before the Director of Insurance, Section 41-232, Idaho Code. Further appeal from the Director's decision can be taken to district court, pursuant to Section 67-5270, Idaho Code.*~~ 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," Sections 000 through 099, General Provisions. ~~*(4-5-00)*~~(11-1-06)T

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

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5pm. Except Saturday. Sunday and legal holidays. (11-1-06)T

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (11-1-06)T

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83720-0043. (11-1-06)T

04. Web Site Address. The department's web address is http:\\www.doi.idaho.gov. (11-1-06)T

005. PUBLIC RECORDS ACT COMPLIANCE.
Any records associated with these rules are subject to the provision of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (11-1-06)T

006. -- 009. (RESERVED).

0~~04~~10. DEFINITIONS.
For the purpose of this rule, no long-term care insurance policy delivered or issued for delivery in this state shall use the terms set forth below, unless the terms are defined in the policy. In relation to the Qualified Long-Term Care plans, such definitions must satisfy definitions as amended by the U.S. Treasury Department and the following requirements: (4-5-00)

01. Activities of Daily Living. At least bathing, continence, dressing, eating, toileting, and transferring. (4-5-00)

02. Acute Condition. The individual is medically unstable. Such an individual requires frequent monitoring by medical professionals, such as physicians and registered nurses, in order to maintain his health status. (4-5-00)

03. Adult Day Care. A program for six (6) or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the home. (4-5-00)

04. Bathing. Washing oneself by sponge bath; or in either a tub or shower, including the task of getting into or out of the tub or shower. (4-5-00)

05. Cognitive Impairment. A deficiency in a person's short or long-term memory, orientation as to person, place and time, deductive or abstract reasoning, or judgment as it relates to safety awareness. (4-5-00)

06. Continence. The ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag). (4-5-00)

07. Dressing. Putting on and taking off all items of clothing and any necessary braces, fasteners, or artificial limbs. (4-5-00)

08. Eating. Feeding oneself by getting food into the body from a receptacle (such as a plate, cup, or table) or by a feeding tube or intravenously. (4-5-00)

09. Exceptional Increase. Means only those increases filed by an insurer as exceptional for which the director determines the need for the premium rate increase is justified due to changes in Idaho laws or rules applicable to long-term care coverage, or due to increased and unexpected utilization that affects the majority of insurers of similar products. (3-30-01)

a. Except as provided in Section 02~~0~~5, Premium Rate Schedule Increases, exceptional increases are subject to the same requirements as other premium rate schedule increases. ~~(3-30-01)~~(11-1-06)T

b. The director may request a review by an independent actuary or a professional actuarial body of the basis for a request that an increase be considered an exceptional increase. (3-30-01)

c. The director, in determining that the necessary basis for an exceptional increase exists, shall also determine any potential offsets to higher claims costs. (3-30-01)

10. Hands-On Assistance. Physical assistance (minimal, moderate, or maximal) without which the individual would not be able to perform the activity of daily living. (4-5-00)

11. Home Health Care Services. Medical and non-medical services, provided to ill,

disabled, or infirm persons in their residences. Such services may include homemaker services, assistance with activities of daily living, and respite care services. (4-5-00)

12. Incidental. As used in Subsection 02~~0~~5.10, the value of the long-term care benefits provided is less than ten percent (10%) of the total value of the benefits provided over the life of the policy. These values shall be measured as of the date of issue. ~~(3-30-01)~~(11-1-06)T

13. Medicare. "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import. (4-5-00)

14. Mental or Nervous Disorder. Shall not be defined to include more than neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder. (4-5-00)

15. Personal Care. The provision of hands-on services to assist an individual with activities of daily living. (4-5-00)

16. Qualified Actuary. Means a member in gooding standing of the American Academy of Actuaries.

(3-30-01)

17. Similar Policy Forms. Means all of the long-term care insurance policies and certificates issued by an insurer in the same long-term care benefit classification as the policy form being considered. Certificates of groups that meet the definition in Section 41-4603(4)(a), Idaho Code, are not considered similar to certificates or policies otherwise issued as long-term care insurance, but are similar to other comparable certificates with the same long-term care benefit classifications. For purposes of determining similar policy forms, long-term care benefit classifications are defined as follows: (3-30-01)

a. Institutional long-term care benefits only; (3-30-01)

b. Non-institutional long-term care benefits only; or (3-30-01)

c. Comprehensive long-term care benefits. (3-30-01)

18. Skilled Nursing Care, ~~Intermediate Care,~~ Personal Care, Home Care, Specialized Care, Assisted Living Care and Other Services. Skilled Nursing Care, Personal Care, Home Care, Specialized Care, Assisted Living Care and other services shall be ~~D~~defined in relation to the level of skill required, the nature of the care and the setting in which care must be delivered. ~~(4-5-00)~~(11-1-06)T

19. Toileting. Getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene. (4-5-00)

20. Transferring. Moving into or out of a bed, chair, or wheelchair. (4-5-00)

21. All Providers of Services. All providers of services including but not limited to Skilled Nursing Facility, Extended Care Facility, ~~*Intermediate Care Facility,*~~ Convalescent Nursing Home, Personal Care Facility, Specialized Care Providers, Assisted Living Facility, and Home Care Agency~~. *Such services*~~ shall be defined in relation to the services and facilities required to be available and the licensure, certification, registration or degree status of those providing or supervising the services. When the definition ~~*may*~~ requires that the provider be appropriately licensed, ~~*or*~~ certified or registered, it shall also state what requirements a provider must meet in lieu of licensure, certification or registration when the state in which the service is to be furnished does not require a provider of these services to be licensed, certified or registered, or when the state licenses, certifies or registers the provider of services under another name.
~~*(4-5-00)*~~(11-1-06)T

0~~*05*~~11. POLICY PRACTICES AND PROVISIONS.

01. Renewability. The terms "guaranteed renewable" and "noncancellable" shall not be used in any individual long-term care insurance policy without further explanatory language in accordance with the disclosure requirements of Section 0~~*09*~~14 of this rule. ~~*(4-5-00)*~~(11-1-06)T

a. A policy issued to an individual shall not contain renewal provisions other than "guaranteed renewable" or "noncancellable." (4-5-00)

b. The term "guaranteed renewable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis. (4-5-00)

c. The term "noncancellable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally make any change in any provision of the insurance or in the premium rate. (4-5-00)

d. The term "level premium" may only be used when the insurer does not have the right to change the premium for a specified period for the life of the policy. (3-30-01)

e. In addition to the other requirements of Subsection 0~~*05*~~11.01, a qualified long-term care insurance contract shall be guaranteed renewable, within the meaning of Section 7702B(b)(1)(C) of the Internal Revenue Code of 1986 as amended. ~~*(4-5-00)*~~(11-1-06)T

02. Limitations and Exclusions. A policy may not be delivered or issued for delivery in this state as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows: (4-5-00)

a. Preexisting conditions or diseases; (4-5-00)

b. Mental or nervous disorders; however, this shall not permit exclusion or limitation of benefits on the basis of Alzheimer's Disease; (4-5-00)

c. Alcoholism and drug addiction; (4-5-00)

d. Illness, treatment, or medical condition arising out of: (4-5-00)

i. War or act of war (whether declared or undeclared); (4-5-00)

ii. Participation in a felony, riot, or insurrection; (4-5-00)

iii. Service in the armed forces or units auxiliary thereto; (4-5-00)

iv. Suicide (sane or insane), attempted suicide, or intentionally self-inflicted injury; or (4-5-00)

v. Aviation (this exclusion applies only to non-fare-paying passengers). (4-5-00)

e. Treatment provided in a government facility (unless otherwise required by law), services for which benefits are available under Medicare or other governmental program (except Medicaid), any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law, services provided by a member of the covered person's immediate family, and services for which no charge is normally made in the absence of insurance; (4-5-00)

f. Expenses for services or items available or paid under another long-term care insurance or health insurance policy; or (4-5-00)

g. In the case of a qualified long-term care insurance contract, expenses for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount. (4-5-00)

h. Subsection 0~~05~~11.02 is not intended to prohibit exclusions and limitations by type of provider ~~*or territorial limitations*~~. However, no long term care issuer may deny a claim because services are provided in a state other than the state of policy issue under the following conditions: ~~*(4-5-00)*~~(11-1-06)T

i. When the state other than the state of policy issue does not have the provider licensing, certification or registration required in the policy, but where the provider satisfies the policy requirements outlined for providers in lieu of licensure, certification or registration; or (11-1-06)T

ii When the state other than the state of policy issue licenses, certifies or registers the provider under another name. For purposes of this Subsection 011.02.h. "state of policy issue" means the state in which the individual policy or certificate was originally issued. (11-1-06)T

iii. Subsection 011.02 is not intended to prohibit territorial limitations. (11-1-06)T

03. Extension of Benefits. Termination of long-term care insurance shall be without prejudice to any benefits payable for institutionalization if the institutionalization began while the

long-term care insurance was in force and continues without interruption after termination. The extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy. (4-5-00)

04. Continuation or Conversion. (4-5-00)

a. Group long-term care insurance issued in this state on or after the effective date of Section 0~~05~~11 shall provide covered individuals with a basis for continuation or conversion of coverage. ~~(4-5-00)~~(11-1-06)T

b. For the purposes of Section 0~~05~~11, "a basis for continuation of coverage" means a policy provision that maintains coverage under the existing group policy when the coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. Group policies that restrict provision of benefits and services to, or contain incentives to use certain providers or facilities, may provide continuation benefits that are substantially equivalent to the benefits of the existing group policy. The director shall make a determination as to the substantial equivalency of benefits, and in doing so, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity. ~~(4-5-00)~~(11-1-06)T

c. For the purposes of Section 0~~05~~11, "a basis for conversion of coverage" means a policy provision that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy (and any group policy which it replaced) for at least six (6) months immediately prior to termination, shall be entitled to the issuance of a converted policy by the insurer under whose group policy he or she is covered, without evidence of insurability. ~~(4-5-00)~~(11-1-06)T

d. For the purposes of Section 0~~05~~11, "converted policy" means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the director to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers or facilities, the director, in making a determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity. ~~(4-5-00)~~(11-1-06)T

e. Written application for the converted policy shall be made and the first premium due, if any, shall be paid as directed by the insurer not later than thirty-one (31) days after termination of coverage under the group policy. The converted policy shall be issued effective on the day following the termination of coverage under the group policy and shall be renewable annually. (4-5-00)

f. Unless the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's

age at inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced. (4-5-00)

g. Continuation of coverage or issuance of a converted policy shall be mandatory, except where: (4-5-00)

i. Termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or (4-5-00)

ii. The terminating coverage is replaced not later than thirty-one (31) days after termination, by group coverage effective on the day following the termination of coverage: (4-5-00)

(1) Providing benefits identical to or benefits determined by the director to be substantially equivalent to or in excess of those provided by the terminating coverage; and (4-5-00)

(2) The premium for which is calculated in a manner consistent with the requirements of Subsection ~~005.06~~ 011.04.f. ~~(4-5-00)~~(11-1-06)T

h. Notwithstanding any other provision of Section 0~~05~~11, a converted policy issued to an individual who at the time of conversion is covered by another long-term care insurance policy that provides benefits on the basis of incurred expenses, may contain a provision that results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than one hundred percent (100%) of incurred expenses. The provision shall only be included in the converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable. ~~(4-5-00)~~(11-1-06)T

i. The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, shall not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect. (4-5-00)

j. Notwithstanding any other provision of Section 0~~05~~11, an insured individual whose eligibility for group long-term care coverage is based upon his relationship to another person shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage. ~~(4-5-00)~~(11-1-06)T

k. For the purposes of Section 0~~05~~11 a "managed-care plan" is a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management or use of specific provider networks. ~~(4-5-00)~~(11-1-06)T

05. Discontinuance and Replacement. If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of

termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy: (4-5-00)

a. Shall not result in an exclusion for preexisting conditions that would have been covered under the group policy being replaced; and (4-5-00)

b. Shall not vary or otherwise depend on the individual's health or disability status, claim experience or use of long-term care services. (4-5-00)

06. Premium Changes. (4-5-00)

a. The premium charged to an insured shall not increase due to either: (4-5-00)

i. The increasing age of the insured at ages beyond sixty-five (65); or (4-5-00)

ii. The duration the insured has been covered under the policy. (4-5-00)

b. The purchase of additional coverage shall not be considered a premium rate increase, but for purposes of the calculation required under Section 0~~25~~32, the portion of the premium attributable to the additional coverage shall be added to and considered part of the initial annual premium. ~~(3-30-01)~~(11-1-06)T

c. A reduction in benefits shall not be considered a premium change, but for purpose of the calculation required under Section 0~~25~~32, the initial annual premium shall be based on the reduced benefits. ~~(3-30-01)~~(11-1-06)T

07. Electronic Enrollment for Group Policies. (4-5-00)

a. In the case of a group defined in Section 41-4603(4)(a), Idaho Code, any requirement that a signature of an insured be obtained by an ~~*agent*~~ producer or insurer shall be deemed satisfied if: ~~(4-5-00)~~(11-1-06)T

i. The consent is obtained by telephonic or electronic enrollment by the group policyholder or insurer. A verification of enrollment information shall be provided to the enrollee; (4-5-00)

ii. The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure the accuracy, retention, and prompt retrieval of records; and (4-5-00)

iii. The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure that the confidentiality of individually identifiable information, "privileged information," is maintained. (4-5-00)

b. The insurer shall make available, upon request of the director, records that will demonstrate the insurer's ability to confirm enrollment and coverage amounts. (4-5-00)

0~~06~~12. INCORPORATION OF DOCUMENTS BY REFERENCE.

01. Forms. An insurer shall use the forms published on the Department of Insurance ~~*Internet Website www.doi.state.id.us, select the link, "Consumer Assistance,"*~~ Homepage http://www.doi.idaho.gov select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60 "Long-Term Care Insurance Minimum Standards," to comply with the disclosure requirements of Subsection 0~~09~~14.10.a. and Subsection 0~~09~~14.10.b., which forms are incorporated herein by this reference. ~~*(3-30-01)*~~(11-1-06)T

~~***02. NAIC Model Regulation for Long-Term Care Insurance Minimum Standards Appendices B, C, and D**. Copies Of NAIC Model Regulation For Long-Term Care Insurance Minimum Standards Appendices B, C, and D can be found at the Idaho Department of Insurance Home page, www.doi.state.id.us, select SHIBA (Senior Health Insurance Benefits Advisors) under the Consumer Assistance link, which appendices are hereby incorporated by reference. To obtain a hard copy of the required illustrations based on the NAIC Model Regulation, contact SHIBA at the Idaho Department of Insurance (208) 334-4250. (3-30-01)*~~

~~***007. (RESERVED).***~~

0~~08~~13. UNINTENTIONAL LAPSE.

01. Notice Before Lapse or Termination. Each insurer offering long-term care insurance shall, as a protection against unintentional lapse, comply with the following: (4-5-00)

a. No individual long-term care policy or certificate shall be issued until the insurer has received from the applicant either a written designation of at least one (1) person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium, or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice. The applicant has the right to designate at least one (1) person who is to receive the notice of termination, in addition to the insured. Designation shall not constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation must provide space clearly designated for listing at least one (1) person. The designation shall include each person's full name and home address. In the case of an applicant who elects not to designate an additional person, the waiver shall state: "Protection against unintended lapse. I understand that I have the right to designate at least one (1) person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until thirty (30) days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice." The insurer shall notify the insured of the right to change this written designation, no less often than once every two (2) years. (4-5-00)

b. When the policyholder or certificate holder pays premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in Subsection 0~~08~~13.01.a. need not be met until sixty (60) days after the policyholder or certificate holder is no longer on such a payment plan. The application or enrollment form for such policies or certificates shall clearly indicate the payment plan selected by the applicant. ~~*(4-5-00)*~~(11-1-06)T

c. Lapse or termination for nonpayment of premium. No individual long-term care policy or certificate shall lapse or be terminated for nonpayment of premium unless the insurer, at

least thirty (30) days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated pursuant to Subsection 0~~08~~13.01.a., at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice shall be given by first class United States mail, postage prepaid; and notice may not be given until thirty (30) days after a premium is due and unpaid. Notice shall be deemed to have been given as of five (5) days after the date of mailing. ~~(4-5-00)~~(11-1-06)T

02. Reinstatement. In addition to the requirement in Subsection 0~~08~~13.01, a long-term care insurance policy or certificate shall include a provision that provides for reinstatement of coverage, in the event of lapse if the insurer is provided proof that the policyholder or certificate holder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This option shall be available to the insured if requested within five (5) months after termination and shall allow for the collection of past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy and certificate. ~~(4-5-00)~~(11-1-06)T

0~~09~~14. REQUIRED DISCLOSURE PROVISIONS.

01. Renewability. Individual long-term care insurance policies shall contain a renewability provision. (3-30-01)

a. The provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state that the coverage is guaranteed renewable or noncancellable. This provision shall not apply to policies that do not contain a renewability provision, and under which the right to nonrenew is reserved solely to the policyholder. (3-30-01)

b. A long-term care insurance policy or certificate, other than one where the insurer does not have the right to change the premium, shall include a statement that the premium rates may change. (3-30-01)

02. Riders and Endorsements. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, except if the increased benefits or coverage are required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy, rider or endorsement. (4-5-00)

03. Payment of Benefits. A long-term care insurance policy that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import shall include a definition of these terms and an explanation of the terms in its accompanying outline of coverage. (4-5-00)

04. Limitations. If a long-term care insurance policy or certificate contains any

limitations with respect to preexisting conditions, the limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as "Preexisting Condition Limitations." (4-5-00)

05. Other Limitations or Conditions on Eligibility for Benefits. A long-term care insurance policy or certificate containing any limitations or conditions for eligibility other than those prohibited in ~~*this rule*~~ Section 41-4605(4)(b)(i), Idaho Code, shall set forth a description of the limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate and shall label such paragraph "Limitations or Conditions on Eligibility for Benefits." ~~*(4-5-00)*~~(11-1-06)T

06. Disclosure of Tax Consequences. With regard to life insurance policies that provide an accelerated benefit for long-term care, a disclosure statement is required at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents. Subsection 0~~*09*~~14.06 shall not apply to qualified long-term care insurance contracts. ~~*(4-5-00)*~~(11-1-06)T

07. Benefit Triggers. Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and shall be described in the policy or certificate in a separate paragraph and shall be labeled "Eligibility for the Payment of Benefits." Any additional benefit triggers shall also be explained. If these triggers differ for different benefits, explanation of the trigger shall accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too shall be specified. (4-5-00)

08. Qualified Contracts. A qualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage as contained in Section 0~~*27*~~35 that the policy is intended to be a qualified long-term care insurance contract under Section 7702B (b) of the Internal Revenue Code of 1986, as amended. ~~*(4-5-00)*~~(11-1-06)T

09. Non-Qualified Contracts. A non-qualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage as contained in Section 0~~*27*~~35 that the policy is not intended to be a qualified long-term care insurance contract. ~~*(4-5-00)*~~(11-1-06)T

10. Required Disclosure of Rating Practices to Consumers. (3-30-01)

a. Subsection 0~~*09*~~14.10 shall apply as follows: ~~*(3-30-01)*~~(11-1-06)T

i. Except as provided in Subsection 0~~*09*~~14.10.a.ii., Subsection 0~~*09*~~14.10 applies to any long-term care policy or certificate issued in this state on or after July 1, 2001. ~~*(3-30-01)*~~(11-1-06)T

ii. For certificates issued on or after the effective date of this amended rule under a group long-term care insurance policy as defined in Section 41-4603(4)(a), Idaho Code, which policy was in force at the time this amended rule became effective, the provisions of Subsection

0~~09~~14.10 shall apply on the policy anniversary following January 1, 2002. ~~(3-30-01)~~(11-1-06)T

b. Other than policies for which no applicable premium rate or rate schedule increases can be made, insurers shall provide all of the information listed in Subsection 0~~09~~14.10.b. to the applicant at the time of application or enrollment, unless the method of application does not allow for delivery at that time. In such a case, an insurer shall provide all information listed in Subsection 0~~09~~14.10.b. to the applicant no later than at the time of delivery of the policy or certificate. ~~(3-30-01)~~(11-1-06)T

i. A statement that the policy may be subject to rate increases in the future;(3-30-01)

ii. An explanation of potential future premium rate revisions, and the policyholder's or certificateholder's option in the event of a premium rate revision; (3-30-01)

iii. The premium rate or rate schedules applicable to the applicant that will be in effect until a request is made for an increase; and (3-30-01)

iv. A general explanation for applying premium rate or rate schedule adjustments that shall include, a description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date, next billing date, etc.); and the right to a revised premium rate or rate schedule as provided in Subsection 0~~09~~14.10.b.ii., if the premium rate or rate schedule is changed. ~~(3-30-01)~~(11-1-06)T

c. Information regarding each premium rate increase on this policy form or similar forms over the past ten (10) years for this state or any other state that, at a minimum, identifies: (3-30-01)

i. The policy forms for which premium rates have been increased; (3-30-01)

ii. The calendar years when the form was available for purchase; and (3-30-01)

iii. The amount or percent of each increase. The percentage may be expressed as a percentage of the premium rate prior to the increase, and may also be expressed as minimum and maximum percentages if the rate increase is variable by rating characteristics. (3-30-01)

d. The insurer may, in a fair manner, provide additional explanatory information related to the rate increases. (3-30-01)

e. An insurer shall have the right to exclude from the disclosure premium rate increases that only apply to blocks of business acquired from other nonaffiliated insurers or the long-term care policies acquired from other nonaffiliated insurers when those increases occurred prior to acquisition. (3-30-01)

f. If an acquiring insurer files for a rate increase on a long-term care policy form acquired from nonaffiliated insurers or a block of policy forms acquired from nonaffiliated insurers on or before the later of the effective date of Subsection 0~~09~~14.10 or the end of a twenty-four (24) month period following the acquisition of the block of policies, the acquiring insurer may exclude that rate increase from the disclosure. However, the nonaffiliated selling company

shall include the disclosure of that rate increase in accordance with Subsection 0~~09~~14.10.c. ~~(3-30-01)~~(11-1-06)T

g. If the acquiring insurer in Subsection 0~~09~~14.10.f. above files for a subsequent rate increase, even within the twenty-four (24) month period, on the same policy form acquired from nonaffiliated insurers or block of policy forms acquired from nonaffilated insurers referenced in Subsection 0~~09~~14.10.f., the acquiring insurer must make all disclosures required by Subsection 0~~09~~14,10.c., including disclosure of the earlier rate increase referenced in Subsection 0~~09~~14.10.f. ~~(3-30-01)~~(11-1-06)T

h. An applicant shall sign an acknowledgement at the time of application, unless the method of application does not allow for signature at that time, that the insurer made the disclosure required under Subsections ~~009.10.a~~ 014.10.b. and ~~009.10.b~~ 014.10.c. If because of the method of application the applicant cannot sign an acknowledgement at the time of application, the applicant shall sign no later than at the time of delivery of the policy or certificate. ~~(3-30-01)~~(11-1-06)T

i. An insurer shall use the forms ~~published on the Department of Insurance Internet Website www.doi.state.id.us and select the link, "Consumer Assistance,"~~ in Appendices B and F to comply with the disclosure requirements of Subsection ~~009.10.a~~ 014.10.b. and Subsection ~~009.10.b~~ 014.10.h. The company forms are published on the Department of Insurance Homepage http://www.doi.idaho.gov select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60 "Long-Term Care Minimum Standards." ~~(3-30-01)~~(11-1-06)T

j. An insurer shall provide notice of an upcoming premium rate schedule increase to all policyholders or certificateholders, if applicable, at least thirty (30) days prior to the implementation of the premium rate schedule increase by the insurer. The notice shall include the information required by Subsection 0~~09~~14.10.b., when the increase is implemented. ~~(3-30-01)~~(11-1-06)T

01~~0~~5. PROHIBITION AGAINST POST-CLAIMS UNDERWRITING.

01. Health Conditions. All applications for long-term care insurance policies or certificates except those that are guaranteed issue shall contain clear and unambiguous questions designed to ascertain the health condition of the applicant. (4-5-00)

02. Medication. If an application for long-term care insurance contains a question that asks whether the applicant has had medication prescribed by a physician, it must also ask the applicant to list the medication that has been prescribed. If the medications listed in the application were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would otherwise be denied, then the policy or certificate shall not be rescinded for that condition. (4-5-00)

03. Non-Guaranteed Issue. Except for policies or certificates which are guaranteed issue: (4-5-00)

a. The following language shall be set out conspicuously and in close conjunction with the applicant's signature block on an application for a long-term care insurance policy or

certificate: *Caution: If your answers on this application are incorrect or untrue, (company) has the right to deny benefits or rescind your policy.* (4-5-00)

b. The following language, or language substantially similar to the following, shall be set out conspicuously on the long-term care insurance policy or certificate at the time of delivery: *Caution: The issuance of this long-term care insurance (policy) (certificate) is based upon your responses to the questions on your application. A copy of your (application) (enrollment form) (is enclosed) (was retained by you when you applied). If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: (insert address)* (4-5-00)

c. Prior to issuance of a long-term care policy or certificate to an applicant age eighty (80) or older, the insurer shall obtain one (1) of the following: (4-5-00)

i. A report of a physical examination; (4-5-00)

ii. An assessment of functional capacity; (4-5-00)

iii. An attending physician's statement; or (4-5-00)

iv. Copies of medical records. (4-5-00)

04. Delivery of Application or Enrollment and Form. A copy of the completed application or enrollment form (whichever is applicable) shall be delivered to the insured no later than at the time of delivery of the policy or certificate unless it was retained by the applicant at the time of application. (4-5-00)

05. Record of Rescissions. Every insurer or other entity selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both state and countrywide, except those that the insured voluntarily effectuated and shall annually furnish this information to the insurance director in the format prescribed by the National Association of Insurance Commissioners in Appendix A. The notice required in Subsection 01~~0~~5.05 shall be provided in substantially the following format based on the NAIC Model Regulation~~ *which includes Appendixes A, B, C, and D, and all other outlines of coverage and specific plan designs*. *For Website, go to Idaho Department of Insurance Home page, www.doi.state.id.us, select SHIBA (Senior Health Insurance Benefits Advisors) under Consumer Assistance link, see attachments to the NAIC Model Regulation implementing the Long-Term Care Insurance Minimum Standards. To obtain a copy of the required illustrations based on the NAIC Model Regulation, contact SHIBA at the Idaho Department of Insurance (208) 334-4250.*~~ The forms are published on the Department of Insurance Homepage http://www.doi.idaho.gov select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60 "Long-Term Care Minimum Standards." ~~*(4-5-00)*~~(11-1-06)T

01~~7~~6. MINIMUM STANDARDS FOR HOME HEALTH AND COMMUNITY CARE BENEFITS IN LONG-TERM CARE INSURANCE POLICIES.

01. Limitations or Exclusions. A long-term care insurance policy or certificate shall

not, if it provides benefits for home health care or community care services, limit or exclude benefits: (4-5-00)

a. By requiring that the insured or claimant would need care in a skilled nursing facility if home health care services were not provided; (4-5-00)

b. By requiring that the insured or claimant first or simultaneously receive nursing or therapeutic services, or both, in a home, community, or institutional setting before home health care services are covered; (4-5-00)

c. By limiting eligible services to services provided by registered nurses or licensed practical nurses; (4-5-00)

d. By requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide, or other licensed or certified home care worker acting within the scope of his or her licensure or certification; (4-5-00)

e. By excluding coverage for personal care services provided by a home health aide; (4-5-00)

f. By requiring that the provision of home health care services be at a level of certification or licensure greater than that required by the eligible service; (4-5-00)

g. By requiring that the insured or claimant have an acute condition before home health care services are covered; (4-5-00)

h. By limiting benefits to services provided by Medicare-certified agencies or providers; or (4-5-00)

i. By excluding coverage for adult day care services. (4-5-00)

02. Coverage Equivalency. A long-term care insurance policy or certificate, if it provides for home health or community care services, shall provide total home health or community care coverage that is a dollar amount equivalent to at least one-half (1/2) of one (1) year's coverage available for nursing home benefits under the policy or certificate, at the time covered home health or community care services are being received. This requirement shall not apply to policies or certificates issued to residents of continuing care retirement communities. (4-5-00)

03. Maximum Coverage. Home health care coverage may be applied to the non-home health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate. (4-5-00)

01~~2~~7. REQUIREMENT TO OFFER INFLATION PROTECTION.

01. Inflation Protection Offer. No insurer may offer a long-term care insurance policy unless the insurer also offers to the policyholder in addition to any other inflation protection the option to purchase a policy that provides for benefit levels to increase with benefit

maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Insurers must offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one (1) of the following: (4-5-00)

a. Increases benefit levels annually in a manner so that the increases are compounded annually at a rate not less than five percent (5%); (4-5-00)

b. Guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status as long as the option for the previous period has not been declined. The amount of the additional benefit shall be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least five percent (5%) for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or (4-5-00)

c. Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit. (4-5-00)

d. With respect to inflation protection for a Partnership policy only: (11-1-06)T

i. If the policy is sold to an individual who has not attained age sixty-one (61) as of the date of purchase, the policy must provide compound annual inflation protection; (11-1-06)T

ii. If the policy is sold to an individual who has attained age sixty-one (61) but has not attained age 76 as of the date of purchase, the policy must provide some level of inflation protection; and (11-1-06)T

iii. If the policy is sold to an individual who has attained age seventy-six (76) as of the date of purchase, the policy may (but is not required to) provide some level of inflation protection. (11-1-06)T

02. Group Offer. Where the policy is issued to a group, the required offer in Subsection 01~~2~~7.01 shall be made to the group policyholder; except, if the policy is issued to a group defined in Section 41-4603(4)(d), Idaho Code, other than to a continuing care retirement community, the offering shall be made to each proposed certificate holder. ~~(4-5-00)~~(11-1-06)T

03. Requirements for Life Insurance Policies. The offer in Subsection 01~~2~~7.01 above shall not be required of life insurance policies or riders containing accelerated long-term care benefits. ~~(4-5-00)~~(11-1-06)T

04. Outline of Coverage. Insurers shall include the following information in or with the outline of coverage: (4-5-00)

a. A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shall show benefit levels over at least a twenty (20) year period. (4-5-00)

b. Any expected premium increases or additional premiums to pay for automatic or

optional benefit increases. (4-5-00)

c. An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure. (4-5-00)

05. Continuation of Inflation Protection. Inflation protection benefit increases under a policy which contains these benefits shall continue without regard to an insured's age, claim status or claim history, or the length of time the person has been insured under the policy. (4-5-00)

06. Premium Disclosures. An offer of inflation protection that provides for automatic benefit increases shall include an offer of a premium which the insurer expects to remain constant. The offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant. (4-5-00)

07. Rejection of Offer. Inflation protection as provided in Subsection 01~~2~~7.01 shall be included in a long-term care insurance policy unless an insurer obtains a rejection of inflation protection signed by the policyholder as required in Subsection 01~~2~~7.07. The rejection may be either in the application or on a separate form. The rejection shall be considered a part of the application and shall state: I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed Plans _____, and I reject inflation protection (signature line: _____). ~~(4-5-00)~~(11-1-06)T

01~~3~~8. REQUIREMENTS FOR APPLICATION FORMS AND REPLACEMENT COVERAGE.

01. Application Forms. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and ~~agent~~ producer, except where the coverage is sold without a~~n agent~~ producer, containing the questions may be used. With regard to a replacement policy issued to a group defined by Section 41-4603(a), Idaho Code, the following questions may be modified only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced, provided that the certificate holder has been notified of the replacement. ~~(4-5-00)~~(11-1-06)T

a. Do you have another long-term care insurance policy or certificate in force (including insurance, Fraternal Benefit Societies, Managed Care Organization) or other similar organizations? (4-5-00)

b. Did you have another long-term care insurance policy or certificate in force during the last twelve (12) months? (4-5-00)

i. If so, with which company? (4-5-00)

ii. If that policy lapsed, when did it lapse? (4-5-00)

c. Are you covered by Medicaid? (4-5-00)

d. Do you intend to replace any of your medical or health insurance coverage with this policy (certificate)? (4-5-00)

02. Other Policy Disclosures. ~~*Agents*~~ Producers shall list any other health insurance policies they have sold to the applicant. ~~*(4-5-00)*~~(11-1-06)T

a. List policies sold that are still in force. (4-5-00)

b. List policies sold in the past five (5) years that are no longer in force. (4-5-00)

03. Solicitations Other Than Direct Response. Upon determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its ~~*agent*~~ producer shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One (1) copy of the notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be in a form based on the NAIC Model Regulation~~*, which form can be obtained from the Idaho Department of Insurance Home page, www.doi.state.id.us, select SHIBA (Senior Health Insurance Benefits Advisors) under Consumer Assistance link, see attachments to the NAIC Model Regulation implementing the Long-Term Care Insurance Minimum Standards. To obtain a copy of the required illustrations based on the NAIC Model Regulation, contact SHIBA at the Idaho Department of Insurance (208) 334-4250*~~. Attachment I, NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE, is published on the Department of Insurance Homepage http://www.doi.idaho.gov select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60 "Long-Term Care Minimum Standards." ~~*(4-5-00)*~~(11-1-06)T

04. Direct Response Solicitations. Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice shall be in a form based on the NAIC Model Regulation~~*, which form can be obtained from the Idaho Department of Insurance Home page, www.doi.state.id.us, select SHIBA (Senior Health Insurance Benefits Advisors) under Consumer Assistance link, see attachments to the NAIC Model Regulation implementing the Long-Term Care Insurance Minimum Standards. To obtain a copy of the required illustrations based on the NAIC Model Regulation, contact SHIBA at the Idaho Department of Insurance (208) 334-4250*~~. Attachment II, NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE, is published on the Department of Insurance Homepage http://www.doi.idaho.gov select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60 "Long-Term Care Minimum Standards." ~~*(4-5-00)*~~(11-1-06)T

05. Notice of Replacement. Where replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the proposed replacement. The existing policy shall be identified by the insurer, name of the insured and policy number or address including zip code.

Notice shall be made within five (5) working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner. (4-5-00)

06. Life Insurance Policy Replacement. Life insurance policies that accelerate benefits for long-term care shall ~~*be deemed to require compliance*~~ comply with Section 01~~3~~8 if the policy being replaced is a long-term care insurance policy. If the policy being replaced is a life insurance policy, the insurer shall comply with the replacement requirements of IDAPA 18.01.41, "Replacement of Life Insurance and Annuities." If a life insurance policy that accelerates benefits for long-term care is replaced by another such policy, the replacing insurer shall comply with both the long-term care and the life insurance replacement requirements. ~~*(4-5-00)*~~(11-1-06)T

01~~4~~9. REPORTING REQUIREMENTS.

01. Maintenance of ~~*Agent*~~ Producer Records. Every insurer shall maintain records for each ~~*agent*~~ producer of that ~~*agent's*~~ producer's amount of replacement sales as a percent of the ~~*agent's*~~ producer's total annual sales and the amount of lapses of long-term care insurance policies sold by the ~~*agent*~~ producer as a percent of the ~~*agent's*~~ producer's total annual sales. Appendix G, which is published on the Department of Insurance Homepage http://www.doi.idaho.gov select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60 "Long-Term Care Minimum Standards." ~~*(4-5-00)*~~(11-1-06)T

02. ~~*Agents*~~ Producers Experiencing Lapses and Replacements. Every insurer shall report annually by June 30 the ten percent (10%) of its ~~*agents*~~ producer's with the greatest percentages of lapses and replacements as measured by Subsection 01~~4~~9.01. ~~*(4-5-00)*~~(11-1-06)T

03. Purpose of Reports. Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely ~~*agent*~~ producer activities regarding the sale of long-term care insurance. ~~*(4-5-00)*~~(11-1-06)T

04. Lapsed Policies. Every insurer shall report annually by June 30 the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year. (4-5-00)

05. Replacement Policies. Every insurer shall report annually by June 30 the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year. (4-5-00)

06. Claims Denied. Every insurer shall report annually by June 30, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied, other than claims denied for failure to meet the waiting period or because of an applicable preexisting condition. See Appendix E, which is published on the Department of Insurance Homepage http://www.doi.idaho.gov select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60 "Long-Term Care Minimum Standards." ~~*(4-5-00)*~~(11-1-06)T

07. Policies and Reports. For purposes of Section 01~~4~~9, "policy" shall mean only

long-term care insurance and "report" means on a statewide basis. ~~(4-5-00)~~(11-1-06)T

a. Policy means only long-term care insurance; (4-5-00)

b. Claim means any request for payment of benefits under a policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met; (4-5-00)

c. Denied means the insurer refused to pay a claim for any reason; and (4-5-00)

d. Report means on a statewide basis. (4-5-00)

08. Filing. Reports required under Section 01~~4~~9 shall be filed with the Director. ~~(4-5-00)~~(11-1-06)T

0~~15~~20. LICENSING.
No ~~agent or broker~~ producer is authorized to sell, solicit, or negotiate with respect to long-term care insurance except as authorized by Title 41, Chapter 10, ~~Licensing Requirements And Procedures~~ Producer Licensing. ~~(3-30-01)~~(11-1-06)T

0~~16~~21. DISCRETIONARY POWERS OF DIRECTOR.
The director may upon written request and after an administrative hearing, issue an order to modify or suspend a specific provision or provisions of this rule with respect to a specific long-term care insurance policy or certificate upon a written finding that: (4-5-00)

01. General Requirement. The modification or suspension would be in the best interest of the insureds; the purposes to be achieved could not be effectively or efficiently achieved without the modification or suspension; and the modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care; or (4-5-00)

02. Residential Care Community. The policy or certificate is to be issued to residents of a life care or continuing care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such a community; or (4-5-00)

03. Other Insurance Products. The modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product. (4-5-00)

0~~17~~22. RESERVE STANDARDS.

01. Acceleration of Benefits Under Life Policies. When long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves for the benefits shall be determined in accordance with Section 41-612, Idaho Code, Standard Valuation Law – Life Insurance. Claim reserves shall also be established in the case when the policy or rider is in claim status. (4-5-00)

02. Decrement Models. Reserves for policies and riders subject to S~~ubs~~ection ~~017.01~~ 022 should be based on the multiple decrement model utilizing all relevant decrements except for voluntary termination rates. Single decrement approximations are acceptable if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The calculations may take into account the reduction in life insurance benefits due to the payment of long-term care benefits. However, in no event shall the reserves for the long-term care benefit and the life insurance benefit be less than the reserves for the life insurance benefit assuming no long-term care benefit. ~~(4-5-00)~~(11-1-06)T

03. Considerations Impacting Projected Claim Costs. Any applicable valuation morbidity table shall be certified as appropriate as a statutory valuation table by a member of the American Academy of Actuaries. In the development and calculation of reserves for policies and riders subject to S~~ubs~~ection ~~017.01~~ 022, due regard shall be given to the applicable policy provisions, marketing methods, administrative procedures and all other considerations which have an impact on projected claim costs, including, but not limited to, the following: ~~(4-5-00)~~(11-1-06)T

a. Definition of insured events; (4-5-00)

b. Covered long-term care facilities; (4-5-00)

c. Existence of home convalescence care coverage; (4-5-00)

d. Definition of facilities; (4-5-00)

e. Existence or absence of barriers to eligibility; (4-5-00)

f. Premium waiver provision; (4-5-00)

g. Renewability; (4-5-00)

h. Ability to raise premiums; (4-5-00)

i. Marketing method; (4-5-00)

j. Underwriting procedures; (4-5-00)

k. Claims adjustment procedures; (4-5-00)

l. Waiting period; (4-5-00)

m. Maximum benefit; (4-5-00)

n. Availability of eligible facilities; (4-5-00)

o. Margins in claim costs; (4-5-00)

p. Optional nature of benefit; (4-5-00)

q. Delay in eligibility for benefit; (4-5-00)

r. Inflation protection provisions; and (4-5-00)

s. Guaranteed insurability option. (4-5-00)

04. Benefits Not Covered in S~~ubs~~ection ~~017.01~~ 022. When long-term care benefits are provided other than as in Subsection 0~~17~~22.01 above, reserves shall be determined in accordance with Section 41-608, Idaho Code, "Reserve for Disability Insurance."
~~(4-5-00)~~(11-1-06)T

0~~18~~23. LOSS RATIO.
Section 0~~18~~23 shall apply to all (group and individual) long-term care insurance policies or certificates except those covered under Sections 0~~19~~24 and 02~~0~~5 of this ~~rule~~ chapter.
~~(3-30-01)~~(11-1-06)T

01. Expected Loss Ratios. Benefits under long-term care insurance policies shall be deemed reasonable in relation to premiums provided the expected loss ratio is at least sixty percent (60%), calculated in a manner which provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including: (4-5-00)

a. Statistical credibility of incurred claims experience and earned premiums; (4-5-00)

b. The period for which rates are computed to provide coverage; (4-5-00)

c. Experienced and projected trends; (4-5-00)

d. Concentration of experience within early policy duration; (4-5-00)

e. Expected claim fluctuation; (4-5-00)

f. Experience refunds, adjustments or dividends; (4-5-00)

g. Renewability features; (4-5-00)

h. All appropriate expense factors; (4-5-00)

i. Interest; (4-5-00)

j. Experimental nature of the coverage; (4-5-00)

k. Policy reserves; (4-5-00)

l. Mix of business by risk classification; and (4-5-00)

m. Product features such as long elimination periods, high deductibles and high

maximum limits. (4-5-00)

02. Policies That Accelerate Benefits. Subsection 0~~18~~23.01 shall not apply to life insurance policies that accelerate benefits for long-term care. A life insurance policy that funds long-term care benefits entirely by accelerating the death benefit is considered to provide reasonable benefits in relation to premiums paid, if the policy complies with all of the following provisions: ~~(4-5-00)~~(11-1-06)T

a. The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy; (4-5-00)

b. The portion of the policy that provides life insurance benefits meets the nonforfeiture requirements of Section 41-1927, Idaho Code, Standard Nonforfeiture Law – Life Insurance. (4-5-00)

c. The policy meets the disclosure requirements of Sections 41-4605(9), 41-4605(10), and 41-4605(11), Idaho Code. (4-5-00)

i. Any policy illustration that meets the applicable requirements of the NAIC Life Insurance Illustrations Model Regulation. (11-1-06)T

d. An actuarial memorandum is filed with the insurance department that includes: (4-5-00)

i. A description of the basis on which the long-term care rates were determined; (4-5-00)

ii. A description of the basis for the reserves; (4-5-00)

iii. A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance; (4-5-00)

iv. A description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any; (4-5-00)

v. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives; (4-5-00)

vi. The estimated average annual premium per policy and the average issue age; (4-5-00)

vii. A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and (4-5-00)

viii. A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying life insurance policy, both for active lives and those in long-term care claim status. (4-5-00)

0~~19~~24. FILING REQUIREMENT.
Prior to an insurer or similar organization offering group long-term care insurance to a resident of this state pursuant to Section 41-4604, Idaho Code, Extraterritorial Jurisdiction – Group Long-Term Care Insurance, it shall file with the director evidence that the group policy or certificate thereunder has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this state. (4-5-00)

01. Initial Filing Requirements. (3-30-01)

a. Subsection 0~~19~~24.01 applies to any long-term care policy issued in this state on or after July 1, 2001. ~~(3-30-01)~~(11-1-06)T

b. An insurer will provide the information listed in Subsection 0~~19~~24.01 to the director thirty (30) days prior to making the long-term care insurance form available for sale. ~~(3-30-01)~~(11-1-06)T

c. A copy of the disclosure documents required in Section 0~~09~~14. ~~(3-30-01)~~(11-1-06)T

d. An actuarial certification consisting of at least the following: (3-30-01)

i. A statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated; (3-30-01)

ii. A statement that the policy design and coverage provided have been reviewed and taken into consideration; (3-30-01)

iii. A statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration. (3-30-01)

e. A complete description of the basis for contract reserves that are anticipated to be held under the form, to include: (3-30-01)

i. Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held; (3-30-01)

ii. A statement that the assumptions used for reserves contain reasonable margins for adverse experience; (3-30-01)

iii. A statement that the net valuation premium for renewal years does not increase (except for attained-age rating where permitted; and (3-30-01)

iv. A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur; (3-30-01)

v. An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship; (3-30-01)

vi. If the gross premiums for certain age groups appear to be inconsistent with this requirement, the director may request a demonstration under Subsection 0~~19~~24.02 based on a standard age distribution; and ~~(3-30-01)~~(11-1-06)T

vii. A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits; or, (3-30-01)

viii. A comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences. (3-30-01)

02. Actuarial Demonstration. The director may request an actuarial demonstration that benefits are reasonable in relation to premiums. The actuarial demonstration shall include either premium and claim experience on similar policy forms, adjusted for any premium or benefit differences, relevant and credible data from other studies, or both. (3-30-01)

a. In the event the director requests additional information under this provision, the period referred to in Subsection 0~~19~~24.01.b. of this section does not include the period of time during which the insurer is preparing the requested information. ~~(3-30-01)~~(11-1-06)T

02~~0~~5. PREMIUM RATE SCHEDULE INCREASES.

01. Premium Rate Increases. This Section 02~~0~~5 shall apply as follows: ~~(3-30-01)~~(11-1-06)T

a. Except as provided in Subsection 02~~0~~5.01.b., this section applies to any long-term care policy or certificate issued in this state on or after July 1, 2001. ~~(3-30-01)~~(11-1-06)T

b. For certificates issued on or after the effective date of this amended rule under a group long-term care insurance policy as defined in Section 41-4603 (4)(a), Idaho Code, which policy was in force at the time this amended rule became effective, the provisions of this section shall apply on the policy anniversary following January 1, 2002. (3-30-01)

c. An insurer shall provide notice of a pending premium rate schedule increase, including an exceptional increase, to the director at least thirty (30) days prior to the notice to the policyholders and shall include: (3-30-01)

i. Information required by Section 0~~09~~14. ~~(3-30-01)~~(11-1-06)T

d. Certification by a qualified actuary that: (3-30-01)

i. If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated; and (3-30-01)

ii. The premium rate filing is in compliance with the provisions of this Section 02~~0~~5. ~~(3-30-01)~~(11-1-06)T

02. Actuarial Memorandum. An actuarial memorandum justifying the rate schedule change request that includes: (3-30-01)

a. Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method of assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale: (3-30-01)

i. Annual values for the past five (5) years preceding and the three (3) years following the valuation date shall be provided separately; (3-30-01)

ii. The projections shall include the development of the lifetime loss ratio, unless the rate of increase is an exceptional increase; (3-30-01)

iii. The projections shall demonstrate compliance with Subsection 02~~0~~5.03, and ~~(3-30-01)~~(11-1-06)T

iv. For exceptional increases; (3-30-01)

(1) The projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and (3-30-01)

(2) In the event the director determines as provided in Subsection ~~004.09.b.~~ 010.09.c. that offsets may exist, the insurer shall use appropriate net projected experience. ~~(3-30-01)~~(11-1-06)T

b. Disclosure of how reserves have been incorporated in this rate increase will trigger contingent benefit upon lapse. (3-30-01)

c. Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied on by the actuary. (3-30-01)

d. A statement that policy design, underwriting and claims adjudication practices have been taken into consideration; and in the event that it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer will need to file composite rates reflecting projections of new certificates. (3-30-01)

e. A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient

justification is provided to the director; and sufficient information for review of the premium rate schedule increase by the director. (3-30-01)

03. Premium Rate Schedule Increases. All premium rate schedule increases shall be determined in accordance with the following requirements: (3-30-01)

a. Exceptional increases shall provide that seventy percent (70%) of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits. (3-30-01)

b. Premium rate schedule increases shall be calculated such that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following: (3-30-01)

i. The accumulated value of the initial earned premium times fifty eight percent (58%); (3-30-01)

ii. Eighty-five percent (85%) of the accumulated value of prior premium rate schedule increases on an earned basis; (3-30-01)

iii. The present value of future projected initial earned premiums times fifty-eight percent (58%); and (3-30-01)

iv. Eighty-five percent (85%) of the present value of future projected premiums not in Subsection 02~~0~~5.03.b.iii. on an earned basis. ~~(3-30-01)~~(11-1-06)T

c. In the event that a policy form has both exceptional and other increases, the values in Subsections 02~~0~~5.03.b.ii. and 02~~0~~5.03.b.iv., will also include seventy percent (70%) for exceptional rate increase amounts. ~~(3-30-01)~~(11-1-06)T

d. All present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves as specified in IDAPA 18.01.68, "Minimum Reserve Standards For Individual And Group Health Insurance Contracts," Appendix A, IIA. The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages. (3-30-01)

04. Projections Filed for Review. For each rate increase that is implemented, the insurer shall file for review by the director updated projections, as defined in Subsection 02~~0~~5.02.a., annually for the following three (3) years and include a comparison of actual results to projected values. The director may extend the period to greater than three (3) years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in Subsection ~~020.11~~ 025.13, the projections required by this Subsection 02~~0~~5.04 shall be provided to the policyholder in lieu of filing with the director. ~~(3-30-01)~~(11-1-06)T

05. Revised Premium Rate. If any premium rate in the revised premium rate schedule is greater than 200 percent (200%) of the comparable rate in the initial premium schedule, lifetime

projections, as defined in Subsection 02~~0~~5.02.a., shall be filed for review by the director every five (5) years following the end of the required period in Subsection 02~~0~~5.04. For group insurance policies that meet the conditions in Subsection 02~~0~~5.13, the projections required by Subsection 02~~0~~5.05 shall be provided to the policyholder in lieu of filing with the director.
~~(3-30-01)~~(11-1-06)T

06. Actual and Projected Experience. If the director has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of the premium specified in Subsection 02~~0~~5.03, the director may require the insurer to implement any of the following: ~~(3-30-01)~~(11-1-06)T

a. Premium rate schedule adjustments; or (3-30-01)

i. Other measures to reduce the difference between the projected and actual experience.(3-30-01)

b. In determining whether the actual experience adequately matches the projected experience, consideration should be given to Subsection 02~~0~~5.02.d. and 025.02.e., if applicable.
~~(3-30-01)~~(11-1-06)T

07. Contingent Benefit upon Lapse. If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file: (3-30-01)

a. A plan, subject to director approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect. If the director should determine that such appropriate administration and claims processing functions have not been addressed, provisions of Subsection 025.08 may be applied; and ~~(3-30-01)~~(11-1-06)T

b. The original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to Subsection 02~~0~~5.03 had the greater of the original anticipated lifetime loss ratio or fifty-eight percent (58%) been used in the calculations described in Subsections 02~~0~~5.03.b.i. and 02~~0~~5.03.b.iii. ~~(3-30-01)~~(11-1-06)T

08. Additional Rate Increase Filings. For a rate increase filing that meets the following criteria, the director shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the twelve (12) months following each increase to determine if significant adverse lapse has occurred or is anticipated: (3-30-01)

a. The rate increase is not the first rate increase requested for the specific policy form or forms; (3-30-01)

b. The rate increase is not an exceptional increase; and (3-30-01)

c. The majority of the policies or certificates to which the increase is applicable are

eligible for the contingent benefit upon lapse. (3-30-01)

d. In the event significant adverse lapse has occurred, is anticipated in the filing or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the director may determine that a rate spiral exists. Following the determination that a rate spiral exists, the director may require the insurer to offer, without underwriting, to all in force insureds subject to the rate increase option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates. The offer shall; (3-30-01)

i. Be subject to the approval of the director; (3-30-01)

ii. Be based on actuarially sound principles, but not be based on attained age; and (3-30-01)

iii. Provide that the maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy. (3-30-01)

e. The insurer shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase shall be limited to the lesser of: (3-30-01)

i. The maximum rate increase determined based on the combined experience; and (3-30-01)

ii. The maximum rate increase determined based only on the experience of the insureds originally issued the form plus ten percent (10%). (3-30-01)

09. Persistent Practice of Inadequate Rate Filings. If the director determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the director may, in addition to the provisions of Subsection 02~~0~~5.08 of this section, prohibit the insurer from either of the following: ~~(3-30-01)~~(11-1-06)T

a. Filing and marketing comparable coverage for a period of up to five (5) years; or (3-30-01)

b. Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases. (3-30-01)

10. Exceptions. Subsections 02~~0~~5.01 and 02~~0~~5.09 shall not apply to policies for which the long-term care benefits provided by the policy are incidental, as defined in Subsection 0~~04~~10.12, if the policy complies with all of the following provisions: ~~(3-30-01)~~(11-1-06)T

a. The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy; (3-30-01)

b. The portion of the policy that provides insurance benefits other than long-term

care coverage meets the nonforfeiture requirements as applicable in any of the following: (3-30-01)

i. Section 41-1927, Idaho Code, Standard Nonforfeiture Law-Life Insurance; (3-30-01)

ii. Section 41-1927A, Idaho Code, Standard Nonforfeiture Law for Individual Deferred Annuities; (3-30-01)

iii. IDAPA 18.01.16, Subsection 018.02, "Variable Contracts." (3-30-01)

11. Exceptions for Disclosure and Performance Standards. The policy meets the disclosure requirements of Sections 41-4605(9), 41-4605(10) and 41-4605(11), Idaho Code, pertaining to the Disclosure and Performance Standards for Long-term Care Coverage. (3-30-01)

12. Exception If Actuarial Memorandum Filed Which Includes Defined Information. An actuarial memorandum is filed with the Department of Insurance that includes: (3-30-01)

a. A description of the basis on which the long-term care rates were determined; (3-30-01)

b. A description of the basis for the reserves; (3-30-01)

c. A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance; (3-30-01)

d. A description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any; (3-30-01)

e. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives; (3-30-01)

f. The estimated average annual premium per policy and the average issue age; (3-30-01)

g. A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and (3-30-01)

h. A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying insurance policy, both for active lives and those in long-term care claims status. (3-30-01)

13. Exceptions for Association Plans, Premium Rate Schedule Increases Subsections

02~~0~~5.06 and 02~~0~~5.08 shall not apply to group insurance policies as defined in Section 41-4603(4)(a), Idaho Code, where: ~~(3-30-01)~~(11-1-06)T

a. The policies insure two hundred fifty (250) or more persons and the policyholder has five thousand (5,000) or more eligible employees of a single employer; or (3-30-01)

b. The policyholder, and not the certificateholders, pay a material portion of the premium, which shall not be less than twenty percent (20%) of the total premium for the group in the calendar year prior to the year a rate increase is filed. (3-30-01)

02~~1~~6. FILING REQUIREMENTS FOR ADVERTISING.

01. Filing and Retention. Every Insurer, Fraternal Benefit Society, Managed Care Organization, or other similar organization providing long-term care insurance or benefits in this state shall provide a copy of any long-term care insurance advertisement intended for use in this state whether through written, radio, or television medium to the Director of Insurance of this state for review and approval by the Director. In addition, all advertisements shall be retained by the insurer or other entity for at least five (5) years from the date the advertisement was first used; or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time. (4-5-00)

02. Exemptions. The director may exempt from these requirements any advertising form or material when, in the director's opinion, this requirement may not be reasonably applied. (4-5-00)

02~~2~~7. STANDARDS FOR MARKETING AND PRODUCER TRAINING.

01. General Provisions. Every Insurer, Fraternal Benefit Society, Managed Care Organization or other similar organization marketing long-term care insurance coverage in this state, directly or through its ~~agents~~ producers, shall: ~~(4-5-00)~~(11-1-06)T

a. Establish marketing procedures and ~~agent~~ producer training requirements to assure that any marketing activities, including any comparison of policies by its ~~agents~~ producers will be fair and accurate. ~~(3-30-01)~~(11-1-06)T

b. Establish marketing procedures to assure excessive insurance is not sold or issued. (4-5-00)

c. Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following: *"Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."* (4-5-00)

d. Provide copies of the disclosure forms required in Subsection 009.10. (3-30-01)

e. Provide an explanation of contingent benefit upon lapse as provided for in Subsection 0~~25~~32.04.b. and if applicable, the additional contingent benefit upon lapse provided to policies with fixed or limited premium paying period in Subsection 032.04.c.

~~(3-30-01)~~(11-1-06)T

f. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance, except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required. (4-5-00)

g. Establish auditable procedures for verifying compliance with Subsection 02~~.2~~7.01. ~~(3-30-01)~~(11-1-06)T

h. At solicitation, provide written notice to the prospective policyholder and certificate holder that Senior Health Insurance Benefits Advisors/SHIBA the program is available and the name, address and telephone number of the program. (3-30-01)

i. For long-term care insurance policies and certificates, use the terms "noncancellable" or "level premium" only when the policy or certificate conforms to Subsection 0~~05~~11.01.c. of this ~~*rule*~~ chapter. ~~(4-5-00)~~(11-1-06)T

02. Prohibited Practices. In addition to the practices prohibited in Chapter 13, Title 41, Idaho Code, Trade Practices and Frauds, the following acts and practices are prohibited: (3-30-01)

a. Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy, or to take out a policy of insurance with another insurer. (4-5-00)

b. High Pressure Tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance. (4-5-00)

c. Cold Lead Advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance ~~*agent*~~ producer or insurance company. ~~(4-5-00)~~(11-1-06)T

d. Misrepresentation. Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy. (4-5-00)

03. Associations. With respect to the obligations set forth in Subsection 02~~.2~~7.03, the primary responsibility of an association, as defined in Section 41-4603(4)(b), Idaho Code, when endorsing or selling long-term care insurance shall be to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations shall provide objective information regarding long-term care insurance policies or certificates endorsed or sold by such associations to ensure that members of such associations receive a balanced and

complete explanation of the features in the policies or certificates that are being endorsed or sold. ~~*Subsection 022.03 shall not apply to qualified long-term care insurance contracts.*~~ ~~*(3-30-01)*~~(11-1-06)T

a. The insurer shall file with the insurance department the following material: (4-5-00)

i. The policy and certificate; (4-5-00)

ii. A corresponding outline of coverage; and (4-5-00)

iii. All advertisements to be utilized. (4-5-00)

b. The association shall disclose in any long-term care insurance solicitation: (4-5-00)

i. The specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement or sale of the policy or certificate to its members; and (4-5-00)

ii. A brief description of the process under which the policies and the insurer issuing the policies were selected. (4-5-00)

c. If the association and the insurer have interlocking directorates or trustee arrangements, the association shall disclose that fact to its members. (4-5-00)

d. The board of directors of associations selling or endorsing long-term care insurance policies or certificates shall review and approve the insurance policies as well as the compensation arrangements made with the insurer. (4-5-00)

e. The association shall also: (4-5-00)

i. At the time of the association's decision to endorse, engage the services of a person with expertise in long-term care insurance not affiliated with the insurer to conduct an examination of the policies, including its benefits, features, and rates, and update the examination thereafter in the event of material change; (4-5-00)

ii. Actively monitor the marketing efforts of the insurer and its ~~*agents*~~ producers; and ~~*(4-5-00)*~~(11-1-06)T

iii. Review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding the policies or certificates. (4-5-00)

iv. Subsections 02~~2~~7.03.e.i. ~~*and*~~ through 02~~2~~7.03.e.iii. shall not apply to qualified long-term care insurance contracts. ~~*(3-30-01)*~~(11-1-06)T

f. No group long-term care insurance policy or certificate may be issued to an association unless the insurer files with the state insurance department the information required in

Section 02~~2~~7. ~~(3-30-01)~~(11-1-06)T

g. The insurer shall not issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the insurer certifies annually that the association has complied with the requirements set forth in Section 02~~2~~7. ~~(3-30-01)~~(11-1-06)T

h. Failure to comply with the filing and certification requirements of Section 02~~2~~7 constitutes an unfair trade practice in violation of Chapter 13, Title ~~2~~41, Idaho Code, Trade Practices and Frauds. ~~(3-30-01)~~(11-1-06)T

04. Producer Training Requirements. An individual may not sell, solicit or negotiate long-term care insurance unless the individual is licensed as an insurance producer for life and disability (accident and health insurance) and has completed a one-time training course by or before November 1, 2007, and ongoing training every twenty-four (24) months thereafter. The training shall meet the requirements set forth in this Subsection 027.04. Such training requirements may be approved as continuing education course under IDAPA 18.01.53 "Continuing Education." (11-1-06)T

a. The one-time training required by this section shall be no less than eight (8) hours and the ongoing training required by this Subsection 027.04 shall be no less than four (4) hours. (11-1-06)T

b. The training required under Subsection 027.04.a. shall consist of topics related to long-term care insurance, long-term care services and qualified state long-term care insurance partnership program, including, but not limited to: (11-1-06)T

i. State and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid; (11-1-06)T

ii. Available long-term care services and providers; (11-1-06)T

iii. Changes or improvements in long-term care services or providers; (11-1-06)T

iv. Alternatives to the purchase of private long-term care insurance; (11-1-06)T

v. The effect of inflation on benefits and the importance of inflation protection; and (11-1-06)T

vi. Consumer suitability standards and guidelines. (11-1-06)T

c. The training required by Subsection 027.04. shall not include any sales or marketing information, materials, or training, other than those required by state and federal law. (11-1-06)T

d. Insurers subject to this rule shall obtain verification that a producer receives training required by Subsection 027.04 before a producer is permitted to sell, solicit or negotiate the insurer's long-term care insurance products, maintain records subject to the state's record

retention requirements, and make that verification available to the director upon request. An insurer shall maintain records with respect to the training of its producers concerning the distribution of its long-term care Partnership policies that will allow the Department of Insurance to provide assurance to the Division of Medicaid that the producers have received the training as required by Subsection 027.04 and that producers have demonstrated an understanding of the Partnership policies and their relationship to public and private coverage of long term care including Medicaid in this state. These records shall be maintained in accordance with the state's record retention requirements and shall be made available to the director upon request. (11-1-06)T

e. The satisfaction of these training requirements in any state shall be deemed to satisfy the training requirements of this state. (11-1-06)T

02~~3~~8. SUITABILITY.

01. Life Insurance Policies That Accelerate Benefits. Section 02~~3~~8 shall not apply to life insurance policies that accelerate benefits for long-term care. ~~*(3-30-01)*~~(11-1-06)T

02. General Provisions. Every Insurer, Fraternal Benefit Society, Managed Care Organization or other similar organization marketing long-term care insurance (the "issuer") shall: (4-5-00)

a. Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant; (4-5-00)

b. Train its ~~*agents*~~ producers in the use of its suitability standards; and ~~*(4-5-00)*~~(11-1-06)T

c. Maintain a copy of its suitability standards and make them available for inspection upon request by the director. (4-5-00)

03. Determination of Standards. To determine whether the applicant meets the standards developed by the issuer; (4-5-00)

a. The ~~*agent*~~ producer and issuer shall develop procedures that take the following into consideration: ~~*(4-5-00)*~~(11-1-06)T

i. The ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage; (4-5-00)

ii. The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and (4-5-00)

iii. The values, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits and costs of the recommended purchase or replacement. (4-5-00)

b. The issuer and an ~~*agent*~~ producer, if involved, shall make reasonable efforts to obtain the information set out in Subsection 02~~3~~8.03~~.a~~. The efforts shall include presentation to

the applicant, at or prior to application, the "Long-Term Care Insurance Personal Worksheet." The personal worksheet used by the issuer shall contain, at a minimum, the information in the format contained in the NAIC Model Regulations in Appendix B, in not less than twelve (12) point type. The issuer may request the applicant to provide additional information to comply with its suitability standards. A copy of the issuer's personal worksheet shall be filed with the director. ~~(3-30-01)~~(11-1-06)T

i. Copies of NAIC Model Regulations for Long-Term Care Insurance Minimum Standards Appendixes B, C, and D can be found at the Idaho Department of Insurance Homepage, ~~www.doi.state.id.us, select SHIBA (Senior Health Insurance Benefits Advisors) under Consumer Assistance link, see attachments to the NAIC Model Regulation implementing the Long-Term Care Insurance Minimum Standards. To obtain a copy of the required illustrations based on the NAIC Model Regulation, contact SHIBA at the Idaho Department of Insurance (208) 334-4250.~~ http://www.doi.idaho.gov select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60 "Long-Term Care Minimum Standards." ~~(4-5-00)~~(11-1-06)T

c. A completed personal worksheet shall be returned to the issuer prior to the issuer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses. (4-5-00)

d. The sale or dissemination outside the company or agency by the issuer or ~~*agent*~~ producer of information obtained through the personal worksheet in the NAIC Model Regulations, Appendix B is prohibited. ~~(4-5-00)~~(11-1-06)T

04. Appropriateness. The issuer shall use the suitability standards it has developed pursuant to Section 02~~3~~8 in determining whether issuing long-term care insurance coverage to an applicant is appropriate. ~~(3-30-01)~~(11-1-06)T

05. Use of Standards. ~~*Agents*~~ Producers shall use the suitability standards developed by the issuer in marketing long-term care insurance. ~~(4-5-00)~~(11-1-06)T

06. Disclosure Form. At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" shall be provided. The form shall be in the format contained in the NAIC Model Regulations, Appendix C, in not less than twelve (12) point type. (4-5-00)

07. Rejection and Alternatives. If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the issuer shall send the applicant a letter similar to the NAIC Model Regulations, Appendix D. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file. (4-5-00)

08. Reporting. The issuer shall report annually to the director the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of those who chose to confirm after receiving a suitability letter.

(4-5-00)

02~~4~~9. PROHIBITION AGAINST PREEXISTING CONDITIONS AND PROBATIONARY PERIODS IN REPLACEMENT POLICIES OR CERTIFICATES. If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits to the extent that similar exclusions have been satisfied under the original policy. (4-5-00)

030. AVAILABILITY OF NEW SERVICES OR PROVIDERS.

01. Notification to Policyholder. An insurer shall notify the policyholder of the availability of a new long-term care policy that provides coverage for new long-term care services or providers material in nature and not previously available through the insurer to the general public. The notice shall be provided within twelve (12) months of the date the new policy is made available for sale in this state. (11-1-06)T

02. Exceptions to Notification Requirements. Notwithstanding Subsection 030.01, notification is not required for any policy issued prior to the effective date of this Section 030. or to any policyholder who is currently eligible for benefits, within an elimination period or on claim, or who previously has been in claim status, or who would not be eligible to apply for coverage due to issue age limitations under the new policy. The insurer may require that policyholders meet all eligibility requirements, including underwriting and payment of the required premium to add such new services or providers. (11-1-06)T

03. New Coverage. The insurer shall make the new coverage available in one of the following ways: (11-1-06)T

a. By adding a rider to the existing policy and charging a separate premium for the new rider based on the insured's attained age; (11-1-06)T

b. By exchanging the existing policy or certificate for one with an issue age based on the present age of the insured and recognizing past insured status by granting premium credits toward the premiums for the new policy or certificate. The premium credits shall be based on premiums paid or reserves held for the prior policy or certificate. (11-1-06)T

c. By exchanging the existing policy or certificate for a new policy or certificate in which consideration for past insured status shall be recognized by setting the premium for the new policy or certificate at the issue age of the policy or certificate being exchanged. The cost of the new policy or certificate may recognize the difference in reserves between the new policy or certificate and the original policy or certificate; or (11-1-06)T

d. By an alternative program developed by the insurer that meets the intent of Section 030 if the program is filed with and approved by the Director. (11-1-06)T

04. Proprietary Policy. An insurer is not required to notify policyholders of a new proprietary policy created and filed for use in a limited distribution channel. For purposes of this Subsection 030.04, "limited distribution channel" means through a discrete entity, such as a

financial institution or brokerage, for which specialized products are available that are not available for sale to the general public. Policyholders that purchased such a proprietary policy shall be notified when a new long-term care policy that provides coverage for new long-term care services or providers material in nature is made available to that limited distribution channel. (11-1-06)T

05. Exchanges and Not Replacements. Policies issued pursuant to this Section 030. shall be considered exchanges and not replacements. These exchanges shall not be subject to Section 018, and Section 028, and the reporting requirements of Section 019.01. through 019.05. of this Chapter. (11-1-06)T

06. Employer Sponsored Plan. Where the policy is offered through an employer, labor organization, professional, trade or occupational association, the required notification in Subsection 030.01shall be made to the offering entity. However, if the policy is issued to a group defined in Section 41-4603 (04) (d), Idaho Code, Long Term Care Insurance Act, the notification shall be made to each certificateholder. (11-1-06)T

07. Nothing Shall Prohibit an Insurer From Offering Coverage. Nothing in this Section 030. shall prohibit an insurer from offering any policy, rider, certificate or coverage change to any policyholder or certificate-holder. However, upon request any policyholder may apply for currently available coverage that includes the new services or providers. The insurer may require that policyholders meet eligibility requirements, including underwriting and payment of the required premium to add such new services or providers. (11-1-06)T

08. Not Applicable to Life Insurance Policies. This Section 030 does not apply to life insurance policies or riders containing accelerated long-term care benefits. (11-1-06)T

031. RIGHT TO REDUCE COVERAGE AND LOWER PREMIUMS.

01. Reduction of Coverage. Every long-term care insurance policy and certificate shall include a provision that allows the policyholder or certificateholder to reduce coverage and lower the policy or certificate premium in at least one of the following ways: (11-1-06)T

a. Reducing the maximum benefit; or (11-1-06)T

b. Reducing the daily, weekly or monthly benefit amount. (11-1-06)T

c. The insurer may also offer other reduction options that are consistent with the policy or certificate design or the carrier's administrative processes. (11-1-06)T

02. Implementing a Reduction in Coverage. The provision shall include a description of the ways in which coverage may be reduced and the process for requesting and implementing a reduction in coverage. (11-1-06)T

03. Determination of Premium for Reduced Coverage. The age to determine the premium for the reduced coverage shall be based on the age used to determine the premiums for the coverage currently in force. (11-1-06)T

04. Limitations for the Reduction of Coverage. The insurer may limit any reduction in coverage to plans or options available for that policy form and to those for which benefits will be available after consideration of claims paid or payable. (11-1-06)T

05. Notification in Regard to the Possible Lapse of Policy. If a policy or certificate is about to lapse, the insurer shall provide a written reminder to the policyholder or certificateholder of his or her right to reduce coverage and premiums in the notice required by Subsection 013.01.c. of this rule. (11-1-06)T

06. Not Applicable to Life Insurance Policies or Riders Containing Accelerated Benefits. This Section 031 does not apply to life insurance policies or riders containing accelerated long-term care benefits. (11-1-06)T

07. Compliance Requirements. The requirements of this Section 031 shall apply to any long-term care policy issued in this state on or after November 1, 2007. Compliance with this Section 031 may be accomplished by policy replacement, exchange or by adding the required provision via amendment or endorsement to the policy. (11-1-06)T

0~~25~~32. NONFORFEITURE BENEFIT REQUIREMENT.

01. Life Insurance Policies That Accelerate Benefits. Section 0~~25~~32 does not apply to life insurance policies or riders containing accelerated long-term care benefits. ~~(3-30-01)~~(11-1-06)T

02. Nonforfeiture Benefits. To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of Section 41-4607, Idaho Code, every Insurer, Fraternal Benefit Society, Managed Care Organization, or other similar organization marketing long-term care insurance coverage in this state shall satisfy the following: (4-5-00)

a. A policy or certificate offered with nonforfeiture benefits shall have coverage elements, eligibility, benefit triggers and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefit described in Subsection ~~025.04d~~ 032.04.e. ~~(3-30-01)~~(11-1-06)T

b. The offer shall be in writing if the nonforfeiture benefit is not otherwise described in the Outline of Coverage or other materials given to the prospective policyholder. (4-5-00)

03. Contingent Benefit. If the offer required to be made under Section 41-4607, Idaho Code, is rejected, the insurer shall provide the contingent benefit upon lapse described in Section 0~~25~~32. Even if this offer is accepted for a policy with a fixed or limited premium paying period, the contingent benefit on lapse in Subsection 032.04.b.i. shall still apply. ~~(3-30-01)~~(11-1-06)T

04. Rejection of Offer. After rejection of the offer required under Section 41-4607, Idaho Code, as it pertains to nonforfeiture benefits, for individual and group policies without nonforfeiture benefits issued after the effective date of Section 0~~25~~32, the insurer shall provide a contingent benefit upon lapse. ~~(3-30-01)~~(11-1-06)T

a. In the event a group policyholder elects to make the nonforfeiture benefit an option

to the certificate holder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse. (4-5-00)

b. ~~*The*~~ A contingent benefit on lapse shall be triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth within Subsection 0~~*25*~~32.04 based on the insured's issue age, and the policy or certificate lapses within one hundred twenty (120) days of the due date of the premium so increased. Unless otherwise required, policyholders shall be notified at least thirty (30) days prior to the due date of the premium reflecting the rate increase.

Table: Issue Age - Percent Increase Over Initial Premium

Issue Age	Percent Increase Over Initial Premium	Issue Age	Percent Increase Over Initial Premium
29 and under	200%	72	36%
30-34	190%	73	34%
35-39	170%	74	32%
40-44	150%	75	30%
45-49	130%	76	28%
50-54	110%	77	26%
55-59	90%	78	24%
60	70%	79	22%
61	66%	80	20%
62	62%	81	19%
63	58%	82	18%
64	54%	83	17%
65	50%	84	16%
66	48%	85	15%
67	46%	86	14%
68	44%	87	13%
69	42%	88	12%
70	40%	89	11%
71	38%	90 and over	10%

~~*(3-30-01)*~~(11-1-06)T

i. A contingent benefit on lapse shall also be triggered for policies with a fixed or limited premium paying period every time an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, the policy or certificate lapses within one hundred twenty (120) days of the due date of the premium so

increased, and the ratio in Subsection 032.04.d.ii. is forty percent (40%) or more. Unless otherwise required, policyholders shall be notified at least thirty (30) days prior to the due date of the premium reflecting the rate increase.

Triggers For A Substantial Premium Increase

Issue Age	Percent Increase Over Initial Premium
Under 65	50%
65-80	30%
Over 80	10%

This provision shall be in addition to the contingent benefit provided by Subsection 032.04.b. above and where both are triggered, the benefit provided shall be at the option of the insured. (11-1-06)T

c. On or before the effective date of a substantial premium increase as defined in Subsection 0~~25~~32.04.b., the insurer shall: ~~(3-30-01)~~(11-1-06)T

i. Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased; (4-5-00)

ii. Offer to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of Subsection ~~025.04.d.~~ 032.04.e. This option may be elected at any time during the one hundred twenty (120) day period referenced in Subsection 0~~25~~32.04.b.; and ~~(3-30-01)~~(11-1-06)T

iii. Notify the policyholder or certificate holder that a default or lapse at any time during the one hundred twenty (120) day period referenced in Subsection 0~~25~~32.04.b. shall be deemed to be the election of the offer to convert in Subsection 0~~25~~32.04.c.ii. unless the automatic option in Subsection 032.04.d.iii. applies. ~~(3-30-01)~~(11-1-06)T

d. On or before the effective date of a substantial premium increase as defined in Subsection 032.04.b.i., the insurer shall: (11-1-06)T

i. Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased; (11-1-06)T

ii. Offer to convert the coverage to a paid-up status where the amount payable for each benefit is ninety percent (90%) of the amount payable in effect immediately prior to lapse times the ratio of the number of completed months of paid premiums divided by the number of months in the premium paying period. This option may be elected at any time during the one hundred twenty (120) day period referenced in Subsection 032.04.b.i.; and (11-1-06)T

iii. Notify the policyholder or certificateholder that a default or lapse at any time

during the one hundred twenty (120) day period referenced in Subsection 032.04.b.i. shall be deemed to be the election of the offer to convert in Subsection 032.04.d.ii. above if the ratio is forty percent (40%) or more. (11-1-06)T

~~d~~e. Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse, in accordance with Subsection 032.04.b. but not Subsection 032.04.b.i. are described in Subsection ~~025.04.d.~~ 032.04.e. ~~(3-30-01)~~(11-1-06)T

i. For purposes of this Subsection ~~025.04.d.~~ 032.04.e., attained age rating is defined as a schedule of premiums starting from the issue date which increases age at least one percent (1%) per year prior to age fifty (50), and at least three percent (3%) per year beyond age fifty (50); ~~(3-30-01)~~(11-1-06)T

ii. For purposes of Subsection ~~025.04.d.~~ 032.04.e., the nonforfeiture benefit shall be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in Subsection ~~025.04.d.iii.~~ 032.04.e.iii.; ~~(3-30-01)~~(11-1-06)T

iii. The standard nonforfeiture credit will be equal to one hundred percent (100%) of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit shall not be less than thirty (30) times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of Subsection ~~025.04.e.~~ 032.04.f.; ~~(3-30-01)~~(11-1-06)T

iv. The nonforfeiture benefit shall begin not later than the end of the third year following the policy or certificate issue date. The contingent benefit upon lapse shall be effective during the first three (3) years as well as thereafter. (3-30-01)

v. Notwithstanding Subsection ~~025.04.d.iv.~~ 032.04.e.iv. for a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of: ~~(3-30-01)~~(11-1-06)T

(1) The end of the tenth year following the policy or certificate issue date; or (4-5-00)

(2) The end of the second year following the date the policy or certificate is no longer subject to attained age rating. (4-5-00)

vi. Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate. (4-5-00)

~~e~~f. All benefits paid by the insurer while the policy or certificate is in premium paying status and in the paid-up status will not exceed the maximum benefits which would be payable if the policy or certificate had remained in premium paying status. (4-5-00)

~~f~~**g.** There shall be no difference in the minimum nonforfeiture benefits as required under Section 0~~25~~32 for group and individual policies. ~~(3-30-01)~~(11-1-06)T

~~g. The requirements set forth in Section 025 shall become effective twelve (12) months after adoption of this provision and shall apply as follows:~~ ~~(3-30-01)~~

~~i. Except as provided in Subsection 025.04.g.ii., the provisions of Section 025 apply to any long-term care policy issued in this state on or after the effective date of this rule.~~ ~~(3-30-01)~~

~~ii~~**h.** For certificates issued on or after the effective date of this Section 0~~25~~32, under a group long-term care insurance policy as defined in Section 41-4603(4)(a), Idaho Code, which policy was in force at the time this rule became effective, the provisions of Section 0~~25~~32 shall not apply. ~~(3-30-01)~~(11-1-06)T

i. The last sentence Subsection 032.03 and Subsections 032.04.b. and Subsections 032.04.d. shall apply to any long-term care insurance policy defined in Section 41-4603(4)(a), Idaho Code one year after adoption. (11-1-06)T

~~h~~**i.** Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse shall be subject to the loss ratio requirements of Section 0~~18~~23 or Section 025, whichever is applicable, treating the policy as a whole. ~~(4-5-00)~~(11-1-06)T

~~i~~**j.** To determine whether contingent nonforfeiture upon lapse provisions are triggered under Subsection 0~~25~~32.04.b. or 032.04.b.i., a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original insurer. ~~(3-30-01)~~(11-1-06)T

~~j~~**k.** A nonforfeiture benefit~~s~~ for qualified long-term care insurance contracts that are level premium contracts shall be offered that meets the following requirements: ~~(4-5-00)~~(11-1-06)T

i. The nonforfeiture provision shall be appropriately captioned; (4-5-00)

ii. The nonforfeiture provision shall provide a benefit available in the event of a default on the payment of any premiums and shall state that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency and interest as reflected in changes in rates for premium paying contracts ~~approved by the Secretary of the Treasury~~ filed for review with the Director for the same contract form; and ~~(4-5-00)~~(11-1-06)T

iii. The nonforfeiture provision shall provide at least one (1) of the following: (4-5-00)

(1) Reduced paid-up insurance; (4-5-00)

(2) Extended term insurance; (4-5-00)

(3) Shortened benefit period; or (4-5-00)

(4) Other similar offerings approved by the Director. (4-5-00)

0~~26~~33. STANDARDS FOR BENEFIT TRIGGERS.

01. Conditions of Benefits Payment. A long-term care insurance policy shall condition the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. Eligibility for the payment of benefits shall not be more restrictive than requiring either a deficiency in the ability to perform not more than three (3) of the activities of daily living or the presence of cognitive impairment. (4-5-00)

02. Activities of Daily Living. Insurers may use activities of daily living to trigger covered benefits in addition to those contained in Subsection 0~~26~~33.02 as long as they are defined in the policy. Activities of daily living shall include at least the following as defined in Section 0~~04~~10 and in the policy. ~~(3-30-01)~~(11-1-06)T

a. Bathing; (4-5-00)

b. Continence; (4-5-00)

c. Dressing; (4-5-00)

d. Eating; (4-5-00)

e. Toileting; and (4-5-00)

f. Transferring. (4-5-00)

03. Additional Provisions. An insurer may use additional provisions for the determination of when benefits are payable under a policy or certificate; however the provisions shall not restrict, and are not in lieu of, the requirements contained in Subsections 0~~26~~33.01 and 0~~26~~33.02. ~~(3-30-01)~~(11-1-06)T

04. Determinations of Deficiency. For purposes of Section 0~~26~~33 the determination of a deficiency shall not be more restrictive than: ~~(3-30-01)~~(11-1-06)T

a. Requiring the hands-on assistance of another person to perform the prescribed activities of daily living; or (4-5-00)

b. If the deficiency is due to the presence of a cognitive impairment, supervision or verbal cueing by another person is needed in order to protect the insured or others. (4-5-00)

05. Assessments. Assessments of activities of daily living and cognitive impairment shall be performed by licensed or certified professionals, such as physicians, nurses or social workers. (4-5-00)

06. Appeals. Long-term care insurance policies shall include a clear description of the process for appealing and resolving benefit determinations. (4-5-00)

07. Effective Date. The requirements set forth in Section 0~~26~~33 shall be effective within twelve (12) months of the effective date of the rule and shall apply as follows: ~~(3-30-01)~~(11-1-06)T

a. Except as provided in Subsection 0~~26~~33.07.b. the provisions of Section 0~~26~~33 apply to a long-term care policy issued in this state on or after the effective date of the rule. ~~(3-30-01)~~(11-1-06)T

b. For certificates issued on or after the effective date of Section 0~~26~~33, under a group long-term care insurance policy as defined in Section 41-4603(4)(a), Idaho Code, that was in force at the time this rule became effective, the provisions of Section 0~~26~~33 shall not apply. ~~(3-30-01)~~(11-1-06)T

0~~27~~34. ADDITIONAL STANDARDS FOR BENEFIT TRIGGERS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

01. Definitions. For purposes of Section 0~~27~~34 the following definitions apply: ~~(3-30-01)~~(11-1-06)T

a. Qualified long-term care services means services that meet the requirements of Section 7702B(~~b~~a)(1) of the Internal Revenue Code of 1986, as amended, as follows: necessary diagnostic, preventive, therapeutic, curative, treatment, mitigation, and rehabilitative services and maintenance or personal care services which are required by a chronically ill individual, and are provided pursuant to a plan of care prescribed by a licensed health care practitioner. ~~(4-5-00)~~(11-1-06)T

b. Chronically ill individual has the meaning prescribed for this term by Section 7702B(c)(2) of the Internal Revenue Code of 1986, as amended. Under this provision, a chronically ill individual means any individual who has been certified by a licensed health care practitioner as: (4-5-00)

i. Being unable to perform (without substantial assistance from another individual) at least two (2) activities of daily living for a period of at least ninety (90) days due to a loss of functional capacity; or (4-5-00)

ii. Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment. (4-5-00)

c. The term chronically ill individual shall not include an individual otherwise meeting these requirements unless within the preceding twelve (12) month period a licensed health care practitioner has certified that the individual meets these requirements. (4-5-00)

d. Licensed health care practitioner means a physician, as defined in Section 1861(r)(1) of the Social Security Act, and a registered professional nurse, licensed social worker,

or other individual who meets requirements prescribed by the Secretary of the Treasury. (4-5-00)

e. Maintenance or personal care services means any care, the primary purpose of which is the provision of needed assistance with any of the disabilities, the existence of which leads to the conclusion that the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment). (4-5-00)

02. The Chronically Ill. A qualified long-term care insurance contract shall pay for qualified long-term care services received by a chronically ill individual provided pursuant to a plan of care prescribed by a licensed health care practitioner. (4-5-00)

03. Payments and Conditions. A qualified long-term care insurance contract shall condition the payment of benefits on a determination of the insured's inability to perform activities of daily living for an expected period of at least ninety (90) days due to a loss of functional capacity; or to severe cognitive impairment~~*, as described in Subsection 027.06.b. (and as described under regulations or other guidance developed by the Secretary of the Treasury)*. *An insured will be considered to have met a condition of payment if, within the preceding twelve (12) month period, a licensed health care practitioner has certified that the insured has met the requirements and the provider has prescribed the qualified long-term care insurance services pursuant to a plan of care.* *(3-30-01)*~~(11-1-06)T

04. Certifications by Professionals. Certifications regarding activities of daily living and cognitive impairment required pursuant to Subsection 0~~27~~34.03 shall be performed by licensed or certified professionals, such as physicians, registered professional nurses, licensed social workers, or other individuals who meet requirements prescribed by the Secretary of the Treasury. ~~*(3-30-01)*~~(11-1-06)T

05. Certifications by Carrier. Certification required pursuant to Subsection 0~~27~~34.03 may be performed by a licensed health care professional at the direction of the carrier as is reasonably necessary with respect to a specific claim, except that when a licensed health care practitioner has certified that an insured is unable to perform activities of daily living for an expected period of at least ninety (90) days due to a loss of functional capacity and the insured is in claim status, the certification may not be rescinded and additional certifications may not be performed until after the expiration of the ninety (90) day period. ~~*(3-30-01)*~~(11-1-06)T

~~***06. Standards**. For the purposes of Section 027, determinations of functional capacity and severe cognitive impairment shall be based on the following standards:* *(3-30-01)*~~

~~***a.** For loss of functional capacity, requiring the substantial assistance of another person to perform the prescribed activities of daily living; or* *(4-5-00)*~~

~~***b.** For severe cognitive impairment, requiring substantial supervision by another person to protect the insured from threats to health and safety.* *(4-5-00)*~~

0~~7~~6. Appeals. Qualified long-term care contracts shall include a clear description of the process for appealing and resolving benefit determinations. (4-5-00)

0~~28~~35. STANDARD FORMAT OUTLINE OF COVERAGE.

Section 0~~28~~35 of the rule implements, interprets and makes specific, the provisions of Section 41-4605(7)(a), Idaho Code, in prescribing a standard format and the content of an outline of coverage. ~~(3-30-01)~~(11-1-06)T

01. Format. The outline of coverage shall be a freestanding document, using no smaller than ten (10) point type. Text that is capitalized or underscored in the standard format outline of coverage may be emphasized by other means that provide prominence equivalent to the capitalization or underscoring. (4-5-00)

02. Content. The outline of coverage shall contain no material of an advertising nature. (4-5-00)

03. Standard Form. Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated. Format for the outline of coverage ~~may be found on the Idaho Department of Insurance Home Page website, www.doi.state.id.us, select SHIBA (Senior Health Insurance Benefits Advisors) under Consumer Assistance link, see attachments to the NAIC Model Regulation implementing the Long-Term Care Insurance Minimum Standards.~~ is published on the Department of Insurance Homepage http://www.doi.idaho.gov select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60 "Long-Term Care Minimum Standards." ~~(4-5-00)~~(11-1-06)T

0~~29~~36. REQUIREMENT TO DELIVER SHOPPER'S GUIDE.

01. Approved Format. A long-term care insurance shopper's guide in the format developed by the National Association of Insurance Commissioners, or a guide developed or approved by the director, shall be provided to all prospective applicants of a long-term care insurance policy or certificate. (4-5-00)

a. In the case of ~~agent~~ producer solicitations, a~~n agent~~ producer must deliver the shopper's guide prior to the presentation of an application or enrollment form.~~(4-5-00)~~(11-1-06)T

b. In the case of direct response solicitations, the shopper's guide must be presented in conjunction with any application or enrollment form. (4-5-00)

02. Exceptions. Life insurance policies or riders containing accelerated long-term care benefits are not required to furnish the above-referenced guide, but shall furnish the policy summary required under Section 41-4605(9), Idaho Code, Disclosure and Performance Standards for Long-Term Care Insurance. (4-5-00)

03~~07~~7. PENALTIES.
In addition to any other penalties provided by the laws of this state any insurer and any ~~agent~~ producer found to have violated any requirement of this state relating to the marketing of such insurance or of IDAPA 18.01.60, "Long-Term Care Insurance Minimum Standards," shall be subject to an administrative penalty of up to three (3) times the amount of any commissions paid for each policy involved in the violation or up to ten thousand dollars ($10,000), whichever is greater. ~~(3-30-01)~~(11-1-06)T

03~~7~~8. -- 999. (RESERVED).

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.68 - MINIMUM RESERVE STANDARDS FOR INDIVIDUAL AND GROUP HEALTH INSURANCE

DOCKET NO. 18-0168-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Vol. 06-8, pages 28 through 39.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Martha Hopper at (208) 334-4315.

DATED this 2nd day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-608, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 16, 2006.

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 repeals rule sections setting forth minimum reserve standards for individual and group health insurance and replaces them with the standards set forth in the National Association of Insurance Commissioners Accounting Manual, as adopted by the Director pursuant to Section 41-335, Idaho Code. Other sections are added to conform with Office of Administrative Rules standards.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule implements national standards adopted by the National Association of Insurance Commissioners as part of the Accounting Practices and Procedures Manual adopted by the Director pursuant to Section 41-335, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Martha Hopper at (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 on or before August 23, 2006.

DATED this 28th of June, 2006.

Shad Priest, Acting Director
Idaho Department of Insurance
700 W State Street, 3rd Floor
P O Box 83720
Boise ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.
This rule is promulgated and adopted pursuant to and in accordance with the provisions of Sections 41-211, 41-355 and 41-608, Idaho Code, and Title 67, Chapter 52, Idaho Code.
~~(10-1-93)~~(____)

001. ~~PURPOSE~~ TITLE AND SCOPE.
~~*The purpose of this rule is to set forth rules governing Reserve Standards for disability policies, which the Department deems necessary to carry out the provisions of Section 41-608, Idaho Code.*~~

01. Title. This rule shall be cited as IDAPA 18.01.68, "Minimum Reserve Standards for Individual and Group Health Insurance Contracts." ~~(10-1-93)~~(____)

0~~1~~2. Scope. These standards apply to all individual and group health (disability) insurance coverages ~~*except credit insurance*~~ including single premium credit disability insurance.
~~(10-1-93)~~(____)

~~**a.** *When an insurer determines that adequacy of its health insurance reserves requires reserves in excess of the minimum standards specified herein, such increased reserves shall be held and shall be considered the minimum reserves for that insurer.* (10-1-93)~~

~~**b.** *With respect to any block of contracts, or with respect to an insurer's health business as a whole, a prospective gross premium valuation is the ultimate test of reserve adequacy as of a given valuation date. Such a gross premium valuation will take into account, for contracts in force, in a claims status, or in a continuation of benefits status on the valuation date, the present value as of the valuation date of all expected benefits unpaid, all expected expenses unpaid, and all unearned or expected premiums, adjusted for future premium increases reasonably expected to be put into effect.* (10-1-93)~~

~~**c.** *Such a gross premium valuation is to be performed whenever a significant doubt exists as to reserve adequacy with respect to any major block of contracts, or with respect to the insurer's health business as a whole. In the event inadequacy is found to exist, immediate loss recognition shall be made and the reserves restored to adequacy. Adequate reserves (inclusive of claim, premium and contract services, if any) shall be held with respect to all contracts, regardless of whether contract reserves are required for such contracts under these standards.* (10-1-93)~~

~~**d.** *Whenever minimum reserves, as defined in these standards, exceed reserve requirements as determined by a prospective gross premium valuation, such minimum reserves remain the minimum requirement under these standards.* (10-1-93)~~

~~**02.** **Categories of Reserves**. *The following sections set forth minimum standards for categories of health insurance reserves:* (10-1-93)~~

~~**a.** *Subsection 18.01.68.011, Claim Reserves.* (10-1-93)~~

~~**b.** *Subsection 18.01.68.012, Premium Reserves.* (10-1-93)~~

~~**c.** *Subsection 18.01.68.013, General Contract Reserves.* (10-1-93)~~

~~**d.** *Subsection 18.01.68.014, Minimum Standards for Contract Reserves.* (10-1-93)~~

~~**e.** *Subsection 18.01.68.015, Alternative Valuation Methods and Assumptions Generally.* (10-1-93)~~

~~**f.** *Subsection 18.01.68.016, Tests For Adequacy and Reasonableness of Contract Reserves.* (10-1-93)~~

~~**g.** *Adequacy of an insurer's health insurance reserves is to be determined on the basis of all three (3) categories combined. However, these standards emphasize the importance of determining appropriate reserves for each of the three (3) categories separately.* (10-1-93)~~

~~**03. Appendices**. *These standards contain one appendix which is an integral part of the standards, and one additional "supplementary" appendix which is not part of the standards as such, but is included for explanatory and illustrative purposes only.* (10-1-93)~~

~~**a.** *Appendix A. Specific minimum standards with respect to morbidity, mortality and interest, which apply to claim reserves according to year of incurral and to contract reserves according to year of issue.* (10-1-93)~~

~~**b.** *Appendix B. (Supplementary) Waiver of Premium Reserves.* (10-1-93)~~

~~**002. -- 003. (RESERVED).**~~

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. hese 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 Chapter 2, Title 41, Idaho Code, the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ( )

004. INCORPORATION BY REFERENCE.
The NAIC Accounting Practices and Procedures Manual as adopted by the Director pursuant to Section 41-335, Idaho Code, is hereby incorporated by reference. ( )

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

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

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

03. **Street Address**. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. ( )

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

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

007. -- 009. (RESERVED).

0~~04~~10. DEFINITIONS.
As used in this valuation standard, the following terms have the following meaning: (10-1-93)

01. ~~***Annual Claim Cost***. *The net annual cost per unit of benefit before the addition of expenses, including claim settlement expenses, and a margin for profit or contingencies. For example, the annual claim cost for a one hundred dollar ($100) monthly disability benefit, for a maximum disability benefit period of one (1) year, with an elimination period of one (1) week, with respect to a male at age thirty-five (35), in a certain occupation might be twelve dollars ($12), while the gross premium for this benefit might be eighteen dollars ($18). The additional six dollars ($6) would cover expenses and profit or contingencies.~~ **NAIC Accounting Practices and Procedure Manual**. The manual annually adopted and published by the National Association of Insurance Commissioners (NAIC) which contains statutory accounting guidance, as adopted by the director of the department of insurance in accordance with section 41-335, Idaho Code. ~~*(10-1-93)*~~( )

~~***02.*** ***Claims Accrued***. *That portion of claims incurred on or prior to the valuation date which result in liability of the insurer for the payment of benefits for medical services which have been rendered on or prior to the valuation date, and for the payment of benefits for days of hospitalization and days of disability which have occurred on or prior to the valuation date, which the insurer has not paid as of the valuation date, but for which it is liable, and will have to pay after the valuation date. This liability is sometimes referred to as a liability for "accrued" benefits. A claim reserve, which represents an estimate of this accrued claim liability, must be established.* *(10-1-93)*~~

~~***03.*** ***Claims Reported***. *When an insurer has been informed that a claim has been incurred, if the date reported is on or prior to the valuation date, the claim is considered as a reported claim for annual statement purposes.* *(10-1-93)*~~

~~***04.*** ***Claims Unaccrued***. *That portion of claims incurred on or prior to the valuation date which result in liability of the insurer for the payment of benefits for medical services expected to be rendered after the valuation date, and for benefits expected to be payable for days of hospitalization and days of disability occurring after the valuation date. This liability is*~~

~~*sometimes referred to as a liability for unaccrued benefits. A claim reserve, which represents an estimate of the unaccrued claim payments expected to be made (which may or may not be discounted with interest), must be established.* (10-1-93)~~

~~***05. Claims Unreported**. When an insurer has not been informed, on or before the valuation date, concerning a claim that has been incurred on or prior to the valuation date, the claim is considered as an unreported claim for annual statement purposes.* (10-1-93)~~

~~***06. Date of Disablement**. The earliest date the insured is considered as being disabled under the definition of disability in the contract, based on a doctor's evaluation or other evidence. Normally this date will coincide with the start of any elimination period.* (10-1-93)~~

~~***07. Elimination Period**. A specified number of days, weeks, or months starting at the beginning of each period of loss, during which no benefits are payable.* (10-1-93)~~

~~***08. Gross Premium**. The amount of premium charged by the insurer. It includes the net premium (based on claim-cost) for the risk, together with any loading for expenses, profit or contingencies.* (10-1-93)~~

~~***09. Group Insurance**. The term group insurance includes blanket insurance and franchise insurance and any other forms of group insurance.* (10-1-93)~~

~~***10. Level Premium**. A premium calculated to remain unchanged throughout either the lifetime of the policy, or for some shorter projected period of years. The premium need not be guaranteed; in which case, although it is calculated to remain level, it may be changed if any of the assumptions on which it was based are revised at a later time. Generally, the annual claim costs are expected to increase each year and the insurer, instead of charging premiums that correspondingly increase each year, charges a premium calculated to remain level for a period of years or for the lifetime of the contract. In this case the benefit portion of the premium is more than needed to provide for the cost of benefits during the earlier years of the policy and less than the actual cost in the later years. The building of a prospective contract reserve is a natural result of level premiums.* (10-1-93)~~

~~***11. Long-Term Care Insurance**. Any insurance policy or rider advertised, marketed, offered or designed to provide coverage for not less than twelve (12) consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital. Such term also includes a policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. Long-term care insurance may be issued by insurers; fraternal benefit societies; nonprofit health, hospital, and medical service corporations; prepaid health plans; health maintenance organizations or any similar organization to the extent they are otherwise authorized to issue life or health insurance. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.* (10-1-93)~~

~~**12. Modal Premium**. This refers to the premium paid on a contract based on a premium term which could be annual, semi-annual, quarterly, monthly, or weekly. Thus if the annual premium is one hundred dollars ($100) and if, instead, monthly premiums of nine dollars ($9) are paid then the modal premium is nine dollars ($9). (10-1-93)~~

~~**13. Negative Reserve**. Normally the terminal reserve is a positive value. However, if the values of the benefits are decreasing with advancing age or duration it could be a negative value, called a negative reserve. (10-1-93)~~

~~**14. Preliminary Term Reserve Method**. Under this method of valuation the valuation net premium for each year falling within the preliminary term period is exactly sufficient to cover the expected incurred claims of that year, so that the terminal reserves will be zero (0) at the end of the year. As of the end of the preliminary term period, a new constant valuation net premium (or stream of changing valuation premiums) becomes applicable such that the present value of all such premiums is equal to the present value of all claims expected to be incurred following the end of the preliminary term period. (10-1-93)~~

~~**15. Present Value of Amounts Not Yet Due on Claims**. The reserve for "claims unaccrued" (see definition), which may be discounted at interest. (10-1-93)~~

~~**16. Reserve**. The term "reserve" is used to include all items of benefit liability, whether in the nature of incurred claim liability or in the nature of contract liability relating to future periods of coverage, and whether the liability is accrued or unaccrued. An insurer under its contracts promises benefits which result in: (10-1-93)~~

~~**a.** Claims which have been incurred, that is, for which the insurer has become obligated to make payment, on or prior to the valuation date. On these claims, payments expected to be made after the valuation date for accrued and unaccrued benefits are liabilities of the insurer which should be provided for by establishing claim reserves; or (10-1-93)~~

~~**b.** Claims which are expected to be incurred after the valuation date. Any present liability of the insurer for these future claims should be provided for by the establishment of contract reserves and unearned premium reserves. (10-1-93)~~

~~**17. Terminal Reserve**. This is the reserve at the end of a contract year, and is defined as the present value of benefits expected to be incurred after that contract year minus the present value of future valuation net premiums. (10-1-93)~~

~~**18. Unearned Premium Reserve**. This reserve values that portion of the premium paid or due to the insurer which is applicable to the period of coverage extending beyond the valuation date. Thus if an annual premium of one hundred twenty ($120) was paid on November 1, twenty dollars ($20) would be earned as of December 31 and the remaining one hundred dollars ($100) would be unearned. The unearned premium reserve could be on a gross basis as in this example, or on a valuation net premium basis. (10-1-93)~~

~~**19. Valuation Net Modal Premium**. This is the modal fraction of the valuation net annual premium that corresponds to the gross modal premium in effect on any contract to which~~

~~*contract reserves apply. Thus if the mode of payment in effect is quarterly, the valuation net modal premium is the quarterly equivalent of the valuation net annual premium.* (10-1-93)~~

011. MINIMUM RESERVE STANDARDS.

Unless otherwise prescribed or permitted, the Minimum Reserve Standards for Individual and Group Health Insurance Contracts set forth in the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual apply to all individual and group health (disability) insurance coverages including single premium credit disability insurance. All other credit insurance is not subject to this rule. ( )

~~***005. -- 010. (RESERVED).***~~

~~***011. CLAIM RESERVES.***~~

~~***01. General.*** (10-1-93)~~

~~***a.*** *Claim reserves are required for all incurred but unpaid claims on all health insurance policies.* (10-1-93)~~

~~***b.*** *Appropriate claim expense reserves are required with respect to the estimated expense of settlement of all incurred but unpaid claims.* (10-1-93)~~

~~***c.*** *All such reserves for prior valuation years are to be tested for adequacy and reasonableness along the lines of claim runoff schedules in accordance with the statutory financial statement including consideration of any residual unpaid liability.* (10-1-93)~~

~~***02. Minimum Standards for Claim Reserves.*** (10-1-93)~~

~~***a.*** *Disability income:* (10-1-93)~~

~~*i.* *Interest. The maximum interest rate for claim reserves is specified in Appendix A.* (10-1-93)~~

~~*ii.* *Morbidity. Minimum standards with respect to morbidity are those specified in Appendix A; except that, at the option of the insurer, for claims with a duration from date of disablement of less than two years, reserves may be based on the insurer's experience, if such experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities.* (10-1-93)~~

~~*iii.* *Duration of disablement. For contracts with an elimination period, the duration of disablement should be measured as dating from the time that benefits would have begun to accrue had there been no elimination period.* (10-1-93)~~

~~***b.*** *All other benefits:* (10-1-93)~~

~~*i.* *Interest. The maximum interest rate for claim reserves is specified in Appendix A.* (10-1-93)~~

~~ii. Morbidity or other contingency. The reserve should be based on the insurer's experience, if such experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities. (10-1-93)~~

~~**03. Claim Reserve Methods Generally**. Any generally accepted or reasonable actuarial method or combination of methods may be used to estimate all claim liabilities. The methods used for estimating liabilities generally may be aggregate methods, or various reserve items may be separately valued. Approximations based on groupings and averages may also be employed. Adequacy of the claim reserves, however, shall be determined in the aggregate. (10-1-93)~~

~~**012. PREMIUM RESERVES.**~~

~~**01. General**. (10-1-93)~~

~~**a.** Unearned premium reserves are required for all contracts with respect to the period of coverage for which premiums, other than premiums paid in advance, have been paid beyond the date of valuation. (10-1-93)~~

~~**b.** If premiums due and unpaid are carried as an asset, such premiums must be treated as premiums in force, subject to unearned premium reserve determination. The value of unpaid commissions, premium taxes, and the cost of collection associated with due and unpaid premiums must be carried as an offsetting liability. (10-1-93)~~

~~**c.** The gross premiums paid in advance for a period of coverage commencing after the next premium due date which follows the date of valuation may be appropriately discounted to the valuation date and shall be held either as a separate liability or as an addition to the unearned premium reserve which would otherwise be required as a minimum. (10-1-93)~~

~~**02. Minimum Standards for Unearned Premium Reserves**. (10-1-93)~~

~~**a.** The minimum unearned premium reserve with respect to any contract is the pro rata unearned modal premium that applies to the premium period beyond the valuation date, with such premium determined on the basis of: (10-1-93)~~

~~i. The valuation net modal premium on the contract reserve basis applying to the contract; or (10-1-93)~~

~~ii. The gross modal premium for the contract if no contract reserve applies. (10-1-93)~~

~~**b.** However, in no event may the sum of the unearned premium and contract reserves for all contracts of the insurer subject to contract reserve requirements be less than the gross modal unearned premium reserve on all such contracts, as of the date of valuation. Such reserve shall never be less than the expected claims for the period beyond the valuation date represented by such unearned premium reserve, to the extent not provided for elsewhere. (10-1-93)~~

~~**03. Premium Reserve Methods Generally**. The insurer may employ suitable approximations and estimates; including, but not limited to groupings, averages and aggregate~~

~~*estimation; in computing premium reserves. Such approximations or estimates should be tested periodically to determine their continuing adequacy and reliability.* (10-1-93)~~

~~***013. GENERAL CONTRACT RESERVES.***~~

~~***01. Contracts Requiring Contract Reserves**. Contract reserves are required, unless otherwise specified in Subsection 013.02 for:* (10-1-93)~~

~~***a.** All individual and group contracts with which level premiums are used; or* (10-1-93)~~

~~***b.** All individual and group contracts with respect to which, due to the gross premium pricing structure at issue, the value of the future benefits at any time exceeds the value of any appropriate future valuation net premiums at that time. The values specified in this Subsection 013.01.b. shall be determined on the basis specified in Section 014.* (10-1-93)~~

~~***02. Contracts Not Requiring a Contract Reserve**. Contracts not requiring a contract reserve are:* (10-1-93)~~

~~***a.** Contracts which cannot be continued after one (1) year from issue; or* (10-1-93)~~

~~***b.** Contracts already in force on the effective date of these standards for which no contract reserve was required under the immediately preceding standards.* (10-1-93)~~

~~***03. Contract Reserve in Addition to Claim Reserves and Premium Reserves**. The contract reserve is in addition to claim reserves and premium reserves.* (10-1-93)~~

~~***04. Methods and Procedures for Contract Reserves**. The methods and procedures for contract reserves should be consistent with those for claim reserves for any contract, or else appropriate adjustment must be made when necessary to assure provision for the aggregate liability. The definition of the date of incurral must be the same in both determinations.* (10-1-93)~~

~~***014. MINIMUM STANDARDS FOR CONTRACT RESERVES.***~~

~~***01. Morbidity or Other Contingency**. Minimum standards with respect to morbidity are those set forth in Appendix A. Valuation net premiums used under each contract must have a structure consistent with the gross premium structure at issue of the contract as this relates to advancing age of insured, contract duration and period for which gross premiums have been calculated. Contracts for which tabular morbidity standards are not specified in Appendix A shall be valued using tables established for reserve purposes by a qualified actuary and acceptable to the Director.* (10-1-93)~~

~~***02. Interest**. The maximum interest rate is specified in Appendix A.* (10-1-93)~~

~~***03. Termination Rates**. Termination rates used in the computation of reserves shall be on the basis of a mortality table as specified in Appendix A except as noted in the following paragraph. Under contracts for which premium rates are not guaranteed, and where the effects of insurer underwriting are specifically used by policy duration in the valuation morbidity standard*~~

~~or for return of premium or other deferred cash benefits, total termination rates may be used at ages and durations where these exceed specified mortality table rates, but not in excess of the lesser of: (10-1-93)~~

~~**a.** Eighty percent (80%) of the total termination rate used in the calculation of the gross premiums; or (10-1-93)~~

~~**b.** Eight percent (8%). Where a morbidity standard specified in Appendix A is on an aggregate basis, such morbidity standard may be adjusted to reflect the effect of insurer underwriting by policy duration. The adjustments must be appropriate to the underwriting and be acceptable to the Director. (10-1-93)~~

~~**04. Reserve Method**. (10-1-93)~~

~~**a.** For insurance except long-term care and return of premium or other deferred cash benefits, the minimum reserve is the reserve calculated on the two (2) year full preliminary term method; that is, under which the terminal reserve is zero (0) at the first and also the second contract anniversary. (10-1-93)~~

~~**b.** For long-term care insurance, the minimum reserve is the reserve calculated on the one-year full preliminary term method. (10-1-93)~~

~~**c.** For return of premium or other deferred cash benefits, the minimum reserve is the reserve calculated as follows: (10-1-93)~~

~~i. On the one (1) year preliminary term method if such benefits are provided at any time before the twentieth (20th) anniversary; (10-1-93)~~

~~ii. On the two (2) year preliminary term method if such benefits are only provided on or after the twentieth (20th) anniversary. (10-1-93)~~

~~iii. The preliminary term method may be applied only in relation to the date of issue of a contract. Reserve adjustments introduced later, as a result of rate increases, revisions in assumptions or for other reasons, are to be applied immediately as of the effective date of adoption of the adjusted basis. (10-1-93)~~

~~**05. Negative Reserves**. Negative reserves on any benefit may be offset against positive reserves for other benefits in the same contract, but the total contract reserve with respect to all benefits combined may not be less than zero (0). (10-1-93)~~

~~**015. ALTERNATIVE VALUATION METHODS AND ASSUMPTIONS GENERALLY.** Provided the contract reserve on all contracts to which an alternative method or basis is applied is not less in the aggregate than the amount determined according to the applicable standards specified above; an insurer may use any reasonable assumptions as to interest rates, termination and/or mortality rates, and rates of morbidity or other contingency. Also, subject to the preceding condition, the insurer may employ methods other than the methods stated above in determining a sound value of its liabilities under such contracts, including, but not limited to the following: the net level premium method; the one (1) year full preliminary term method; prospective valuation~~

~~on the basis of actual gross premiums with reasonable allowance for future expenses; the use of approximations such as those involving age groupings, groupings of several years of issue, average amounts of indemnity, grouping of similar contract forms; the computation of the reserve for one contract benefit as a percentage of, or by other relation to, the aggregate contract reserves exclusive of the benefit or benefits so valued; and the use of a composite annual claim cost for all or any combination of the benefits included in the contracts valued. (10-1-93)~~

~~**016. TESTS FOR ADEQUACY AND REASONABLENESS OF CONTRACT RESERVES.**~~
~~Annually, an appropriate review shall be made of the insurer's prospective contract liabilities on contracts valued by tabular reserves, to determine the continuing adequacy and reasonableness of the tabular reserves giving consideration to future gross premiums. The insurer shall make appropriate increments to such tabular reserves if such tests indicate that the basis of such reserves is no longer adequate; subject, however, to the minimum standards of Section 014. In the event a company has a contract or a group of related similar contracts, for which future gross premiums will be restricted by contract, insurance department regulations, or for other reasons, such that the future gross premiums reduced by expenses for administration, commissions, and taxes will be insufficient to cover future claims, the company shall establish contract reserves for such shortfall in the aggregate. (10-1-93)~~

~~**017. REINSURANCE.**~~
~~Increases to, or credits against reserves carried, arising because of reinsurance assumed or reinsurance ceded, must be determined in a manner consistent with these minimum reserve standards and with all applicable provisions of the reinsurance contracts which affect the insurer's liabilities. (10-1-93)~~

01~~8~~2. -- 999. (RESERVED).

~~**APPENDIX A**~~
~~**SPECIFIC STANDARDS FOR MORBIDITY, INTEREST AND MORTALITY**~~

~~**I. MORBIDITY.**~~

~~A. Minimum morbidity standards for valuation of specified individual contract health insurance benefits are as follows:~~

~~(1) Disability Income Benefits Due to Accident or Sickness.~~

~~(a) Contract Reserves:~~

~~Contracts issued on or after January 1, 1965 and prior to January 1, 1994:~~

~~The 1964 Commissioners Disability Table (64 CDT).~~

~~Contracts issued on or after January 1, 1994:~~

~~The 1985 Commissioners Individual Disability Tables A (85CIDA); or~~

~~The 1985 Commissioners Individual Disability Tables B (85CIDB).~~

~~*Contracts issued from 1986 through 1993:*~~

~~*Optional use of either the 1964 Table or the 1985 Tables.*~~

~~*Each insurer shall elect, with respect to all individual contracts issued in any one statement year, whether it will use Tables A or Tables B as the minimum standard. The insurer may, however, elect to use the other tables with respect to any subsequent statement year.*~~

~~*(b) Claim Reserves:*~~

~~*The minimum morbidity standard in effect for contract reserves on currently issued contracts, as of the date the claim is incurred.*~~

~~*(2) Hospital Benefits, Surgical Benefits and Maternity Benefits (Scheduled benefits or fixed time period benefits only).*~~

~~*(a) Contract Reserves:*~~

~~*Contracts issued on or after January 1, 1955, and before January 1, 1982:*~~

~~*The 1956 Intercompany Hospital-Surgical Tables.*~~

~~*Contracts issued on or after January 1, 1982 and before January 1, 1994:*~~

~~*The 1956 Intercompany Hospital-Surgical Tables or*~~

~~*The 1974 Medical Expense Tables, Table A, Transactions of the Society of Actuaries, Volume XXX, pg. 63. Refer to the paper (in the same volume, pg. 9) to which this table is appended, including its discussions, for methods of adjustment for benefits not directly valued in Table A: "Development of the 1974 Medical Expense Benefits," Houghton and Wolf.*~~

~~*Contracts issued after January 1, 1994:*~~

~~*The 1974 Medical Expense Tables.*~~

~~*(b) Claim Reserves:*~~

~~*No specific standard. See (5).*~~

~~*(3) Cancer Expense Benefits (Scheduled benefits or fixed time period benefits only).*~~

~~*(a) Contract Reserves:*~~

~~*Contracts issued on or after January 1, 1986:*~~

~~*The 1985 NAIC Cancer Claim Cost Tables.*~~

~~(b) Claim Reserves:~~

~~No specific standard. See (5).~~

~~(4) Accidental Death Benefits.~~

~~(a) Contract Reserves:~~

~~Contracts issued on or after January 1, 1965:~~

~~The 1959 Accidental Death Benefits Table.~~

~~(b) Claim Reserves:~~

~~Actual amount incurred.~~

~~(5) Other Individual Contract Benefits.~~

~~(a) Contract Reserves:~~

~~For all other individual contract benefits, morbidity assumptions are to be determined as provided in the reserve standards.~~

~~(b) Claim Reserves:~~

~~For all benefits other than disability, claim reserves are to be determined as provided in the standards.~~

~~B. Minimum morbidity standards for valuation of specified group contract health insurance benefits are as follows:~~

~~(1) Disability Income Benefits Due to Accident or Sickness.~~

~~(a) Contract Reserves:~~

~~Contracts issued prior to January 1, 1994:~~

~~The same basis, if any, as that employed by the insurer as of January 1, 1994;~~

~~Contracts issued on or after January 1, 1994:~~

~~The 1987 Commissioners Group Disability Income Table (87CGDT).~~

~~(b) Claim Reserves:~~

~~For claims incurred on or after January 1, 1994:~~

~~The 1987 Commissioners Group Disability Income Table (87CGDT);~~

~~*For claims incurred prior to January 1, 1994:*~~

~~*Use of the 87CGDT is optional.*~~

~~*(2) Other Group Contract Benefits.*~~

~~*(a) Contract Reserves:*~~

~~*For all other group contract benefits, morbidity assumptions are to be determined as provided in the reserve standards.*~~

~~*(b) Claim Reserves:*~~

~~*For all benefits other than disability, claim reserves are to be determined as provided in the standards.*~~

~~***II. INTEREST***~~.

~~*A. For contract reserves the maximum interest rate is the maximum rate permitted by law in the valuation of whole life insurance issued on the same date as the health insurance contract.*~~

~~*B. For claim reserves the maximum interest rate is the maximum rate permitted by law in the valuation of whole life insurance issued on the same date as the claim incurral date.*~~

~~***III. MORTALITY***~~.

~~*The mortality basis used shall be according to a table (but without use of selection factors) permitted by law for the valuation of whole life insurance issued on the same date as the health insurance contract*~~

~~***APPENDIX B***~~
~~***RESERVES FOR WAIVER OF PREMIUM***~~
~~***(Supplementary explanatory material)***~~

~~*Waiver of premium reserves involve several special considerations. First, the disability valuation tables promulgated by the NAIC are based on exposures that include contracts on premium waiver as in-force contracts. Hence, contract reserves based on these tables are NOT reserves on "active lives" but rather reserves on contracts "in force". This is true for the 1964 CDT and for both the 1985 CIDA and CIDB tables.*~~

~~*Accordingly, tabular reserves using any of these tables should value reserves on the following basis:*~~

~~*Claim reserves should include reserves for premiums expected to be waived, valuing as a minimum the valuation net premium being waived.*~~

~~*Premium reserves should include contracts on premium waiver as in-force contracts, valuing as a minimum the unearned modal valuation net premium being waived.*~~

~~*Contract reserves should include recognition of the waiver of premium benefit in addition to other contract benefits provided for, valuing as a minimum the valuation net premium to be waived.*~~

~~*If an insurer is, instead, valuing reserves on what is truly an active life table, or if a specific valuation table is not being used but the insurer's gross premiums are calculated on a basis that includes in the projected exposure only those contracts for which premiums are being paid, then it may not be necessary to provide specifically for waiver of premium reserves. Any insurer using such a true "active life" basis should carefully consider, however, whether or not additional liability should be recognized on account of premiums waived during periods of disability or during claim continuation.*~~

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.74 - COORDINATION OF BENEFITS

DOCKET NO. 18-0174-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 6, 2006 Idaho Administrative Bulletin, Vol. 06-9, pages 96 through 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: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joan Krosch at (208) 334-4300.

DATED this 2nd day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, 41-2141 and 41-2216, 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, 2006.

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:

Sections 41-2141 and 41-2216, Idaho Code, charge the Director of the Department of Insurance with adopting rules for coordination of benefits that are consistent with model regulations of the National Association of Insurance Commissioners (NAIC). These rules coordinate benefit payments when a person is covered by more than one health plan to avoid confusion and unnecessary delays in payments. The changes made by this proposed rulemaking will make the Idaho rule consistent with the current version of the NAIC model regulation. The changes clarify which types of plans are allowed to coordinate benefit payments and how coordination is to be applied among 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: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are made to comply with the law requiring that the rule be in accordance with the NAIC model regulation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joan Krosch at (208) 334-4300.

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, 2006.

DATED this 27th of July, 2006.

Shad Priest, Acting Director
Idaho Department of Insurance
700 W State Street, 3rd Floor
P O Box 83720
Boise ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

001. TITLE AND SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rules, IDAPA 18.01.74, "Coordination of Benefits". (7-1-98)

02. Scope. The purpose of this rule is to permit, but not require, plans to include a coordination of benefits (COB) provision unless prohibited by federal law; establish a uniform order of benefit determination under which plans pay claims; provide authority for the orderly transfer of necessary information and funds between plans; reduce duplication of benefits by permitting a reduction of the benefits to be paid by plans that, pursuant to these rules, do not pay their benefits first; reduce claims payment delays; and require that COB provisions be consistent with this rule; and provide greater efficiency in the processing of claims when a person is covered under more than one plan. ~~(7-1-98)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.
All ~~*contested cases shall be governed by the provisions of*~~ administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code and IDAPA 04.01.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 000 through 099. ~~(7-1-98)~~( )

004. INCORPORATION BY REFERENCE.
This rule incorporates by reference the full text of the National Association of Insurance Commissioners Model Coordination of Benefits Contract Provisions and the National Association of Insurance Commissioners Consumer Explanatory Booklet, published as part of the 2005 model rules of the National Association of Insurance Commissioners, 2301 McGee Street, Suite 800 Kansas City, MO 64108-2662, and available on the Idaho Department of Insurance web site at http://www.doi.idaho.gov. ( )

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 web address is http://www.doi.idaho.gov. (____)

006. PUBLIC RECORDS ACT COMPLIANCE.
Any records associated with these rules are subject to the provision of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (____)

007. -- 009. (RESERVED).

0~~04~~10. DEFINITIONS.
As used in this rule, these words and terms have the following meanings, unless the context clearly indicates otherwise: (7-1-98)

01. Allowable Expense. "Allowable expense" means any health care ~~service or~~ expense including ~~deductibles,~~ coinsurance or copayments, and without reduction for any applicable deductible that is covered in full or in part by any of the plans covering the person~~, except as set forth below or where a statute requires a different definition~~. If a plan is advised by a covered person that all plans covering the person are high-deductible health plans and the person intends to contribute to a health savings account established in accordance with Section 223 of the Internal Revenue Code of 1986, the primary high-deductible health plan's deductible is not an allowable expense, except for any health care expense incurred that may not be subject to the deductible as described in Section 223 (c) (2) (C) of the Internal Revenue Code of 1986. An expense that a provider by law or in accordance with contractual agreement is prohibited from charging a covered person is not an allowable expense. ~~This means that a~~An expense ~~or service~~ or a portion of an expense ~~or service~~ that is not covered by any of the plans is not an allowable expense. ~~(7-1-98)~~(____)

a. The following are examples of expenses o~~f~~r services that are not an allowable expense: ~~(7-1-98)~~(____)

i. If a covered person is confined in a private hospital room, the difference between the cost of a semi-private room in the hospital and the private room (unless the patient's stay in the private hospital room is medically necessary in terms of generally accepted medical practice, or one of the plans ~~routinely~~ provides coverage for private hospital rooms) is not an allowable expense. ~~(7-1-98)~~(____)

ii. If a person is covered by two (2) or more plans that compute their benefit payments on the basis of usual and customary fees, or relative value schedule reimbursement or other similar reimbursement methodology, any amount charged by the provider in excess of the highest ~~of the usual and customary fee~~ reimbursement amount for a specified benefit is not an allowable expense. ~~(7-1-98)~~(____)

iii. If a person is covered by two (2) or more plans that provide benefits or services on the basis of negotiated fees, any amount in excess of the highest of the negotiated fees is not an allowable expense. (7-1-98)

iv. If a person is covered by one plan that calculates its benefits or services on the

basis of usual and customary fees or relative value schedule reimbursement or other similar reimbursement methodology and another plan that provides its benefits or services on the basis of negotiated fees, the primary plan's payment arrangement shall be the allowable expense for all plans. However, if the provider has contracted with the secondary plan to provide the benefit or service for a specific negotiated fee or payment amount that is different than the primary plan's payment arrangement and if the provider's contract permits, that negotiated fee or payment shall be the allowable expense used by the secondary plan to determine its benefits. ~~(7-1-98)~~( )

b. The definition of the "allowable expense" may exclude certain types of coverage or benefits such as dental care, vision care, prescription drug or hearing aids. A plan that limits the application of COB to certain coverages or benefits may limit the definition of Allowable Expenses in its contract to ~~*services or*~~ expenses that are similar to the ~~*services or*~~ expenses that it provides. When COB is restricted to specific coverages or benefits in a contract the definition of "Allowable Expense" shall include similar ~~*services or*~~ expenses to which COB applies. ~~(7-1-98)~~( )

c. When a plan provides benefits in the form of service, the reasonable cash value of each service will be considered as an allowable expense and a benefit paid. (7-1-98)

d. The amount of the reduction may be excluded from allowable expense when a covered person's benefits are reduced under a primary plan: (7-1-98)

i. Because the covered person does not comply with the plan provisions ~~*covering*~~ concerning second surgical opinions or precertification of admissions or services~~.~~: or ~~(7-1-98)~~( )

ii. Because the covered person has a lower benefit because ~~*he or she*~~ the covered person did not use a preferred provider. ~~(7-1-98)~~( )

~~*e. If the primary plan is a closed panel plan and the secondary plan is not a closed panel plan, the secondary plan shall pay or provide benefits as if it were primary when a covered person uses a nonpanel provider, except for emergency services or authorized referrals that are paid or provided by the primary plan.*~~ ~~(7-1-98)~~

02. **Birthday**. "Birthday" refers only to month and day in a calendar year and does not include the year in which the individual is born. ( )

0~~2~~3. **Claim**. "Claim" means a request that benefits of a plan be provided or paid. The benefits claimed may be in the form of: (7-1-98)

a. Services (including supplies); (7-1-98)

b. Payment for all or a portion of the expenses incurred; (7-1-98)

c. A combination of Subsections ~~*004.02.a. and 004.02.b.*~~ 010.03.a. and 010.03.b. of this chapter; or ~~(7-1-98)~~( )

d. An indemnification. (7-1-98)

~~*03.* **Claim Determination Period**. *"Claim determination period" means a period of not less than twelve (12) consecutive months, over which allowable expenses shall be compared with total benefits payable in the absence of COB, to determine whether overinsurance exists and how much each plan will pay or provide.* *(7-1-98)*~~

~~*a.* *The claim determination period is usually a calendar year, but a plan may use some other period of time that fits the coverage of the contract. A person is covered by a plan during a portion of a claim determination period if that person's coverage starts or ends during the claim determination period.* *(7-1-98)*~~

~~*b.* *As each claim is submitted, each plan determines its liability and pays or provides benefits based upon allowable expenses incurred to that point in the claim determination period. That determination is subject to adjustment as later allowable expenses are incurred in the same claim determination period.* *(7-1-98)*~~

04. Closed Panel Plan. "Closed panel plan" means a ~~*health maintenance organization (HMO), preferred provider organization (PPO), exclusive provider organization (EPO), managed care plan, or other*~~ plan that provides health benefits to covered persons primarily in the form of services through a panel of providers that have contracted with or are employed by the plan, and that ~~*limits or*~~ excludes benefits for services provided by other providers, except in cases of emergency or referral by a panel member. ~~*(7-1-98)*~~(____)

05. Consolidated Omnibus Budget Reconciliation Act of 1985. "Consolidated Omnibus Budget Reconciliation Act of 1985" or "COBRA" means coverage provided under a right of continuation pursuant to federal law. (____)

0~~5~~6. Coordination of Benefits. "Coordination of benefits" (COB) means a provision establishing an order in which plans pay their claims, and permitting secondary plans to reduce their benefits so that the combined benefits of all plans do not exceed total allowable expenses. ~~*(7-1-98)*~~(____)

0~~6~~7. Custodial Parent. "Custodial parent" means the parent awarded custody by a court decree. In the absence of a court decree, the parent with whom the child resides more than one half of the calendar year without regard to any temporary visitation ~~*is the custodial parent*~~. ~~*(7-1-98)*~~(____)

08. Group-Type Contract. Group-type contract means a contract that is not available to the general public and is obtained and maintained only because of membership in or a connection with a particular organization or group, including blanket coverage. Group-type contract does not include an individually underwritten and issued guaranteed renewable policy even if the policy is purchased through payroll deduction at a premium savings to the insured since the insured would have the right to maintain or renew the policy independently of continued employment with the employer. (____)

0~~7~~9. Hospital Indemnity Benefits. "Hospital indemnity benefits" means the benefits not related to expenses incurred. The term does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at

the time of claim. (7-1-98)

~~08~~10. **Plan**. "Plan" means a form of coverage with which coordination is allowed. ~~*The definition of plan in the contract must state the types of coverage that will be considered in applying the COB provision of that contract. The right to include a type of coverage is limited by the rest of this definition.*~~ Separate parts of a plan for members of a group that are provided through alternative contracts that are intended to be part of a coordinated package of benefits are considered one plan and there is no COB among the separate parts of the plan. If a plan coordinates benefits, its contract shall state the types of coverage that will be considered in applying the COB provision of that contract. Whether the contract uses the term "plan," or some other term such as "program," the contractual definition may be no broader than the definition of "plan" in Subsection 010.10. The definition of "plan" in the model COB provision in the National Association of Insurance Commissioners Model Coordination of Benefits Contract Provisions is an example. The National Association of Insurance Commissioners Model Coordination of Benefits Contract Provisions can be found on the Department of Insurance Internet web site at http://www.doi.idaho.gov, Consumer Services link. ~~*(7-1-98)*~~(____)

~~*a. This rule uses the term "plan". However, a contract may use "program" or some other term.* (7-1-98)~~

~~*b*~~a. Plan ~~*may*~~ includes: ~~*(7-1-98)*~~(____)

i. Group and nongroup insurance contracts and ~~*group*~~ subscriber contracts; ~~*(7-1-98)*~~(____)

ii. Uninsured group or group-type coverage arrangements~~.~~; ~~*(7-1-98)*~~(____)

iii. Group ~~*or*~~ and nongroup~~-*type*~~ coverage through closed panel plans; ~~*(7-1-98)*~~(____)

iv. Group-type contracts~~.~~; ~~*Group-type contracts are contracts which are not available to the general public and can be obtained and maintained only because of membership in or connection with a particular organization or group, including franchise or blanket coverage. Individually underwritten and issued guaranteed renewable policies are not "group-type" even if purchased through payroll deduction at a premium savings to the insured since the insured would have the right to maintain or renew the policy independently of continued employment with the employer.* (7-1-98)~~(____)

~~*v. The amount by which group or group-type hospital indemnity benefits exceed two hundred dollars ($200) per day.* (7-1-98)~~

v~~*i*~~. The medical care components of long-term care contracts, such as skilled nursing care~~.~~; ~~*(7-1-98)*~~(____)

vi~~*i*~~. Medicare or other governmental benefits, except as provided in Subsection ~~*004.08.c.vii*~~ 010.10.b.ix. of this chapter. That part of the definition of plan may be limited to the hospital, medical and surgical benefits of the governmental program. ~~*(7-1-98)*~~(____)

vii. The medical benefits coverage in automobile "no fault" and traditional automobile

"fault" type contracts. No plan is required to coordinate benefits provided that it pays benefits as a primary plan. If a plan coordinates benefits, it shall do so in compliance with the provisions of this chapter. (____)

~~viii. Individual or family insurance contracts. (7-1-98)~~

~~ix. Individual or family subscriber contracts. (7-1-98)~~

~~x. Individual or family coverage through closed panel plans. (7-1-98)~~

~~xi. Individual or family coverage under other prepayment, group practice and individual practice plans. (7-1-98)~~

~~e~~**b.** Plan shall not include: (7-1-98)

i. ~~Group or group-type h~~Hospital indemnity ~~benefits of two hundred dollars ($200) per day or less.~~ coverage or other fixed indemnity coverage; ~~(7-1-98)~~(____)

ii. School accident-type coverages~~.~~, ~~These~~ such as contracts that cover students for accidents only, including athletic injuries, either on a twenty-four (24) hour basis or on a "to and from school" basis~~.~~; ~~(7-1-98)~~(____)

iii. Specified disease or specified accident coverage; (____)

iv. Accident only coverage; (____)

~~iii~~v. Benefits provided in long-term care insurance policies for non-medical service; for example, personal care, adult daycare, homemaker services, assistance with activities of daily living, respite care, and custodial care or for contracts that pay a~~s~~ fixed daily benefit without regard to expenses incurred or the receipt of services~~.~~; ~~(7-1-98)~~(____)

~~iv. Medical benefits coverage in individual automobile "no fault" and traditional automobile "fault" type contracts. (7-1-98)~~

vi. Limited benefit health coverage~~s, such as, but not limited to, accident only, specified disease, disability income, hospital indemnity, credit insurance benefits, dental insurance, vision insurance; coverages issued to supplement liability insurance; and worker's compensation or similar insurance.~~ as defined in IDAPA 18.01.30, "Individual Disability and Group Supplemental Disability Insurance Minimum Standards Rule," Sections 012 and 029. ~~(7-1-98)~~(____)

vii. Medicare supplement policies~~.~~; ~~(7-1-98)~~(____)

viii. A state plan under Medicaid~~.~~; or ~~(7-1-98)~~(____)

~~vii~~ix. A governmental plan which, by law, provides benefits that are in excess of those of any private insurance plan or other nongovernmental plan. (7-1-98)

~~ix. Nonrenewable short-term coverages issued for a period of twelve (12) months or less. (7-1-98)~~

11. **Policyholder**. "Policyholder" means the primary insured named in a non-group insurance policy. (____)

~~**09**~~12. **Primary Plan**. "Primary plan" means a plan whose benefits for a person's health care coverage must be determined without taking the existence of any other plan into consideration. A plan is a primary plan if; ~~either of the following is true:~~ ~~(7-1-98)~~(____)

a. The plan either has no order of benefit determination rules, or its rules differ from those permitted by this rule; or ~~(7-1-98)~~(____)

b. All plans that cover the person use the order of benefit determination required by this rule, and under those rules the plan determines its benefits first~~;~~. ~~(7-1-98)~~(____)

1~~0~~3. Secondary Plan. "Secondary plan" means a plan that is not a primary plan. ~~If a person is covered by more than one secondary plan, the order of benefit determination of this rule decides the order in which secondary plans benefits are determined in relation to each other. Each secondary plan shall take into consideration the benefits of the primary plan or plans and the benefits of any other plan which, under this rule, has its benefits determined before those of the secondary plan.~~ ~~(7-1-98)~~(____)

~~**11. This Plan**. "This plan" means, in a COB provision, the part of the contract providing the health care benefits to which the COB provision applies and which may be reduced because of the benefits of other plans. Any other part of the contract providing health care benefits is separate from this plan. A contract may apply one COB provision to certain of its benefits (such as dental benefits), coordinating only with similar benefits, and may apply another COB provision to coordinate with other benefits. (7-1-98)~~

0~~05~~14. -- 0~~1~~20.(RESERVED).

0~~1~~21. COB CONTRACT PROVISION.

01. Coordination of Benefits, "Model Coordination of Benefits Contract Provisions." The National Association of Insurance Commissioners Model Coordination of Benefits Contract Provisions contains a model COB provision for use in contracts. The use of this model COB provision is subject to the provisions of Subsections 021.02 through 021.04, of this chapter, and the provisions of Section 022 of this chapter. The National Association of Insurance Commissioners Model Coordination of Benefits Contract Provisions is incorporated by reference and can be found on the Department of Insurance website at http://www.doi.idaho.gov. (____)

02. Coordination of Benefits Attachment "National Association of Insurance Commissioners Consumer Explanatory Booklet." The National Association of Insurance Commissioners Consumer Explanatory Booklet is a plain language description of the COB process that explains to the covered person how health plans will implement coordination of benefits. It is not intended to replace or change the provisions that are set forth in the contract. Its purpose is to explain the process by which two (2) or more plans will pay for or provide benefits.

The National Association of Insurance Commissioners Consumer Explanatory Booklet is incorporated by reference and can be found on the Department of Insurance website at http://www.doi.idaho.gov. (____)

03. Application of Requirements. The COB provision contained in the the National Association of Insurance Commissioners Model Coordination of Benefits Contract Provisions and the plain language explanation in the National Association of Insurance Commissioners Consumer Explanatory Booklet do not have to use the specific words and format shown in the National Association of Insurance Commissioners Model Coordination of Benefits Contract Provisions or the National Association of Insurance Commissioners Consumer Explanatory Booklet. Changes may be made to fit the language and style of the rest of the contract or to reflect differences among plans that provide services, that pay benefits for expenses incurred and that indemnify. No substantive changes are permitted. (____)

0~~1~~4. Limits on COB Provisions. A COB provision may not be used that permits a plan to reduce benefits on the basis that: (7-1-98)

a. Another plan exists and the covered person did not enroll in that plan; (7-1-98)

b. A person is or could have been covered under another plan, except with respect to Part B of Medicare; or (7-1-98)

c. A person has elected an option under another plan providing a lower level of benefits than another option that could have been elected. (7-1-98)

0~~2~~5. "Always Excess" or "Always Secondary". No plan may contain a provision that its benefits are "always excess" or "always secondary" except in accordance with ~~*the order of benefit determination permitted by*~~ this rule. ~~*(7-1-98)*~~(____)

0~~3~~6. Closed Panel Provider. Under the terms of a closed panel plan, benefits are not payable if the covered person does not use the services of a closed panel provider. In most instances, COB does not occur if a covered person is enrolled in two (2) or more closed panel plans and obtains services from a provider in one of the closed panel plans because the other closed panel plan (the one whose providers were not used) has no liability. However, COB may occur during the ~~*claim determination period*~~ plan year when the covered person receives emergency services that would have been covered by both plans. Then the secondary plan shall use the provisions of Section 023 of this chapter to determine the amount it should pay for the benefit. ~~*(7-1-98)*~~(____)

07. Plan Requirements. No plan may use a COB provision, or any other provision that allows it to reduce its benefits with respect to any other coverage its insured may have that does not meet the definition of plan under Subsection 010.10 of this rule. (____)

~~***012. -- 015. (RESERVED).***~~

0~~16~~22. RULES FOR COORDINATION OF BENEFITS.

01. Order of Benefit Payments. When a person is covered by two (2) or more plans,

the rules for determining the order of benefit payments are as follows: (7-1-98)

a. The primary plan ~~*must*~~ shall pay or provide its benefits as if the secondary plan or plans did not exist. ~~*(7-1-98)*~~(____)

b. ~~*A plan that does not contain a coordination of benefits provision that is consistent with this rule is always primary. There are two (2) exceptions:*~~ If the primary plan is a closed panel plan and the secondary plan is not a closed panel plan, the secondary plan shall pay or provide benefits as if it were the primary plan when a covered person uses a non-panel provider, except for emergency services or authorized referrals that are paid or provided by the primary plan. ~~*(7-1-98)*~~(____)

c. When multiple contracts providing coordinated coverage are treated as a single plan under this rule, Section 022 of this chapter applies only to the plan as a whole, and coordination among the component contracts is governed by the terms of the contracts. If more than one (1) carrier pays or provides benefits under the plan, the carrier designated as primary within the plan shall be responsible for the plan's compliance with this rule. (____)

d. If a person is covered by more than one (1) secondary plan, the order of benefit determination requirements of this rule decide the order in which secondary plan benefits are determined in relation to each other. Each secondary plan shall take into consideration the benefits of the primary plan or plans and the benefits of any other plan, which, under the requirements of this rule, has its benefits determined before those of that secondary plan. (____)

02. Consistent Order of Benefit Provisions. Except as provided in Subsection 022.02.a. of this chapter, a plan that does not contain order of benefit determination provisions that are consistent with this rule is always the primary plan unless the provisions of both plans, regardless of the provisions of Subsection 022.02 of this chapter, state that the complying plan is primary. (____)

~~*i*~~**a.** Coverage that is obtained by virtue of membership in a group and designed to supplement a part of a basic package of benefits may provide that the supplementary coverage shall be excess to any other parts of the plan provided by the contract holder. Examples of these types of situations are major medical coverages that are superimposed over base plan hospital and surgical benefits, and insurance type coverages that are written in connection with a closed panel plan to provide out-of-network benefits. (7-1-98)

~~*ii. Individual plans as they shall always be secondary to group plans.* (7-1-98)~~

~~*e*~~**b.** A plan may take into consideration the benefits paid or provided by another plan only when, under the requirements of this rule, it is secondary to that other plan. ~~*(7-1-98)*~~(____)

0~~2~~3. Order of Benefit Determination. Each plan determines its order of benefits using the first of the following rules that ~~*describes which plan pays its benefits before another plan is the rule that shall be*~~ applie~~*d*~~s. ~~*(7-1-98)*~~(____)

~~*a. A group plan shall always be primary to an individual plan.* (7-1-98)~~

~~b~~**a.** Non-dependent or dependent~~:~~. The plan that covers the person other than as a dependent, for example, as an employee, member, subscriber, policyholder or retiree, is the primary plan and the plan that covers the person as a dependent is the secondary plan. However, if the person is a Medicare beneficiary and, as a result of the provisions of Title XVIII of the Social Security Act and implementing rules, Medicare is: ~~(7-1-98)~~(____)

i. Secondary to the plan covering the person as a dependent; and (7-1-98)

ii. Primary to the plan covering the person as other than a dependent (e.g. a retired employee), then the order of benefits is reversed so that the plan covering the person as an employee, member, subscriber, policyholder or retiree, is the secondary plan and the other plan covering the person as a dependent is the primary plan.
~~(7-1-98)~~(____)

~~e~~**b.** Dependent Child covered under more than one plan. Unless there is a court decree stating otherwise, plans covering a dependent child shall determine the order of benefits as follows: ~~(7-1-98)~~(____)

~~*i. The primary plan is the plan of the parent whose birthday is earlier in the year if:* (7-1-98)~~

~~*(1) The parents are married;* (7-1-98)~~

i. For a dependent child whose parents are married or are living together, whether or not they have ever been married: (____)

(1) The plan of the parent whose birthday falls earlier in the calendar year is primary plan; or (____)

(2) ~~*The parents are not separated (whether or not they ever have been married); or*~~ If both parents have the same birthday, the plan that has covered the parent longest is the primary plan. ~~(7-1-98)~~(____)

~~*(3) A court decree awards joint custody without specifying that one parent has the responsibility to provide health care coverage.* (7-1-98)~~

ii. ~~*If both parents have the same birthday, the plan that covered either of the parents longer is primary.*~~ For a dependent child whose parents are divorced or separated or are not living together, whether or not they have ever been married: ~~(7-1-98)~~(____)

~~*iii.*~~(1) If ~~*the specific terms of*~~ a court decree states that one of the parents is responsible for the dependent child's health care expenses or health care coverage and the plan of that parent has actual knowledge of those terms, that plan is primary. If the parent with ~~*financial*~~ responsibility has no health care coverage for the dependent child's health care ~~*services or*~~ expenses, but that parent's spouse does, ~~*the*~~ that parent's spouse's plan is the primary plan. This shall not apply with respect to any ~~*claim determination period or*~~ plan year during which benefits are paid or provided before the entity has actual knowledge~~.~~ of the court decree provisions;
~~(7-1-98)~~(____)

(2) If a court decree states that both parents are responsible for the dependent child's health care expenses or health care coverage, the provisions of Subsection 022.03.b.i. of this chapter shall determine the order of benefits; ( )

(3) If a court decree states that the parents have joint custody without specifying that one (1) parent has responsibility for the health care expenses or health care coverage of the dependent child, the provisions of Subsection 022.03.b.i. of this chapter shall determine the order of benefits, or ( )

(4) If there is no court decree allocating responsibility for the child's health care expenses or health care coverage, the order of benefits for the child are as follows: ( )

~~*iv. If the parents are not married or are separated (whether or not they ever have been married) or are divorced and there is no court decree allocating responsibility for the child's health care services or expenses, the order of benefit determination among the plans of the parent and the parent's spouse (if any) is:* (7-1-98)~~

(~~*1*~~a) The plan ~~*of*~~ covering the custodial parent; ~~*(7-1-98)*~~( )

(~~*2*~~b) The plan ~~*of*~~ covering the ~~*spouse of the*~~ custodial parent's spouse; ~~*(7-1-98)*~~( )

(~~*3*~~c) The plan ~~*of*~~ covering the noncustodial parent; and then ~~*(7-1-98)*~~( )

(~~*4*~~d) The plan ~~*of*~~ covering the ~~*spouse of the*~~ noncustodial parent's spouse. ~~*(7-1-98)*~~( )

(5) For a dependent child covered under more than one plan of individuals who are not the parents of the child, the order of benefits shall be determined, as applicable under Subsections 022.03.b.i. or 022.03.b.ii. of this chapter as if those individuals were parents of the child. ( )

~~*d*~~c. Active~~*/inactive employee:*~~ Employee or Retired or Laid-Off Employee. The plan that covers a person as an active employee; that is, an employee who is neither laid-off nor retired ~~*(*~~or as ~~*that*~~ a dependent of an active employee~~*'s dependent)*~~ is the primary plan. The plan covering that same person as a retired or laid-off employee or as a dependent of a retired or laid-off employee is the secondary plan. If the other plan does not have this rule~~*;*~~ and if, as a result, the plans do not agree on the order of benefits, this rule is ignored. Coverage provided an individual as a retired worker and as a dependent of that individual's spouse as an active worker will be determined under Subsection ~~*016.01.b*~~ 022.03.a. of this chapter. ~~*(7-1-98)*~~( )

~~*e*~~d. Continuation coverage~~*:*~~. If a person whose coverage is provided pursuant to COBRA or under a right of continuation pursuant to federal or state law ~~*also*~~ is covered under another plan, the plan covering the person as an employee, member, subscriber or retiree ~~*(or as that person's dependent)*~~ or covering the person as a dependent of an employee, member, subscriber or retiree is the primary plan and the plan covering that same person pursuant to COBRA or under a right of continuation ~~*coverage*~~ pursuant to state or other federal law is the secondary plan. If the other plan does not have this rule and if, as a result, the plans do not agree on the order of benefits, this rule is ignored. This provision does not apply if the rule in

Subsection 022.03.a. of this chapter can determine the order of benefits. ~~(7-1-98)~~(____)

~~f~~e. Longer/shorter length of coverage~~:~~. If ~~none of~~ the ~~above~~ preceding rules do not determine~~s~~ the order of benefits, the plan that covered the person ~~as an employee, member, subscriber or retiree~~ for the longer period of time is the primary plan and the plan that covered the person for a ~~longer period of time is primary~~ shorter period of time is the secondary plan. ~~(7-1-98)~~(____)

i. To determine the length of time a person has been covered under a plan, two (2) successive plans shall be treated as one (1) if the covered person was eligible under the second plan within twenty-four (24) hours after the coverage under the first plan ended. ~~(7-1-98)~~(____)

ii. The start of a new plan does not include: (7-1-98)

(1) A change in the amount ~~of~~ or scope of a plan's benefits; ~~(7-1-98)~~(____)

(2) A change in the entity that pays, provides or administers the plan's benefits; or (7-1-98)

(3) A change from one type of plan to another ~~(~~such as from a single employer plan to ~~that of~~ a multiple employer plan~~)~~. ~~(7-1-98)~~(____)

iii. The person's length of time covered under a plan is measured from the person's first date of coverage under that plan. If that date is not readily available for a group plan, the date the person first became a member of the group shall be used as the date from which to determine the length of time the person's coverage under the present plan has been in force. (7-1-98)

g. If none of the~~se~~ preceding rules determines the ~~primary plan~~ order of benefits, the allowable expenses shall be shared equally between the plans. ~~(7-1-98)~~(____)

~~**017. -- 020. (RESERVED).**~~

02~~1~~3. PROCEDURE TO BE FOLLOWED BY SECONDARY PLAN.

~~**01. Individual Plan Reduction**. *Individual plans may reduce benefits in accordance with Section 022.* (7-1-98)~~

0~~2~~1. Secondary Plan ~~Reduction~~ Procedure to Calculate Benefits and Pay Claims. ~~*When a plan is secondary, it may reduce its benefits so that the total benefits paid or provided by all plans during a claim determination period are not more than one hundred percent (100%) of total allowable expenses. As each claim is submitted, the secondary plan must:*~~ In determining the amount to be paid by the secondary plan on a claim, should the plan wish to coordinate benefits, the secondary plan shall calculate the benefits it would have paid on the claim in the absence of other health care coverage and apply that calculated amount to any allowable expense under its plan that is unpaid by the primary plan. The secondary plan may reduce its payment by the amount so that, when combined with the amount paid by the primary plan, the total benefits paid or provided by all plans for the claim do not exceed one hundred percent (100%) of the total allowable expense for that claim. In addition, the secondary plan shall credit to its plan deductible

any amounts it would have credited to its deductible in the absence of other benefit care coverage. ~~(7-1-98)~~(____)

~~a. Determine its obligation pursuant to its contract. (7-1-98)~~

~~b. Determine whether there are any unpaid allowable expenses during that claims determination period. (7-1-98)~~

~~c. Pay up to one hundred percent (100%) of total allowable expenses incurred during the claim determination period. (7-1-98)~~

0~~3~~2. ~~**Reduction of Secondary Plan Benefits**. The benefits of the secondary plan shall be reduced when the sum of the benefits that would be payable for the allowable expenses under the secondary plan in the absence of this COB provision and the benefits that would be payable for the allowable expenses under the other plans, in the absence of provisions with a purpose like that of this COB provision, whether or not claim is made, exceeds the allowable expenses in a claim determination period. In that case, the benefits of the secondary plan shall be reduced so that they and the benefits payable under the other plans do not total more than the allowable expenses.~~ **Notice to Covered Persons**. A plan shall, in its explanation of benefits provided to covered persons, include the following language: "If you are covered by more than one (1) health benefit plan, you should file all your claims with each plan." Reduction of Secondary Plan Benefits. ~~(7-1-98)~~(____)

~~a. When the benefits of this plan are reduced as described above, each benefit is reduced in proportion. It is then charged against any applicable benefit limit of the plan. (7-1-98)~~

~~b. The requirements of Subsection 021.02.a. do not apply if the plan provides only one (1) benefit, or may be altered to suit the coverage provided. (7-1-98)~~

~~**022. INDIVIDUAL PLANS.**~~
~~Individual plans may provide for a reduction in covered benefits due to the existence of another plan by including language in the contract, policy or certificate that is consistent with this rule. (7-1-98)~~

~~**023. -- 025. (RESERVED).**~~

02~~6~~4. MISCELLANEOUS PROVISIONS.

01. Benefits in the Form of Services. A secondary plan that provides benefits in the form of services may recover the reasonable cash value of the services from the primary plan, to the extent that benefits for the services are covered by the primary plan and have not already been paid or provided by the primary plan. Nothing in this provision shall be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan which provides benefits in the form of services. (7-1-98)

02. Complying Plan Versus Noncomplying Plan. A plan with order of benefit determination rules that comply with this rule (complying plan) may coordinate its benefits with a plan that is "excess" or "always secondary" or that uses order of benefit determination rules that

are inconsistent with those contained in this rule (noncomplying plan) on the following basis: (7-1-98)

a. If the complying plan is the primary plan, it shall pay or provide its benefits first; (7-1-98)

b. If the complying plan is the secondary plan, it shall, ~~*nevertheless,*~~ pay or provide its benefits first, but the amount of the benefits payable shall be determined as if the complying plan were the secondary plan. In such a situation, the payment shall be the limit of the complying plan's liability; and ~~*(7-1-98)*~~(____)

c. If the noncomplying plan does not provide the information needed by the complying plan to determine its benefits within a reasonable time after it is requested to do so, the complying plan shall assume that the benefits of the noncomplying plan are identical to its own and shall pay its benefits accordingly. If, within two (2) years of payment, the complying plan receives information as the actual benefits of the noncomplying plan, it shall adjust payments accordingly. (7-1-98)

i. If the noncomplying plan reduces its benefits so that the covered person receives less in benefits than ~~*he or she*~~ the covered person would have received had the complying plan paid or provided its benefits as the secondary plan and the noncomplying plan paid or provided its benefits as the primary plan, and governing state law allows the right of subrogation set forth below, then the complying plan shall advance to ~~*or on behalf of*~~ the covered person or on behalf of the covered person an amount equal to the difference. ~~*(7-1-98)*~~(____)

ii. In no event shall the complying plan advance more than the complying plan would have paid had it been the primary plan less any amount it previously paid for the same expense or services. In consideration of the advance, the complying plan shall be subrogated to all rights of the covered person against the noncomplying plan. The advance by the complying plan shall also be without prejudice to any claim it may have against the noncomplying plan in the absence of such subrogation. (7-1-98)

03. COB Versus Subrogation. ~~*The*~~ COB differs from subrogation. Provisions for one may be included in health care benefits contracts without compelling the inclusion or exclusion of the other. ~~*(7-1-98)*~~(____)

04. Timely Payment of Benefits. If the plans cannot agree on the order of benefits within thirty (30) calendar days after the plans have received all of the information needed to pay the claim, the plans shall immediately pay the claim in equal shares and determine their relative liabilities following payment, except that no plan shall be required to pay more than it would have paid had it been primary. (7-1-98)

02~~7~~5. -- 030. (RESERVED).

031. EFFECTIVE DATE; EXISTING CONTRACTS.

01. Effective Date of Rule. This rule is applicable to every plan that provides health care benefits and that is issued on or after the effective date of this rule~~*, which is July 1, 1998*~~.

~~(7-1-98)~~(____)

02. Contract Compliance. A contract that provides health care benefits and that was issued before the effective date of this rule shall be brought into compliance with this rule by the later of: (7-1-98)

a. The ~~next~~ anniversary date or renewal date of the plan following the effective date of this rule; or ~~(7-1-98)~~(____)

b. The expiration of any applicable collectively bargained contract pursuant to which it was written. (7-1-98)

03. Transition Period. For the transition period between the adoption of this rule and the timeframe for which plans are to be in compliance pursuant to Subsection 031.02. of this chapter, a plan that is subject to the prior COB requirements shall not be considered a noncomplying plan by a plan subject to the new COB requirements and if there is a conflict between the prior COB requirements under the prior rule and the new COB requirements under the amended rule, the prior COB requirements shall apply. (____)

03~~1~~2. -- 999. (RESERVED).

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.76 - PROPERTY CASUALTY ACTUARIAL OPINION RULE

DOCKET NO. 18-0176-0601 (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 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Vol. 06-8, pages 40 through 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: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Martha Hopper at (208) 334-4315.

DATED this 2nd day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 41, Chapter 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, August 16, 2006.

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:

A property and casualty insurer's Annual Financial Statement is required to be filed with the Department of Insurance on March 1st. The insurer is also required to submit an Actuarial Opinion on loss and loss adjustment expense reserves. The Actuarial Opinion is a public document. A detailed Actuarial Report including all work papers supporting the Actuarial Opinion is then required to be available for examination by May 1.

The rule, which follows a National Association of Insurance Commissioners' model, was created to require insurers to annually submit to regulators an "Actuarial Opinion Summary" of the Actuarial Report. The summary must provide information on the opining actuary's best estimate or a range of reasonable estimates, and include additional information as required by the NAIC Annual Statement Instructions.

The summary is due shortly after the time the Actuarial Opinion and Financial Statement are filed so regulators can detect companies in need of further investigation in a timely manner. The rule will apply to the 2007 Annual Statement filing.

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 fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is based on a model developed by the National Association of Insurance Commissioners.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Martha Hopper at (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 on or before August 23, 2006.

DATED this 28th day of June, 2006.

Shad Priest, Acting Director
Idaho Department of Insurance
700 West State Str, 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250 / Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

IDAPA 18
TITLE 01
CHAPTER 76

18.01.76 - PROPERTY AND CASUALTY ACTUARIAL OPINION RULE

000. LEGAL AUTHORITY.
This rule is promulgated and adopted pursuant to the authority vested in the Director under Title 41, Chapters 2, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 18.01.76, "Property and Casualty Actuarial Opinion Rule." ( )

02. Scope. This rule shall apply to annual statements filed with the Director as of the end of the first full calendar year following the effective date of the rule, and shall apply to all property and casualty companies doing business in this State. This rule is intended to provide the Director of the Department of Insurance with additional means to monitor an insurer's loss reserves in accordance with Section 41-610, 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 the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying in accordance with the public records act. ( )

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." ( )

004. INCORPORATION BY REFERENCE.
The National Association of Insurance Commissioners Property and Casualty Annual Statement Instructions are hereby incorporated by reference. ( )

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

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

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

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

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

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

007. -- 020. (RESERVED).

021. ACTUARIAL OPINION OF RESERVES AND SUPPORTING DOCUMENTATION.

01. Statement of Actuarial Opinion. Every property and casualty insurance company doing business in this state, unless otherwise exempted by the domiciliary commissioner, shall annually submit the opinion of an Appointed Actuary entitled "Statement of Actuarial Opinion." This opinion shall be filed in accordance with the appropriate National Association of Insurance Commissioners Property and Casualty Annual Statement Instructions. ( )

02. Actuarial Opinion Summary. ( )

a. Every property and casualty insurance company domiciled in this state that is required to submit a Statement of Actuarial Opinion shall annually submit an Actuarial Opinion Summary, written by the company's Appointed Actuary. This Actuarial Opinion Summary shall be filed in accordance with the appropriate National Association of Insurance Commissioners ("NAIC") Property and Casualty Annual Statement Instructions and shall be considered to be a document supporting the Actuarial Opinion required in Subsection 021.01 of this chapter. ( )

b. A company licensed but not domiciled in this state shall provide the Actuarial Opinion Summary upon request. ( )

03. Actuarial Report and Work Papers. ( )

a. An Actuarial Report and underlying work papers as required by the appropriate NAIC Property and Casualty Annual Statement Instructions shall be prepared to support each Actuarial Opinion. ( )

b. If the insurance company fails to provide a supporting Actuarial Report or work papers at the request of the Director of the Idaho Department of Insurance, or, after review, the Director determines the supporting Actuarial Report or work papers provided by the insurance company do not comply with the NAIC Property and Casualty Annual Statement Instructions or are otherwise unacceptable, the Director may engage a qualified actuary at the expense of the

company to review the opinion and the basis for the opinion, and to prepare the supporting Actuarial Report or work papers. ( )

022. CONFIDENTIALITY.

01. The Statement of Actuarial Opinion. Shall be provided with the Annual Statement in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions and shall be treated as a public document. ( )

02. Actuarial Report. ( )

a. Documents, materials or other information in the possession or control of the Department of Insurance that are considered an Actuarial Report, work papers or Actuarial Opinion Summary provided in support of the opinion, and any other material provided by the company to the Director in connection with the Actuarial Report, work papers or Actuarial Opinion Summary, will be considered to be exempt from public disclosure under Section 9-340D(5), Idaho Code, of the Idaho Public Records Act. ( )

b. This provision shall not be construed to limit the Director's authority to release the documents to the Actuarial Board for Counseling and Discipline (ABCD) so long as the material is required for the purpose of professional disciplinary proceedings and that the ABCD establishes procedures satisfactory to the Director regarding disclosure of the documents, nor shall this section be construed to limit the Director's authority to use the documents, materials or other information in furtherance of any regulatory or legal action brought as part of the Director's official duties. ( )

03. Director's Duties. In order to assist in the performance of his duties, the Director may enter into agreements governing sharing and use of materials or information subject to Subsection 021.02 of this chapter with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities. ( )

04. Waiver. No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the director in Section 022 or as a result of sharing as authorized in Subsection 021.03 of this chapter. ( )

023. -- 999. (RESERVED).

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.77 - ACTUARIAL OPINION AND MEMORANDUM RULE

DOCKET NO. 18-0177-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Vol. 06-8, pages 44 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: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Martha Hopper at (208) 334-4315.

DATED this 2nd day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, 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 August 16, 2006.

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 rulemaking amends an existing rule that sets forth standards for actuarial opinions and memoranda used by life insurers doing business in Idaho. The amendments conform the rule to standards developed and adopted by the National Association of Insurance Commissioners. The changes include: requiring that all life insurers perform an asset adequacy analysis to demonstrate that they have sufficient reserves to meet expected obligations; providing the Director greater flexibility to accept actuarial opinions based on foreign state laws that meet certain standards; requiring additional information to be included in the actuarial memorandum; requiring a confidential summary of actuarial assumptions and the asset adequacy test; and adding sections to conform to the Office of Administrative Rules format and standards.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are intended to bring the existing rule into conformity with national standards.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Martha Hopper at (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 on or before August 23, 2006.

DATED this 5th day of July, 2006.

Shad Priest, Acting Director
Idaho Department of Insurance
700 West State Str, 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

001. TITLE AND SCOPE.

01. Application of Rule. This rule shall apply to all life insurance companies and fraternal benefit societies doing business in this State and to all life insurance companies and fraternal benefit societies which are authorized to reinsure life insurance, annuities or accident and health insurance business in this State. This regulation shall be applied in a manner that allows the appointed actuary to utilize his or her professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. However, the Director shall have the authority to specify specific methods of actuarial analysis and actuarial assumptions when, in the Director's judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items. ~~*(7-1-97)*~~(____)

02. Application to All Annual Statements. This rule shall be applicable to all annual statements filed with the office of the Director after the effective date. ~~*Except with respect to companies which are exempted pursuant to Section 006,*~~ A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with Section 0~~*08*~~22 of this chapter, and a memorandum in support thereof in accordance with Section 0~~*09*~~23 of this chapter, shall be required each year. ~~*Any company so exempted must file a statement of actuarial opinion pursuant to Section 007.*~~ ~~*(7-1-97)*~~(____)

~~***03. Statement of Actuarial Opinion****. Notwithstanding the foregoing, the Director may require any company otherwise exempt pursuant to this rule to submit a statement of actuarial opinion and to prepare a memorandum in support thereof in accordance with Sections 008 and 009 if, in the opinion of the Director, an asset adequacy analysis is necessary with respect to the company.*~~ ~~*(7-1-97)*~~

0~~*4*~~3. **Purpose**. The purpose of this rule is to prescribe~~.~~: ~~*(7-1-97)*~~(____)

a. Guidelines and standards for statements of actuarial opinion which are to be submitted in accordance with Section 41-612(12), Idaho Code, and for memoranda in support thereof; (7-1-97)

~~***b.*** *Guidelines and standards for statements of actuarial opinion which are to be submitted when a company is exempt from Section 41-612(12), Idaho Code, and*~~ ~~*(7-1-97)*~~

~~***c***~~**b.** Rules applicable to the appointment of an appointed actuary~~.~~; and ~~*(7-1-97)*~~(____)

c. Guidelines as to the meaning of adequacy of reserves. (____)

002. WRITTEN INTERPRETATIONS.
~~*There are no written interpretations of these rules.*~~ In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of

this chapter. These documents will be available for public inspection and copying in accordance with the public records act. ~~(7-1-97)~~(____)

003. ADMINISTRATIVE APPEALS.
All ~~*contested cases shall be governed by the provisions of*~~ 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." ~~(7-1-97)~~(____)

004. INCORPORATED BY REFERENCE.
There are no documents incorporated by reference. (____)

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

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

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

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. (____)

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

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

007. - - 009. (RESERVED).

0~~04~~10. DEFINITIONS.

01. Actuarial Opinion. The opinion of an Appointed Actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy test in accordance with Section 022 of this chapter and with presently accepted Actuarial Standards. ~~(7-1-97)~~(____)

~~*a. With respect to Sections 008, 009 or 010, the opinion of an Appointed Actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy test in accordance with Section 008 and with presently accepted Actuarial Standards; (7-1-97)*~~

~~*b. With respect to Section 007, the opinion of an Appointed Actuary regarding the calculation of reserves and related items, in accordance with Section 007 and with those presently accepted Actuarial Standards which specifically relate to this opinion. (7-1-97)*~~

02. Actuarial Standards Board. The board established by the American Academy of

Actuaries to develop and promulgate standards of actuarial practice. (7-1-97)

03. Annual Statement. Statement required by Section 41-335 of the Idaho Code to be filed by the company with the office of the Director annually. (7-1-97)

04. Appointed Actuary. Any individual who is appointed or retained in accordance with the requirements set forth in Subsection 0~~05~~21.03, of the chapter to provide the actuarial opinion and supporting memorandum as required by Section 41-612(12) of the Idaho Code. ~~(7-1-97)~~(____)

05. Asset Adequacy Analysis. An analysis that meets the standards and other requirements referred to in Subsection 0~~05~~21.04 of this chapter. It may take many forms, including, but not limited to, cash flow testing, sensitivity testing or applications of risk theory. ~~(7-1-97)~~(____)

06. Director. The Director of the Idaho Department of Insurance. (7-1-97)

07. Company. A life insurance company, fraternal benefit society or reinsurer subject to the provisions of this rule. (7-1-97)

~~***08. Non-Investment Grade Bonds**. Those designated as classes 3, 4, 5 or 6 by the NAIC Securities Valuation Office. (7-1-97)*~~

09. Qualified Actuary. Any individual who meets the requirements set forth in Subsection 0~~05~~21.02 of this chapter. ~~(7-1-97)~~(____)

011. -- 020. (RESERVED).

0~~05~~21. GENERAL REQUIREMENTS.

01. Submission of Statement of Actuarial Opinion. (7-1-97)

a. There is to be included on or attached to Page one (1) of the annual statement for each year beginning with the year in which this rule becomes effective the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with Section 0~~08;~~22 of this chapter ~~*provided, however, that any company exempted pursuant to Section 006 from submitting a statement of actuarial opinion in accordance with Section 008 shall include on or attach to Page one (1) of the annual statement a statement of actuarial opinion rendered by an appointed actuary in accordance with Section 007*~~. ~~(7-1-97)~~(____)

~~***b.** If in the previous year a company provided a statement of actuarial opinion in accordance with Section 007, and in the current year fails the exemption criteria of Subsections 006.03.a., 006.03.b., or 006.03.e. to again provide an actuarial opinion in accordance with Section 007, the statement of actuarial opinion in accordance with Section 008 shall not be required until August 1 following the date of the annual statement. In this instance, the company shall provide a statement of actuarial opinion in accordance with Section 007 with appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in*~~

~~accordance with Section 008.~~ ~~(7-1-97)~~

~~c. In the case of a statement of actuarial opinion required to be submitted by a foreign or alien company, the Director may accept the statement of actuarial opinion filed by such company with the insurance supervisory regulator of another state if the Director determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.~~ ~~(7-1-97)~~

~~d~~**b.** Upon written request by the company, the Director may grant an extension of the date for submission of the statement of actuarial opinion. (7-1-97)

02. Qualified Actuary. An individual who: (7-1-97)

a. Is a member in good standing of the American Academy of Actuaries; and (7-1-97)

b. Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements; and (7-1-97)

c. Is familiar with the valuation requirements applicable to life and health insurance companies; and (7-1-97)

d. Has not been found by the Director (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have~~.~~: ~~(7-1-97)~~(____)

i. Violated any provision of, or any obligation imposed by any law in the course of his dealings as a qualified actuary; or (7-1-97)

ii. Been found guilty of fraudulent or dishonest practices; or (7-1-97)

iii. Demonstrated his incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary; or (7-1-97)

iv. Submitted to the Director during the past five (5) years, pursuant to this rule, an actuarial opinion or memorandum that the Director rejected because it did not meet the provisions including standards set by the Actuarial Standards Board; or (7-1-97)

v. Resigned or been removed as an actuary within the past five (5) years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and (7-1-97)

e. Has not failed to notify the Director of any action taken by any Director of any other state similar to that under Subsection 0~~05~~21.02.d. of this chapter. ~~(7-1-97)~~(____)

03. Appointed Actuary. A qualified actuary who is appointed or retained to prepare the Statement of Actuarial Opinion required by this rule; either directly by or by the authority of

the board of directors through an executive officer of the company. The company shall give the Director timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in such notice that the person meets the requirements set forth in Subsection 0~~05~~21.02 of this chapter. Once notice is furnished, no further notice is required with respect to this person, provided that the company shall give the Director timely written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in Subsection 0~~05~~21.02 of this chapter. If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement. ~~(7-1-97)~~(____)

04. Standards for Asset Adequacy Analysis. The asset adequacy analysis required by this rule: (7-1-97)

a. Shall conform to the Standards of Practice as promulgated by the Actuarial Standards Board and on any additional standards under this rule, which standards are to form the basis of the statement of actuarial opinion in accordance with Section 0~~08~~21 of this chapter; and ~~(7-1-97)~~(____)

b. Shall be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board. (7-1-97)

05. Liabilities to Be Covered. (7-1-97)

a. Under authority of Section 41-612(12), Idaho Code, the statement of actuarial opinion shall apply to all in force business on the statement date regardless of when or where issued, e.g., ~~*reserves of Exhibits 8, 9 and 10*~~ Aggregate Reserve for Life Contracts, Aggregate Reserve for Accident and Health Contracts, reserves for Deposit Type Contracts, and Claims for Life and Health Contracts as reported in Exhibits of the annual statement, ~~*and claim liabilities in Exhibit 11, Part I*~~ and equivalent items in the separate account statement or statements of the annual statement. ~~(7-1-97)~~(____)

b. If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in Section 41-612(12), Idaho Code, the company shall establish such additional reserve. (7-1-97)

~~**c.** *For years ending prior to December 31, 1998, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than the following.* (7-1-97)~~

i. December 31, 1996: The additional reserve divided by three (3). (7-1-97)

ii. December 31, 1997: Two (2) times the additional reserve divided by three (3). (7-1-97)

~~**d**~~**c.** Additional reserves established under Subsections 0~~05~~21.05.a. or 0~~05~~21.05.b. of this chapter and deemed not necessary in subsequent years may be released. Any amounts

released must be disclosed in the actuarial opinion for the applicable year. The release of such reserves would not be deemed an adoption of a lower standard of valuation. ~~(7-1-97)~~(____)

~~***006. REQUIRED OPINIONS.***~~

~~*01. General. In accordance with Section, Idaho Code, every company doing business in this State shall annually submit the opinion of an appointed actuary as provided for by this rule. The type of opinion submitted shall be determined by the provisions set forth in Section 006 and shall be in accordance with the applicable provisions in this rule.* (7-1-97)~~

~~*02. Company Categories. For purposes of this rule, companies shall be classified as follows based on the admitted assets as of the end of the calendar year for which the actuarial opinion is applicable.* (7-1-97)~~

~~*a. Category A shall consist of those companies whose admitted assets do not exceed twenty ($20) million dollars;* (7-1-97)~~

~~*b. Category B shall consist of those companies whose admitted assets exceed twenty ($20) million but do not exceed one hundred ($100) million dollars;* (7-1-97)~~

~~*c. Category C shall consist of those companies whose admitted assets exceed one hundred ($100) million but do not exceed five hundred ($500) million dollars;* (7-1-97)~~

~~*d. Category D shall consist of those companies whose admitted assets exceed five hundred ($500) million dollars.* (7-1-97)~~

~~*03. Exemption Eligibility Tests.* (7-1-97)~~

~~*a. Any Category A company that, for any year beginning with the year in which this rule becomes effective, meets all of the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with Section 008 for the year in which these criteria are met. The ratios in Subsections 006.03.a.i., 006.03.a.ii., and 006.03.a.iii. shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.* (7-1-97)~~

~~*i. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to one tenth (.1).* (7-1-97)~~

~~*ii. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than three tenths (.3).* (7-1-97)~~

~~*iii. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than five tenths (.5).* (7-1-97)~~

~~*iv. The Examiner Team for the National Association of Insurance Directors (NAIC) has not designated the company as a first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two (2) calendar years preceding the calendar year for which the*~~

~~actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the Director of the state of domicile and the Director has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office. (7-1-97)~~

~~b. Any Category B company that, for any year beginning with the year in which this rule becomes effective, meets all of the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with Section 008 for the year in which the criteria are met. The ratios in Subsections 006.03.b.i, ii, and iii shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable. (7-1-97)~~

~~i. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to seven one hundredths (.07). (7-1-97)~~

~~ii. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than four tenths (.4). (7-1-97)~~

~~iii. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than five tenths (.5). (7-1-97)~~

~~iv. The Examiner Team for the National Association of Insurance Directors (NAIC) has not designated the company as a first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the Director of the state of domicile and the Director has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office. (7-1-97)~~

~~c. Any Category A or Category B company that meets all of the criteria set forth in Subsection 006.03.a. or 006.03.b., whichever is applicable, is exempted from submission of a statement of actuarial opinion in accordance with Section 008 unless the Director specifically indicates to the company that the exemption is not to be taken. (7-1-97)~~

~~d. Any Category A or Category B company that, for any year beginning with the year in which this rule becomes effective, is not exempted under Subsection 006.03.c. shall be required to submit a statement of actuarial opinion in accordance with Section 008 for the year for which it is not exempt. (7-1-97)~~

~~e. Any Category C company that, after submitting an opinion in accordance with Section 008, meets all of the following criteria shall not be required, unless required in accordance with Subsection 006.03.f., to submit a statement of actuarial opinion in accordance with Section 008 more frequently than every third year. Any Category C company which fails to meet all of the following criteria for any year shall submit a statement of actuarial opinion in accordance with Section 008 for that year. The ratios in Subsections 006.03.e.i., 006.03.e.ii., and 006.03.e.iii. shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable. (7-1-97)~~

~~i. The ratio of the sum of capital and surplus to the sum of cash and invested assets is~~

~~at least equal to five one hundredths (.05).~~ ~~(7-1-97)~~

~~ii. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than five tenths (.5).~~ ~~(7-1-97)~~

~~iii. The ratio of the book value of the non-investment grade bonds to the sum of the capital and surplus is less than five tenths (.5).~~ ~~(7-1-97)~~

~~iv. The Examiner Team for the National Association of Insurance Directors (NAIC) has not designated the company as a first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the Director of the state of domicile and the Director has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.~~ ~~(7-1-97)~~

~~f. Any company which is not required by Section 006 to submit a statement of actuarial opinion in accordance with Section 008 for any year, shall submit a statement of actuarial opinion in accordance with Section 007 for that year unless as provided for by Subsection 001.02 the Director requires a statement of actuarial opinion in accordance with Section 008.~~ ~~(7-1-97)~~

~~04. Large Companies. Every Category D company shall submit a statement of actuarial opinion in accordance with Section 008 for each year beginning with the year in which this rule becomes effective.~~ ~~(7-1-97)~~

~~**007. STATEMENT OF ACTUARIAL OPINION NOT INCLUDING AN ASSET ADEQUACY ANALYSIS.**~~

~~01. General Description. The statement of actuarial opinion required by this section shall consist of a paragraph identifying the appointed actuary and his qualifications; a regulatory authority paragraph stating that the company is exempt pursuant to this rule from submitting a statement of actuarial opinion based on an asset adequacy analysis and that the opinion, which is not based on an asset adequacy analysis, is rendered in accordance with Section 007; a scope paragraph identifying the subjects on which the opinion is to be expressed and describing the scope of the appointed actuary's work; and an opinion paragraph expressing the appointed actuary's opinion as required by Section 41-612(12), Idaho Code.~~ ~~(7-1-97)~~

~~02. Recommended Language. The following language provided is that which in typical circumstances would be included in a statement of actuarial opinion in accordance with Section 007. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language which clearly expresses his her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in Section 007.~~ ~~(7-1-97)~~

~~a. The opening paragraph should indicate the appointed actuary's relationship to the company. For a company actuary, the opening paragraph of the actuarial opinion should read as follows:~~

~~"I, [name of actuary], am [title] of [name of company] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the Director dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health companies."~~ ~~(7-1-97)~~

~~i. For a consulting actuary, the opening paragraph of the actuarial opinion should contain a sentence such as:~~

~~"I, [name and title of actuary], a member of the American Academy of Actuaries, am associated with the firm of [insert name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the Director dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."~~ ~~(7-1-97)~~

~~b. The regulatory authority paragraph should include a statement such as the following:~~

~~"Said company is exempt pursuant to rule [insert designation] of the [name of state] Insurance Department from submitting a statement of actuarial opinion based on an asset adequacy analysis. This opinion, which is not based on an asset adequacy analysis, is rendered in accordance with Section 007."~~ ~~(7-1-97)~~

~~c. The scope paragraph should contain a sentence such as the following:~~

~~"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 20[ ]."~~

~~The scope paragraph should list items and amounts with respect to which the appointed actuary is expressing an opinion. The list should include but not be necessarily limited to.~~ ~~(7-1-97)~~

~~i. Aggregate reserve and deposit funds for policies and contracts included in Exhibit 8 of the annual statement;~~ ~~(7-1-97)~~

~~ii. Aggregate reserve and deposit funds for policies and contracts included in Exhibit 9 of the annual statement;~~ ~~(7-1-97)~~

~~iii. Deposit funds, premiums, dividend and coupon accumulations and supplementary contracts not involving life contingencies included Exhibit 10 of the annual statement; and~~ ~~(7-1-97)~~

~~iv. Policy and contract claims--liability end of current year included in Exhibit 11, Part I of the annual statement.~~ ~~(7-1-97)~~

~~d. If the appointed actuary has examined the underlying records, the scope paragraph should also include the following:~~

~~*"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic records and such tests of the actuarial calculations as I considered necessary."* (7-1-97)~~

~~*e. If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force prepared by the company or a third party, the scope paragraph should include a sentence such as one of the following:*~~

~~*"I have relied upon listings and summaries of policies and contracts and other liabilities in force prepared by [name and title of company officer certifying in force records] as certified in the attached statement. (See accompanying affidavit by a company officer.) In other respects my examination included review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."; or*~~

~~*"I have relied upon [name of accounting firm] for the substantial accuracy of the in force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."* (7-1-97)~~

~~*i. The statement of the person certifying shall follow the form indicated by Subsection 007.02.j.* (7-1-97)~~

~~*f. The opinion paragraph should include the following:*~~

~~*"In my opinion the amounts carried in the balance sheet on account of the actuarial items identified above:*~~

~~*(a) Are computed in accordance with those presently accepted actuarial standards which specifically relate to the opinion required under this section;*~~

~~*(b) Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;*~~

~~*(c) Meet the requirements of the Insurance Law and rules of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed.*~~

~~*(d) Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end with any exceptions as noted below; and*~~

~~*(e) Include provision for all actuarial reserves and related statement items which ought to be established.*~~

~~*The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Compliance Guidelines as promulgated by the Actuarial Standards Board, which*~~

~~guidelines form the basis of this statement of opinion."~~ ~~(7-1-97)~~

~~g. The concluding paragraph should document the eligibility for the company to provide an opinion as provided by this Section 007. It shall include the following:~~

~~"This opinion is provided in accordance with Section 007 of the NAIC Actuarial Opinion and Memorandum rule. As such it does not include an opinion regarding the adequacy of reserves and related actuarial items when considered in light of the assets which support them.~~

~~Eligibility for Section 007 is confirmed as follows:~~

~~(a) The ratio of the sum of capital and surplus to the sum of cash and invested assets is [insert amount], which equals or exceeds the applicable criterion based on the admitted assets of the company (Subsection 006.03).~~

~~(b) The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is [insert amount], which is less than the applicable criteria based on the admitted assets of the company (Subsection 006.03).~~

~~(c) The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is [insert amount], which is less than the applicable criteria of .50.~~

~~(d) To my knowledge, the NAIC Examiner Team has not designated the company as a first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile.~~

~~(e) To my knowledge there is not a specific request from any Director requiring an asset adequacy analysis opinion.~~

_____

~~Signature of Appointed Actuary~~

_____

~~Address of Appointed Actuary~~

_____

~~Telephone Number of Appointed Actuary"~~

~~(7-1-97)~~

~~h. If there has been any change in the actuarial assumptions from those previously employed, that change should be described in the annual statement or in a paragraph of the statement of actuarial opinion, and the reference in Subsection 007.02.f.(d) above to consistency should read as follows:~~

~~*"... with the exception of the change described on Page [ ] of the annual statement (or in the preceding paragraph)."*~~ ~~*(7-1-97)*~~

~~*i. The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this paragraph.*~~ ~~*(7-1-97)*~~

~~*j. If the appointed actuary is unable to form an opinion, he shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, he shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.*~~ ~~*(7-1-97)*~~

~~*k. If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force, there should be attached to the opinion, the statement of a company officer or accounting firm who prepared such underlying data similar to the following:*~~

~~*"I [name of officer], [title] of [name and address of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, 19[ ], prepared for and submitted to [name of appointed actuary], were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.*~~

_____

~~*Signature of the Officer of the Company or Accounting Firm*~~

_____

~~*Address of the Officer of the Company or Accounting Firm*~~

_____

~~*Telephone Number of the Officer of the Company or Accounting Firm"*~~

~~*(7-1-97)*~~

0~~08~~22. STATEMENT OF ACTUARIAL OPINION BASED ON AN ASSET ADEQUACY ANALYSIS.

01. General Description. The statement of actuarial opinion submitted in accordance with this section shall consist of~~:~~; ~~*(7-1-97)*~~(____)

a. A paragraph identifying the appointed actuary and his qualifications (see Subsection 0~~08~~22.02.a. of this chapter); ~~*(7-1-97)*~~(____)

b. A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis, (see Subsection 0~~08~~22.02.b. of this chapter) and identifying the reserves and related actuarial items covered by the opinion which have not been so analyzed; ~~(7-1-97)~~(____)

c. A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, (e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios (see Subsection 0~~08~~22.02.c. of this chapter), supported by a statement of each such expert in the form prescribed by Subsection 0~~08~~22.05 of this chapter; and ~~(7-1-97)~~(____)

d. An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities (see Subsection 0~~08~~22.02.f. of this chapter). (7-1-97)

e. One (1) or more additional paragraphs will be needed in individual company cases as follows~~.~~: ~~(7-1-97)~~(____)

i. If the appointed actuary considers it necessary to state a qualification of his opinion; (7-1-97)

~~*ii. If the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;* (7-1-97)~~

~~*iii. If the appointed actuary must disclose reliance upon any portion of the assets supporting the Asset Valuation Reserve (AVR), Interest Maintenance Reserve (IMR) or other mandatory or voluntary statement of reserves for asset adequacy analysis.* (7-1-97)~~

i~~v~~i. If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion~~.~~; ~~(7-1-97)~~( )

~~v~~iii. If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release~~.~~; or ~~(7-1-97)~~(____)

~~v~~iv. If the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion. (7-1-97)

02. Recommended Language. The following paragraphs are to be included in the statement of actuarial opinion in accordance with this section. Language is that which in typical circumstances should be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language which clearly expresses his professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this section. (7-1-97)

a. The opening paragraph should generally indicate the appointed actuary's relationship to the company and his qualifications to sign the opinion. For a company actuary, the

opening paragraph of the actuarial opinion should read as follows:

"I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the Director dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

For a consulting actuary, the opening paragraph should contain a sentence such as:

"I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the Director dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies." (7-1-97)

b. The scope paragraph should include a statement such as the following:

"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 19[ ]. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis.

TABLE 0~~08~~22.02.b.

	Asset Adequacy Tested Amounts			Reserves and Liabilities		
	Statement Item	**Formula Reserves (1)**	**Additional Actuarial Reserves (a) (2)**	**Analysis Method (b)**	**Other Amount (3)**	**Total Amount (1)+(2)+(3) (4)**
~~A~~	Exhibit ~~8~~ 5 Life Insurance					
~~B~~	Annuities					
~~C~~	Supplementary Contracts Involving Life Contingencies					
~~D~~	Accidental Death Benefit					
~~E~~	Disability - Active					
~~F~~	Disability - Disabled					
~~G~~	Miscellaneous					
	Total (Exhibit ~~8~~ 5 Item 1, Page 3)					
~~A~~	Exhibit ~~9~~ 6 Active Life Reserve					
~~B~~	Claim Reserve					

	Asset Adequacy Tested Amounts			Reserves and Liabilities		
	Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
	Total (Exhibit ~~9~~ 6 Item 2, Page 3)					
~~1~~	Exhibit ~~10~~ 7 Premium~~s~~ and Other Deposit Funds (Column 6, Line 14)					
~~1.1~~	~~Policyholder Premiums (Page 3, Line 10.1)~~					
~~1.2~~	Guaranteed Interest Contracts ~~(Page 3, Line 10.2)~~ (Column 2, Line 14)					
~~1.3~~	~~Other Contract Deposit Funds (Page 3, Line 10.3)~~ Annuities Certain (Column 3, Line 14)					
~~2~~	Supplemenra~~ry~~l Contracts ~~Not Involving Life Contingencies (Page 3, Line 3)~~ (Column 4, Line 14)					
~~3~~	Dividend ~~and Coupon~~ Accumulations ~~(Page 3, Line 5)~~ or Refunds (Column 5, Line 14)					
	Total Exhibit ~~10~~ 7					
~~1~~	Exhibit ~~11~~ 8 Part 1 Life (Page 3, Line 4.1)					
~~2~~	Health (Page 3,Line 4.2)					
	Total Exhibit ~~11~~ 8, Part 1					
	Separate Accounts (Page 3, Line 27)					
	TOTAL RESERVES					
	IMR (General Account, Page ___ Line ___)					
	IMR (General Account, Page ___ Line ___)					
	AVR (Page ___ Line ___)	(c)				
	Net Deferred and Uncollected Premiums					

Notes:
(a) The additional actuarial reserves are the reserves established under Subsection

0~~05~~21.05.b. or 0~~05~~21.05.c. of this chapter.

(b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in Subsection 0~~05~~21.04 of this chapter, by means of symbols which should be defined in footnotes to the table.

(c) Allocated amount. ~~(7-1-97)~~(____)

c. If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as the following:

"I have relied on [name], [title] for [e.g., anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios or certain critical aspects of the analysis performed in conjunction with forming my opinion] ~~and~~, as certified in the attached statement~~,...~~. I have reviewed the information relied upon for reasonableness."~~;~~ or

"I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement." ~~(7-1-97)~~(____)

i. Such a statement of reliance on other experts should be accompanied by a statement by each of ~~such~~ the experts of the form prescribed by Subsection 0~~08~~22.05. ~~(7-1-97)~~(____)

d. If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should also include the following:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. I also reconciled the underlying basic asset and liability records to [exhibits and schedules listed as applicable] of the company's current annual statement." ~~(7-1-97)~~(____)

e. If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force and/or asset records prepared by the company or a third party, the reliance paragraph should include a sentence such as:

"In forming my opinion on [specify types of reserves] I ~~have~~ relied upon ~~listings and summaries [of policies and contracts, of asset records~~] data prepared by [name and title of company officer certifying in-force records or other data] as certified in the attached statement. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company's current annual statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."~~; or~~

~~"I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary."~~ ~~(7-1-97)~~(____)

i. Such a section must be accompanied by a statement by each person relied upon of the form prescribed by Subsection 0~~08~~22.05 of this chapter. ~~(7-1-97)~~( )

f. The opinion paragraph should include the following:

"In my opinion the reserves and related actuarial values concerning the statement items identified above:

(a) Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

(b) Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

(c) Meet the requirements of the Insurance Law and rule of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed.

(d) Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below);

(e) Include provision for all actuarial reserves and related statement items which ought to be established.

The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion."; or

"The following material change(s) which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.)

Note: Choose one (1) of the above two (2) paragraphs, whichever is applicable.

The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

_____
Signature of Appointed Actuary

_____
Address of Appointed Actuary

_____
Telephone Number of Appointed Actuary"

~~(7-1-97)~~(____)

03. Assumptions for New Issues. The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this Section 0~~08~~22 of this chapter. ~~(7-1-97)~~(____)

04. Adverse Opinions. If the appointed actuary is unable to form an opinion, then he shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then he shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph. (7-1-97)

05. Reliance on Data Furnished by Other Persons. ~~*If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force and/or asset oriented information, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared such underlying data similar to the following:*~~ If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should so indicate the persons the actuary is relying upon and a precise identification of the items subject to reliance. In addition, the persons on whom the appointed actuary relies shall provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable, of the items. This certification shall include the signature, title, company, address and telephone number of the person rendering the certification, as well as the date on which it is signed.

~~*"I [name of officer], [title], of [name of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, 19[ ], and other liabilities prepared for and submitted to [name of appointed actuary] were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.*~~

_____
_____

~~*Signature of the Officer of the Company or Accounting Firm*~~

_____

~~*Address of the Officer of the Company or Accounting Firm*~~

_____

~~*Telephone Number of the Officer of the Company or Accounting Firm"; or*~~

~~*"I, [name of officer], [title] of [name of company, accounting firm, or security analyst], hereby affirm that the listings, summaries and analyses relating to data prepared for and submitted to [name of appointed actuary] in support of the asset-oriented aspects of the opinion were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.*~~

_____

~~*Signature of the Officer of the Company, Accounting Firm or the Security Analyst*~~

_____

~~*Address of the Officer of the Company, Accounting Firm or the Security Analyst*~~

_____

~~*Telephone Number of the Officer of the Company, Accounting Firm or the Security Analyst"*~~ ~~*(7-1-97)*~~(____)

023. ALTERNATE OPTION.

01. Standard Valuation Law. The Standard Valuation Law gives the Director broad authority to accept the valuation of a foreign insurer when that valuation meets the requirements applicable to a company domiciled in this state in the aggregate. As an alternative to the requirements of Subsection 022.02.f.(c) of this chapter, the Director may make one or more of the following additional approaches available to the opining actuary: (____)

a. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and the formal written standards and conditions of this state for filing an opinion based on the law of the state of domicile." If the Director chooses to allow this alternative, a formal written list of standards and conditions shall be made available. If a company chooses to use this alternative, the standards and conditions in effect on July 1 of a calendar year shall apply to statements for that calendar year, and they shall remain in effect until they are revised or revoked. If no list is available, this alternative is not available. (____)

b. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have verified that the company's request to file an opinion based on the law of the state of domicile has been approved and that any conditions required by the Director for approval of that request have been met." If the Director chooses to allow this alternative, a formal written statement of such allowance shall be issued no later than March 31 of the year it is first effective. It shall remain valid until rescinded or modified by the Director. The rescission or modifications shall be issued no later than March 31 of the year they are first effective. Subsequent to that statement being issued, if a company chooses to use this alternative, the company shall file a request to do so, along with justification for its use, no later than April 30 of the year of the opinion to be filed. The request shall be deemed approved on October 1 of that year if the Director has not denied the request by that date. (____)

c. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have submitted the required comparison as specified by this state." (____)

i. If the Director chooses to allow this alternative, a formal written list of products (to be added to the table in Item (ii) below) for which the required comparison shall be provided will be published. If a company chooses to use this alternative, the list in effect on July 1 of a calendar year shall apply to statements for that calendar year, and it shall remain in effect until it is revised or revoked. If no list is available, this alternative is not available. (____)

ii. If a company desires to use this alternative, the appointed actuary shall provide a comparison of the gross nationwide reserves held to the gross nationwide reserves that would be held under NAIC codification standards. Gross nationwide reserves are the total reserves calculated for the total company in force business directly sold and assumed, indifferent to the state in which the risk resides, without reduction for reinsurance ceded. The information provided shall be at least:

(1) Product Type	(2) Death Benefit or Account Value	(3) Reserves Held	(4) Codification Reserves	(5) Codification Standard

(____)

iii. The information listed shall include all products identified by either the state of filing or any other states subscribing to this alternative. (____)

iv. If there is no codification standard for the type of product or risk in force or if the codification standard does not directly address the type of product or risk in force, the appointed actuary shall provide detailed disclosure of the specific method and assumptions used in determining the reserves held. (____)

v. The comparison provided by the company is to be kept confidential to the same

extent and under the same conditions as the actuarial memorandum. ( )

d. Notwithstanding the above, the Director may reject an opinion based on the laws and regulations of the state of domicile and require an opinion based on the laws of this state. If a company is unable to provide the opinion within sixty (60) days of the request or such other period of time determined by the Director after consultation with the company, the Director may contract with an independent actuary at the company's expense to prepare and file the opinion. ( )

0~~09~~24. DESCRIPTION OF ACTUARIAL MEMORANDUM INCLUDING AN ASSET ADEQUACY ANALYSIS AND REGULATORY ASSET ADEQUACY ISSUES SUMMARY.

01. General. (7-1-97)

a. In accordance with Section 41-612(12), Idaho Code, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his opinion regarding the reserves under a Section 0~~08~~22 opinion. The memorandum shall be made available for examination by the Director upon his request but shall be returned to the company after such examination and shall not be considered a record of the insurance department or subject to automatic filing with the Director. ~~(7-1-97)~~( )

b. In preparing the memorandum, the appointed actuary may rely on, and include as a part of his own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of Subsection 0~~05~~21.02 of this chapter, with respect to the areas covered in such memoranda, and so state in their memoranda. ~~(7-1-97)~~( )

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

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

e. In accordance with Section 41-612(12), Idaho Code, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in Subsection 024.03 of this chapter. The regulatory asset adequacy issues summary will be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary will

be maintained as confidential and not subject to public disclosure by the director in accordance with Section 41-612(12), Idaho Code, and Section 9-340D(5) of the Idaho Public Records Act. (____)

02. Details of the Memorandum Section Documenting Asset Adequacy Analysis (Section 0~~08~~22). When an actuarial opinion under Section 0~~08~~22 of this chapter is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in Subsection 0~~05~~21.04 of this chapter and any additional standards under this rule. It shall specify~~.~~; ~~(7-1-97)~~(____)

a. For reserves~~.~~; ~~(7-1-97)~~(____)

i. Product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant; (7-1-97)

ii. Source of liability in force; (7-1-97)

iii. Reserve method and basis; (7-1-97)

iv. Investment reserves; (7-1-97)

v. Reinsurance arrangements~~.~~; and ~~(7-1-97)~~(____)

vi. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis. (____)

b. Documentation of assumptions to test reserves for the following: (____)

i. Lapse rates (both base and excess); (____)

ii. Interest crediting rate strategy; (____)

iii. Mortality; (____)

iv. Policyholder dividend strategy; (____)

v. Competitor or market interest rate; (____)

vi. Annuitization rates; (____)

vii. Commissions and expenses; and (____)

viii. Morbidity. (____)

ix. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

(____)

~~b~~**c.** For assets: (7-1-97)

i. Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets; (7-1-97)

ii. Investment and disinvestment assumptions; (7-1-97)

iii. Source of asset data; (7-1-97)

iv. Asset valuation bases. (7-1-97)

d. Documentation of assumptions made for the following assets: (____)

i. Default costs; (____)

ii. Bond call function; (____)

iii. Mortgage prepayment function; (____)

iv. Determining market value for assets sold due to disinvestment strategy; and(____)

v. Determining yield on assets acquired through the investment strategy. (____)

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

~~c~~**e.** Analysis basis: (7-1-97)

i. Methodology; (7-1-97)

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

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

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

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

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

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

~~e~~**h.** Conclusion(s). (7-1-97)

03. Details of the Regulatory Asset Adequacy Issues Summary. ( )

a. The regulatory asset adequacy issues summary shall include: ( )

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

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

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

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

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

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

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

0~~3~~4. Conformity to Standards of Practice. The memorandum shall include a statement:

"Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum." (7-1-97)

~~010. ADDITIONAL CONSIDERATIONS FOR ANALYSIS.~~

~~***01. Aggregation**. For the asset adequacy analysis for the statement of actuarial opinion provided in accordance with Section 008, reserves and assets may be aggregated by either of the following methods: (7-1-97)*~~

~~***a.** Aggregate the reserves and related actuarial items, and the supporting assets, for different products or lines of business, before analyzing the adequacy of the combined assets to mature the combined liabilities. The appointed actuary must be satisfied that the assets held in support of the reserves and related actuarial items so aggregated are managed in such a manner that the cash flows from the aggregated assets are available to help mature the liabilities from the blocks of business that have been aggregated. (7-1-97)*~~

~~***b.** Aggregate the results of asset adequacy analysis of one (1) or more products or lines of business, the reserves for which prove through analysis to be redundant, with the results of one (1) or more products or lines of business, the reserves for which prove through analysis to be deficient. The appointed actuary must be satisfied that the asset adequacy results for the various products or lines of business for which the results are so aggregated. (7-1-97)*~~

~~*i. Are developed using consistent economic scenarios; or (7-1-97)*~~

~~*ii. Are subject to mutually independent risks, i.e., the likelihood of events impacting the adequacy of the assets supporting the redundant reserves is completely unrelated to the likelihood of events impacting the adequacy of the assets supporting the deficient reserves. In the event of any aggregation, the actuary must disclose in his opinion that such reserves were aggregated on the basis of method Subsections 010.01.a., 010.01.b.i., or 010.01.b.ii., whichever is applicable, and describe the aggregation in the supporting memorandum. (7-1-97)*~~

~~***02. Selection of Assets for Analysis**. The appointed actuary shall analyze only those assets held in support of the reserves which are the subject for specific analysis, hereafter called "specified reserves". A particular asset or portion thereof supporting a group of specified reserves cannot support any other group of specified reserves. An asset may be allocated over several groups of specified reserves. The annual statement value of the assets held in support of the reserves shall not exceed the annual statement value of the specified reserves, except as provided in Subsection 010.03. If the method of asset allocation is not consistent from year to year, the extent of its inconsistency should be described in the supporting memorandum. (7-1-97)*~~

0~~3~~5. Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve. An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, must be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support. The amount of the assets used for the AVR must be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets must be disclosed in the memorandum. (7-1-97)

~~***04. Required Interest Scenarios**. (7-1-97)*~~

~~a. For the purpose of performing the asset adequacy analysis required by this rule, the qualified actuary is expected to follow standards adopted by the Actuarial Standards Board; nevertheless, the appointed actuary must consider in the analysis the effect of at least the following interest rate scenarios: (7-1-97)~~

~~i. Level with no deviation; (7-1-97)~~

~~ii. Uniformly increasing over ten (10) years at one half percent (1/2%) per year and then level; (7-1-97)~~

~~iii. Uniformly increasing at one percent (1%) per year over five (5) years and then uniformly decreasing at one percent (1%) per year to the original level at the end of ten (10) years and then level; (7-1-97)~~

~~iv. An immediate increase of three percent (3%) and then level; (7-1-97)~~

~~v. Uniformly decreasing over ten (10) years at one half percent (1/2%) per year and then level; (7-1-97)~~

~~vi. Uniformly decreasing at one percent (1%) per year over five (5) years and then uniformly increasing at one percent (1%) per year to the original level at the end of ten (10) years and then level; and (7-1-97)~~

~~vii. An immediate decrease of three percent (3%) and then level. (7-1-97)~~

~~b. For these and other scenarios which may be used, projected interest rates for a five (5) year Treasury Note need not be reduced beyond the point where the five (5) year Treasury Note yield would be at fifty (50%) of its initial level. (7-1-97)~~

~~c. The beginning interest rates may be based on interest rates for new investments as of the valuation date similar to recent investments allocated to support the product being tested or be based on an outside index, such as Treasury yields, of assets of the appropriate length on a date close to the valuation date. Whatever method is used to determine the beginning yield curve and associated interest rates should be specifically defined. The beginning yield curve and associated interest rates should be consistent for all interest rate scenarios. (7-1-97)~~

0~~5~~6. Documentation. The appointed actuary shall retain on file, for at least seven (7) years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained. (7-1-97)

0~~11~~25. -- 999. (RESERVED).

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD

DOCKET NO. 24-1801-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-4106, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 415 through 421.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 25th day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-4106, 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, 2006.

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

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

Update contact information, clarify education required to include courses approved by AQB, education effective dates are being changed from January 1, 2007 to January 1, 2008 for Licensed Residential Appraiser, Certified Residential Appraiser, and Certified General Appraiser; allow credit for time spent attending board meetings to be used toward continuing education 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 IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there was no controversy on the changes.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2006.

DATED this 14th day of August, 2006.

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

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

005. ADDRESS OF THE IDAHO REAL ESTATE APPRAISER BOARD (RULE 5).
The office of the Real Estate Appraiser Board is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is rea@ibol.idaho.gov. The Board's official web site address is http~~s~~:// ~~www.~~ibol.idaho.gov/rea.htm. ~~*(4-11-06)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

299. REQUIREMENTS FOR LICENSURE/CERTIFICATION (RULE 299).
All applicants for licensure/certification in any real estate appraiser classification must meet the following requirements in addition to those requirements set forth in Sections 300, 350, and 400 below. All applicants for trainee registration must meet the following requirements regarding education set forth in Section 299 in addition to those requirements set forth in Section 430. (3-13-02)

01. Examination. Successful completion of an examination approved by the Board pursuant to the guidelines of the Appraisal Foundation. (7-1-97)

02. Education. (7-1-97)

a. Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours, and the individual successfully completes an examination pertinent to the educational offering. (7-1-97)

b. Credit for the classroom hour requirement may be obtained from the following: (7-1-97)

i. Colleges or Universities. (7-1-97)

ii. Community or Junior Colleges. (7-1-97)

iii. Courses approved by the Appraisal Qualifications Board. ~~*(8-20-04)*~~( )

iv. State or Federal Agencies or Commissions. (7-1-97)

v. Other providers approved by the Board. (7-1-97)

c. Only those courses completed preceding the date of application will be accepted for meeting educational requirements. (3-18-99)

d. Course credits which are obtained from the course provider by challenge examination without attending the course will not be accepted. (3-18-99)

e. Various appraisal courses may be credited toward the classroom hour education requirement. Applicants must demonstrate that their education involved coverage of all topics listed below. Licensed Residential and Certified Residential must include emphasis in one (1) to four (4) unit residential properties; Certified General must include emphasis in nonresidential properties. (7-1-97)

i. Influences on Real Estate Value. (7-1-97)

ii. Legal Considerations in Appraisal. (7-1-97)

iii. Types of Value. (7-1-97)

iv. Economic Principles. (7-1-97)

v. Real Estate Markets and Analysis. (7-1-97)

vi. Valuation Process. (7-1-97)

vii. Property Description. (7-1-97)

viii. Highest and Best Use Analysis. (7-1-97)

ix. Appraisal Statistical Concepts. (7-1-97)

x. Sales Comparison Approach. (7-1-97)

xi. Site Value. (7-1-97)

xii. Cost Approach. (7-1-97)

xiii. Income Approach. (7-1-97)

xiv. Valuation of Partial Interests. (7-1-97)

xv. Appraisal Standards and Ethics. (7-1-97)

f. Advanced courses will be those courses for which an introductory or basic course is required. Typically classes titled “Introductory,” “Basic,” or “Principles” will not be accepted for advanced requirements. (7-1-97)

03. Experience. (7-1-97)

a. The work product claimed for experience credit must be in conformity with the USPAP or shall be in compliance with generally accepted standards which were in effect at the time those appraisals were prepared. (3-13-02)

b. On or after July 1, 2003, appraisal experience must be obtained as a registered trainee or as a licensed or certified appraiser. A year of experience is equal to a minimum of one

thousand (1,000) hours worked during a consecutive twelve (12) month period. Regardless of the number of experience hours submitted or obtained during any twelve (12) month period, no more than one thousand (1,000) of those hours may be credited to meet this requirement. Hours obtained in excess of one thousand (1,000) hours during any consecutive twelve (12) month period may not be credited or carried over into the next twelve (12) month period. (3-13-02)

c. Only experience gained during the five (5) years preceding application will be considered for evaluation. (7-1-97)

d. Acceptable non field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, tax appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, and feasibility analysis/study. (3-18-99)

e. An appraiser applying for certification/licensure must verify his completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board. (7-1-97)

i. To demonstrate experience the Board requires submission of a log which details hours claimed for experience credit. (7-1-97)

ii. The Board reserves the right to contact an employer for confirmation of length and extent of experience claimed. This may require an employer to submit appraisal reports and/or an affidavit. (7-1-97)

iii. The Board may request submission of written reports or file memoranda which substantiate an applicant's claim for experience credit. (7-1-97)

f. Ad valorem tax appraisers who demonstrate that they use techniques to value properties similar to those used by appraisers and effectively use the process as defined in Subsection 010.10, Field Real Estate Appraisal Experience will receive experience credit. (7-1-97)

300. LICENSED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (RULE 300).
The state licensed residential real estate appraiser classification applies to the appraisal of residential real property consisting of one (1) to four (4) noncomplex residential units having a transaction value less than one million dollars ($1,000,000) and complex one (1) to four (4) residential units having a transaction value less than two hundred fifty thousand dollars ($250,000). Applicants must meet the following education, experience and examination requirements in addition to complying with Section 250. Subsequent to being licensed, every licensee must annually meet the continuing education requirement. (4-11-06)

01. Education. Prior to January 1, 200~~7~~8, as a prerequisite to taking the examination for licensure as an Idaho Licensed Real Estate Appraiser, each applicant shall present evidence satisfactory to the board of having successfully completed not less than ninety (90) classroom hours of courses in subjects related specifically to real estate appraisal that have been approved by the board. Each applicant must have successfully completed not less than seventy (70) classroom hours of study related to those topics outlined under Subsection 250.01.e., the basic principles of

real estate appraising. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the USPAP, and Code of Ethics will be credited to the classroom hour requirement. Beginning on January 1, 200~~7~~8, as a prerequisite to taking the examination for licensure as an Idaho Licensed Residential Real Estate Appraiser, each applicant shall: ~~(4-11-06)~~(____)

a. Document registration as an Appraiser Trainee; and (4-11-06)

b. Document the successful completion of not less than seventy-five (75) classroom hours of courses in subjects related to real estate appraisal as follows: (4-11-06)

i. Residential Market Analysis and Highest and Best Use - not less than fifteen (15) hours; and (4-11-06)

ii. Residential Appraiser Site Valuation and Cost Approach - not less than fifteen (15) hours; and (4-11-06)

iii. Residential Sales Comparison and Income Approaches - not less than thirty (30) hours specifically including Valuation Principles and Procedures - Sales Comparison Approach; Valuation Principles and Procedures - Income Approach; Finance and Cash Equivalency; Financial Calculator Introduction; Identification, Derivation and Measurement of Adjustments; Gross Rent Multipliers; Partial Interests; Reconciliation; and Case Studies; and (4-11-06)

iv. Residential Report Writing and Case Studies - not less than fifteen (15) hours specifically including Writing and Reasoning Skills; Common Writing Problems; Form Reports; Report Options and USPAP Compliance; Case Studies. (4-11-06)

02. Experience. Prerequisite to sit for the examination: (7-1-97)

a. Document two thousand (2,000) hours of supervised appraisal experience as a registered Appraiser Trainee in no less than twelve (12) months. Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-06)

b. Of the required two thousand (2,000) hours, the applicant must accumulate a minimum of one thousand five hundred (1,500) hours from field real estate appraisal experience. The balance of five hundred (500) hours may include non field experience, refer to Subsection 250.02.d. (4-11-06)

03. Examination. Successful completion of the Licensed Residential Appraiser examination approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. (4-11-06)

301. -- 349. (RESERVED).

350. CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (RULE 350).
The State Certified Residential Real Estate Appraiser classification applies to the appraisal of

residential properties of four (4) or less units without regard to transaction value or complexity. Applicants must meet the following education, experience and examination requirements in addition to complying with Section 250. Subsequent to being certified every licensee must annually meet the continuing education requirement. (4-11-06)

01. Education. Prior to January 1, 200~~7~~8, as a prerequisite to taking the examination for licensure as an Idaho Certified Residential Real Estate Appraiser, each applicant shall present evidence satisfactory to the board of having successfully completed not less than one hundred twenty (120) classroom hours of courses in subjects related specifically to real estate appraisal that have been approved by the board. Each applicant must have successfully completed not less than ninety (90) classroom hours of study related to those topics outlined under Subsection 250.01.e., the basic principles of real estate appraising and thirty (30) classroom hours of advanced residential or non-residential specialized courses relating to the topics specified at Subsection 250.01.e. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the USPAP, and Code of Ethics; will be credited to the classroom hour requirement. Beginning on January 1, 200~~7~~8, as a prerequisite to taking the examination for licensure as an Idaho Certified Residential Real Estate Appraiser, each applicant shall: ~~(4-11-06)~~(____)

a. Hold an Associate Degree or higher from an accredited college or university or document successful completion of no less than twenty-one (21) college semester credit hours in English Composition, Principles of Economics (micro or macro), Finance, Algebra, Geometry or higher mathematics, Statistics, Introduction to Computers, and Business or Real Estate Law; and (4-11-06)

b. Document registration as an Appraiser Trainee and completion of the education required for licensure as a Licensed Residential Real Estate Appraiser or hold a current license as a Licensed Residential Real Estate Appraiser; and (4-11-06)

c. Document the successful completion of not less than fifty (50) classroom hours of courses in subjects related to real estate appraisal as follows: (4-11-06)

i. Statistics, Modeling and Finance - not less than fifteen (15) hours specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; and (4-11-06)

ii. Advanced Residential Applications and Case Studies - not less than fifteen (15) hours specifically including Complex Property, Ownership and Market Conditions; Deriving and Supporting Adjustments; Residential Market Analysis; and Advanced Case Studies; and (4-11-06)

iii. Appraisal Subject Matter Electives - not less than twenty (20) hours and may include hours over the minimum shown in Subsection 350.01.c. (4-11-06)

02. Experience. Experience is a prerequisite to sit for the licensure examination: (4-11-06)

a. Document two thousand five hundred (2,500) hours of appraisal experience in no

less than twenty-four (24) months (see Subsection 250.02). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-06)

b. Two thousand (2,000) hours of the experience shall be from residential field appraisal experience. The balance of five hundred (500) hours may include non field experience, refer to Subsection 250.02.d. (4-11-06)

351. -- 399. (RESERVED).

400. CERTIFIED GENERAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (RULE 400).
The State Certified General Real Estate Appraiser classification applies to the appraisal of all types of real property. Applicants must meet the following examination, education, and experience requirements in addition to complying with Section 299. Subsequent to being certified, an individual must meet the continuing education requirement. (7-1-97)

01. Education. Prior to January 1, 200~~7~~8, as a prerequisite to taking the examination for licensure as an Idaho State Certified General Real Estate Appraiser, each applicant shall present evidence satisfactory to the board of having successfully completed not less than one hundred eighty (180) classroom hours of courses in subjects related specifically to real estate appraisal approved by the board. Each applicant must have successfully completed not less than one hundred sixty (160) classroom hours of study related to those topics outlined under Subsection 250.01.e. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the USPAP, and Code of Ethics; and one hundred (100) classroom hours of advanced non residential specialized courses relating to the topics specified at Subsection 250.01.e. Beginning on January 1, 200~~7~~8, as a prerequisite to taking the examination for licensure as an Idaho Certified General Real Estate Appraiser, each applicant shall: ~~(4-11-06)~~(____)

a. Hold a Bachelors Degree or higher from an accredited college or university or document successful completion of no less than thirty (30) college semester credit hours in English Composition, Micro Economics, Macro Economics, Finance, Algebra, Geometry or higher mathematics, Statistics, Introduction to Computers, and Business or Real Estate Law, and two (2) elective courses in accounting, geography, ageconomics, business management, or real estate; and (4-11-06)

b. Document registration as an Appraiser Trainee or licensure as a Licensed Residential Real Estate Appraiser or licensure as a Certified Residential Real Estate Appraiser; and (4-11-06)

c. Document the successful completion of not less than two hundred ten (210) classroom hours of courses in subjects related to real estate appraisal as follows: (4-11-06)

i. Statistics, Modeling and Finance - not less than fifteen (15) hours specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; and (4-11-06)

ii. General Appraiser Market Analysis and Highest and Best Use - not less than thirty

(30) hours; and (4-11-06)

iii. General Appraiser Sales Comparison Approach - not less than thirty (30) hours specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; and (4-11-06)

iv. General Appraiser Site Valuation and Cost Approach - not less than thirty (30) hours; and (4-11-06)

v. General Appraiser Income Approach - not less than sixty (60) hours specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; and (4-11-06)

vi. General; Appraiser Report Writing and Case Studies - not less than thirty (30) hours specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies. (4-11-06)

02. Experience. Experience is a prerequisite to sit for the licensure examination: (4-11-06)

a. Document three thousand (3,000) hours of appraisal experience in no less than thirty (30) months (See Subsection 250.02.). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-06)

b. One thousand five hundred (1,500) hours of the experience must be nonresidential appraisal experience. The balance of one thousand five hundred (1,500) hours may be solely residential experience or can include up to five hundred (500) hours of nonfield experience as outlined in Subsection 250.02.d. (4-11-06)

401. CONTINUING EDUCATION (RULE 401).
All certified/licensed appraisers must comply with the following continuing education requirements: (7-1-97)

01. Purpose of Continuing Education. The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his skill, knowledge and competency in real estate appraising. (7-1-97)

02. Hours Required. The equivalent of fifteen (15) classroom hours of instruction in courses or seminars during each year prior to renewal is required. (3-20-04)

a. A classroom hour is defined as fifty (50) minutes out of each sixty (60) minute segment. (7-1-93)

b. Credit toward the classroom hour requirement may be granted only where the length of the educational offering is at least two (2) hours. (7-1-97)

c. Credit for the classroom hour requirement may be obtained by accredited courses which have been approved by the Appraisal Qualification Board and by courses approved by Real Estate Appraiser Boards of states with reciprocity with Idaho. All other courses must have approval of the Board, which shall require documentation including the instructors and their qualifications, course content, length of course, and its location. Courses shall be approved for a period of four (4) years. (4-6-05)

d. Once every two (2) years an Idaho State Certified/Licensed Real Estate Appraiser will be required to attend an approved seven (7) hour USPAP update course or the equivalent. ~~*An approved fifteen (15) hour USPAP course shall be considered as an equivalent course, however, no excess hours may be carried forward to meet the two (2) year update requirement.*~~ ~~*(4-6-05)*~~(____)

03. Credit for Appraisal Educational Processes and Programs. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. (7-1-97)

04. Credit for Attending the Licensure Board Meetings. Continuing education credit may be granted once each year for time spent attending Board meetings of no less than two (2) hours. (____)

0~~4~~5. Requirement When a Certificate/License Is Cancelled. For each year (less than five (5)) in which a license is lapsed, canceled, or otherwise non-renewed, fifteen (15) hours of continuing education must be ~~*obtained prior to reinstatement. In addition, for each two (2) years (less than five (5)) in which a license is lapsed, canceled, or otherwise non-renewed,*~~ documented, including a seven (7) hour USPAP update course, ~~*must be obtained*~~ prior to reinstatement. ~~*(3-20-04)*~~(____)

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 33 - REAL ESTATE COMMISSION

33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 33-0101-0602

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution. Agency requests the final and effective date be September 1st, 2006, as authorized by 67-52254(5)(a), Idaho Code.

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 54-2007, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 430 and 431.

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 on the state general fund, since all licensing fee revenues are credited to the Special Real Estate Account.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeane Jackson-Heim, (208) 334-3285 ext 118, or Kimberly Coster (208) 334-3285 ext 115.

Dated this 1st day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2006.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary and proposed rule. The action is authorized pursuant to Sections 54-2007 and 9-340C, Idaho Code.

PUBLIC HEARING: Public hearing 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, 2006.

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 the supporting reasons for adopting a temporary:

As authorized by Section 9-340C, Idaho Code, this new Rule 305 allows the Commission to establish a mechanism by which a designated broker can access and review the electronically-kept continuing education records of the sales associates currently licensed with that broker. Such records are otherwise exempt from the disclosure requirements of the Public Records Act, Chapter 3, Title 9, Idaho Code.

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

This rule change confers a benefit to designated brokers and their sales associates alike, by allowing the broker to quickly easily access his associate's CE record - a record otherwise exempt from the disclosure requirements of the Public Records Act - using a secure "link" provided through IREC's website.

FEE SUMMARY: No fee or charge is involved.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Donna M. Jones, (208) 334-3285.

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, 2006.

DATED this 18th day of August, 2006.

Donna M. Jones
Executive Director
Agency: Idaho Real Estate Commission
Physical Address: 633 N. Fourth St., Boise, ID 83702
PO Box 83720, Boise, ID 83720
(208) 334-3285; (208) 334-2050 (fax)

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

305. DESIGNATED BROKER PERMITTED ACCESS EDUCATION RECORDS OF THE BROKER'S LICENSED SALES ASSOCIATES.
As provided for in Section 9-340C, Idaho Code, the Commission may establish a mechanism to enable a designated broker to access and review the electronically-kept continuing education record of any licensee currently licensed with the broker. Such records are otherwise exempt from the disclosure requirements of the Public Records Act, Chapter 3, Title 9, Idaho Code. Access to records shall be through the means made available by the Commission by motion. (9-1-06)T

30~~5~~6. -- 399. (RESERVED).

SENATE COMMERCE & HUMAN RESOURCES

IDAPA 33 - REAL ESTATE COMMISSION

33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 33-0101-0603

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution. Agency requests the final and effective date be September 1st, 2006, as authorized by 67-52254(5) (a), Idaho Code.

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 54-2007, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 432 through 434.

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 on the state general fund, since all licensing fee revenues are credited to the Special Real Estate Account.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeane Jackson-Heim, (208) 334-3285 ext 118, or Kimberly Coster (208) 334-3285 ext 115.

Dated this 1st day of November 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2006.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary and proposed rule. The action is authorized pursuant to Sections

54-2007 and 54-2023(5)(e)(iii), Idaho Code.

PUBLIC HEARING: Public hearing 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, 2006.

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

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

Rule 402, the list of topics approved for continuing education credit, is being expanded to include: Use of technology as to the practice of real estate; Licensee safety; Commercial real estate topics; Tenants in common; Mobile/manufactured homes; Green market; Senior market; Negotiation skills; Communication skills; Resort and recreation; Farm and ranch; Timber and mining; Professionalism; Business Success. Likewise, Rule 404, which lists topics that cannot be approved for credit, is being changed to remove those topics that deal with office or business skills (and thereby permit the Commission to consider such courses for credit).

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

This rule change confers a benefit to real estate licensees and education providers by expanding the list of education topics for which the Commission will allow a licensee to receive continuing education credit.

FEE SUMMARY: No fee or charge is involved.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Donna M. Jones, (208) 334-3285.

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, 2006.

DATED this 18th day of August, 2006.

Donna M. Jones
Executive Director
Agency: Idaho Real Estate Commission

Physical Address: 633 N. Fourth St., Boise, ID 83702
PO Box 83720, Boise, ID 83720
(208) 334-3285
(208) 334-2050 (fax)

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

402. APPROVED TOPICS FOR CONTINUING EDUCATION.

01. Topics Approved by the Commission. Approved topic areas for continuing education, as provided for in Sections 54-2023 and 54-2036, Idaho Code, include the following: (3-20-04)

a. Real estate ethics; (3-20-04)

b. Legislative issues that influence real estate practice; (3-20-04)

c. Real estate law; contract law; agency; real estate licensing law and administrative rules; (3-20-04)

d. Fair housing; affirmative marketing; Americans with Disabilities Act; (3-20-04)

e. Real estate financing, including mortgages and other financing techniques; (3-20-04)

f. Real estate market measurement and evaluation; (3-20-04)

g. Land use planning and zoning; land development; construction; energy conservation in building; (3-20-04)

h. Real estate investment; (3-20-04)

i. Accounting and taxation as applied to real property; (3-20-04)

j. Real estate appraising; (3-20-04)

k. Real estate marketing procedures related specifically to actual real estate knowledge; (3-20-04)

l. Real estate inspections; (3-20-04)

m. Property management; (3-20-04)

n. Timeshares, condominiums and cooperatives; (3-20-04)

o. Real estate environmental issues and hazards, including lead-based paint, underground storage tanks, radon, etc., and how they affect the practice of real estate; (3-20-04)

p. Water rights; (3-20-04)

q. Brokerage office management and supervision; ~~*and*~~ ~~*(3-20-04)*~~(9-1-06)T

r. Use of calculators or computers as applied to the practice of real estate~~.~~; ~~*(3-20-04)*~~(9-1-06)T

s. Use of technology as to the practice of real estate; (9-1-06)T

t. Licensee safety; (9-1-06)T

u. Commercial real estate topics; (9-1-06)T

v. Tenants in common; (9-1-06)T

w. Mobile/manufactured homes; (9-1-06)T

x. Green market; (9-1-06)T

y. Senior market; (9-1-06)T

z. Negotiation skills; (9-1-06)T

aa. Communication skills; (9-1-06)T

bb. Resort and recreation; (9-1-06)T

cc. Farm and ranch; (9-1-06)T

dd. Timber and mining; (9-1-06)T

ee. Professionalism; and (9-1-06)T

ff. Business Success. (9-1-06)T

02. Other Topics. Upon written request, the Commission may also approve any other topic that directly relates to real estate brokerage practice and that directly contributes to the accomplishment of the primary purpose of continuing education, which is to help assure that licensees possess the knowledge, skills, and competency necessary to function in the real estate business in a manner that protects and serves the public interest. The knowledge or skills taught in an elective course must enable licensees to better serve real estate consumers. (3-20-04)

03. Topics Not Eligible for Continuing Education Credits. The following activities shall not be eligible for approval for compliance with the continuing education requirement: (3-20-04)

a. Those which are specifically exam preparation in nature; (3-20-04)

~~***b.*** *Those which deal with office or business skills, such as:* *(3-20-04)*~~

~~*i.* *Typing;* *(3-20-04)*~~

~~*ii.* *Speed reading;* *(3-20-04)*~~

~~*iii.* *Memory improvement;* *(3-20-04)*~~

~~*iv.* *Body language;* *(3-20-04)*~~

~~*v.* *Motivation and similar activities;* *(3-20-04)*~~

~~***e***~~**b.** Those which are held in conjunction with a brokerage firm's sales promotion or sales meetings; or (3-20-04)

~~***d***~~**c.** Those which are held by trade organizations for licensee's orientation. (3-20-04)