BUSINESS COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 01 - BOARD OF ACCOUNTANCY

01.01.01 - IDAHO ACCOUNTANCY RULES

DOCKET NO. 01-0101-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 23 through 25.

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 13rd day of November, 2009.

Barbara R. Porter, Executive Director
Idaho State Board of Accountancy
3101 W. Main Street, Suite 210
PO Box 83720
Boise, Idaho 83720-0002
Phone: 208-334-2490
Fax: 208-334-2615
E-mail: barbara.porter@isba.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that

this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-204(1) Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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:

Modify Rule 502.02.c. to change the age a licensee can apply for a retired license from age 60 to age 55. Idaho Code was modified in 2008 to allow licensees to apply for a retired license at age 55, but the rule was not updated.

Rule 006 refers to Section 9-340B (1), Idaho Code. Because of changes to that section of Idaho Code, it should refer to Sections 9-340B and 9-340C. Rule 616 refers to Idaho Code Section 9-340B (1). It should refer to Section 9-340C, for the same reason.

Modify Rules 004.01 and 004.03 to remove the reference to the calendar year in these two sets of professional standards that are incorporated by reference. The year reference was put in a few years ago. However, it is apparent that the Board's regulatory authority is jeopardized by doing so. Our national model has language that says standards should be incorporated "as applicable under the circumstances and at the time of the services." The Board receives complaints against licensees for professional services provided at a particular point in time. This work must be done in accordance to the standards in place for those services at that point in time. But putting in a discrete calendar year, licensees are being held to standards that may not have been in place at the time services were provided. Conversely, clients may not be protected if we are not holding licensees to appropriate standards.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, 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 28, 2009.

DATED this 20th Day of August, 2009.

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. ~~*2008*~~ The AICPA Professional Standards as applicable under the circumstances and at the time of the services, except as superceded by Section 54-206(8), Idaho Code. ~~*(5-8-09)*~~( )

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

03. PCAOB Standards. ~~*2008*~~ The Standards issued by the Public Company Accountability Oversight Board, as applicable under the circumstances and at the time of the services. ~~*(5-8-09)*~~( )

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

(BREAK IN CONTINUITY OF SECTIONS)

006. PUBLIC RECORDS (RULE 006).

01. Documents Exempt from Public Disclosure. Pursuant to Sections 9-340B~~*(1)*~~ and 9-340C, Idaho Code, the Board office shall not disclose the filing of a complaint, the nature of a complaint, nor the details of an investigation, except to disclose such information to appropriate authorities in cases where the Board is cooperating with other states in investigation and enforcement concerning violations of the Idaho Accountancy Act and rules and comparable acts of other states. ~~*(5-8-09)*~~( )

02. Documents Open for Public Inspection. (4-2-03)

a. Final, formal enforcement actions such as fines, assessment of expenses, revocations or suspensions. (4-2-03)

b. Probations and conditions may be subject to public disclosure whenever the Board

believes it is in the public interest. Following a hearing or the entry of a consent agreement, the Board may publish a summary of any order issued by it, in a newsletter or newspapers of general circulation. The Board may also advise anyone requesting such information of the contents of any order issued by it. (4-2-03)

c. All rules issued by this agency. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

502. EXCEPTIONS, EXTENSIONS, AND EXEMPTIONS (RULE 502).

01. Exceptions and Extensions. The Board may make exceptions to the CPE requirements or grant extensions of time for completion of the CPE requirements, where reasons of health as certified by a medical doctor prevent compliance by the licensee, or other good cause exists. (4-2-03)

a. Licensees asking for exceptions or extensions under these conditions must apply annually on the reporting form for the year in which the extension or exemption is sought, and within the time period set for CPE reporting, stating the reasons for asking for such exception or extension. Any licensee failing to file a timely application shall be subject to the late fee prescribed in Rule 703, in addition to any additional proceeding that may be instituted for violation of these rules. (4-2-03)

b. A penalty of no more than fifty percent (50%) of the hours a licensee is short in meeting the calendar year CPE requirement may be assessed for extensions. In such cases, the licensee shall be required to complete the CPE hours and any assessed penalty no later than May 31. The penalty for non-compliance with ethics CPE is to obtain the mandatory hours of ethics CPE plus fifty percent (50%) penalty hours in ethics CPE prior to May 31. The penalty for non-compliance with state-specific ethics for Idaho is to complete the course plus fifty percent (50%) penalty hours in ethics CPE prior to May 31. (5-8-09)

02. Exemptions for Inactive or Retired. Licensees who elect inactive or retired status shall be exempt from any CPE requirements provided that: (3-20-04)

a. The licensees do not perform or offer to perform for the public services involving: (4-2-03)

i. The use of accounting or auditing skills including the issuance of reports on financial statements, or of management advisory, financial advisory or consulting services; or (4-2-03)

ii. The preparation of tax returns, or the furnishing of advice on tax matters as a licensee. (4-2-03)

b. Licensees granted such exemption must place the word “inactive” adjacent to their

CPA or LPA title on any business card, letterhead or any other document or device. The Board shall issue a wall certificate for public display that indicates the license is inactive; (4-2-03)

c. Those individuals who are inactive and have reached ~~*sixty*~~ fifty-five (~~*60*~~55) years of age may substitute the word "retired" for the word "inactive"; ~~*(4-2-03)*~~(____)

d. Licensees granted the exemption as either "inactive" or "retired" shall annually pay the license renewal fee as prescribed in Rule 701; and (4-2-03)

e. Licensees granted the exemption must comply with a return to active status competency requirement as set out in Rule 510 before they may discontinue use of the word "inactive" or "retired" in association with their CPA or LPA title. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

616. CONFIDENTIALITY (RULE 616).
The letter and any documentation submitted to the Board pursuant to Rule 606 is confidential as authorized by Section 9-340~~*(B)(9)*~~C, Idaho Code, unless an Order is issued by the Board pursuant to Section 54-219, Idaho Code. ~~*(4-2-03)*~~(____)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.03 - RULES OF ELECTRICAL LICENSING AND REGISTRATION - GENERAL

DOCKET NO. 07-0103-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1005, 54-1006, and 54-1008, 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 in the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009 Idaho Administrative Bulletin, Vol. 09-7, pages 22 and 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:

There will be a temporary negative fiscal impact to the agency as current contractor licenses will be extended until the month of their original issuance date; but the impact will disappear after the first transitional year and will not represent a continuing adverse fiscal impact.

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

DATED this 30th day of July, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-1005, 54-1006, and 54-1008, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 2009.

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:

Section 54-1008, Idaho Code, requires that the Electrical Board promulgate rules providing for a staggered system of issuing and renewing licenses. Electrical Contractor licenses are currently all renewed on July 1 of each year and are not renewed through a staggered system throughout the year. Other electrical license categories are already issued and renewed in accordance with a staggered system; however, in order to comply with the statute, a rule providing for a staggered system of issuing and renewing licenses is required. The rule change clarifies that the licensure period commences as of the date of original issuance, and thereafter must be renewed during the month of the date of original issuance. The rule change further provides that the license expires on the last day of the renewal month, and that applicants have until the last day of their renewal month in which to renew the license, and provides that any license not renewed in the anniversary month, but revived within the subsequent 12-month period shall continue to have the original license anniversary date for the purposes of future renewals.

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

The rule change confers a benefit upon individuals applying for or renewing Electrical Contractor licenses.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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 a temporary negative fiscal impact to the agency as current contractor licenses will be extended until the month of their original issuance date; but the impact will disappear after the first transitional year and will not represent a continuing adverse fiscal impact.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Keys, Deputy Administrator - Operations, (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 July 22, 2009.

DATED this 26th day of May, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

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

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

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

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

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

05. License. Following the approval by an authorized representative and the successful completion of the required examination, the applicant must purchase a license prior to engaging in business within the state of Idaho. Applicants who fail to purchase a license within ninety (90) days of the date of successful examination shall be required to reapply for licensure, again obtain the approval of an authorized representative, and re-examine. (4-5-00)

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

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING

DOCKET NO. 07-0104-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1005, 54-1006, and 54-1008, 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 in the pending rule, therefore it is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009 Idaho Administrative Bulletin, Vol. 09-7, pages 24 and 25.

FISCAL IMPACT: The following is a specific 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 a temporary negative fiscal impact to the agency as current specialty contractor licenses will be extended until the month of their original issuance date; but the impact will disappear after the first transitional year and will not represent a continuing adverse fiscal impact.

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

DATED this 30th day of July, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-1005, 54-1006, and 54-1008, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 2009.

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:

Section 54-1008, Idaho Code, requires that the Electrical Board promulgate rules providing for a staggered system of issuing and renewing licenses. Electrical Specialty Contractor licenses are currently all renewed on July 1 of each year and are not renewed through a staggered system throughout the year. Other electrical license categories are already issued and renewed in accordance with a staggered system; however, in order to comply with the statute, a rule providing for a staggered system of issuing and renewing licenses is required. The rule change clarifies that the licensure period commences as of the date of original issuance, and thereafter must be renewed during the month of the date of original issuance. The rule change further provides that the license expires on the last day of the renewal month, and that applicants have until the last day of their renewal month in which to renew the license, and provides that any license not renewed in the anniversary month, but revived within the subsequent 12-month period shall continue to have the original license anniversary date for the purposes of future renewals.

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

The rule change confers a benefit upon individuals applying for or renewing Electrical Specialty Contractor licenses.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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 a temporary negative fiscal impact to the agency as current specialty contractor licenses will be extended until the month of their original issuance date; but the impact will disappear after the first transitional year and will not represent a continuing adverse fiscal impact.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Keys, Deputy Administrator - Operations, (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 July 22, 2009.

DATED this 26th day of May, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

016. LICENSURE PERIOD AND ~~*RENEWAL*~~ FEES.
All original specialty licenses and registrations shall be issued by the Division immediately upon receipt of the licensure fee and other necessary documentation from the applicant which date shall be designated as the original license anniversary date and signify the commencement of the licensing period. All specialty license and registration renewals shall be effective in the year renewed as of the original license anniversary date. All license and registration periods shall end at midnight on the last day of the final month of the licensing or registration period. Specialty licenses and registrations not renewed by this date shall have expired. Any expired license revived within the twelve-month period following the expiration date will continue to have the original license anniversary date for the purposes of subsequent renewal. The license fee and renewal fee for each type of specialty license shall be as provided for by Section 54-1014, Idaho Code, for other journeyman licenses. ~~*(7-9-84)*~~(____)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE

DOCKET NO. 07-0106-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 142 through 144.

FISCAL IMPACT: The following is a specific 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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 29th day of October, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1006(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 21, 2009.

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 new exception to the National Electrical Code (NEC) related to wiring in unfinished basements and crawl spaces is expected to be included in the next edition of the code. The exception allows the installation of certain cables in crawl spaces to be run at angles with floor joists without the need for drilling holes or a running board. Participants within the industry have voiced complaints that the existing code provision is unnecessarily restrictive, and have urged the Board to proactively adopt this new provision prior to its eventual inclusion in the next edition of the code (NEC). The proposed rule would provide an amendment to Article 334.15(C) of the NEC prior to the promulgation of the next code edition by allowing the installation of certain cables in crawl spaces that are not more than four and a half (4½) feet in height to be run at angles with floor joists without the need for drilling holes or a running board.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking: None.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

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

01. Documents. Under the provisions of Section 54-1001, Idaho Code, the National Electrical Code, 2008 Edition, (herein NEC) is hereby adopted and incorporated by reference for the state of Idaho and shall be in full force and effect on and after July 1, 2008, with the exception of the following: (4-2-08)

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

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

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

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

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

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

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

~~e~~f. Compliance with Article 680.26 Bonding. (4-2-08)

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

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

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

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

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

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

conductor of the motor circuit. (4-2-08)

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

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

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

iii. Common Bonding Grid. The parts specified in 680.26B shall be connected to a common bonding grid with a solid copper conductor, insulated, covered, or bare, not smaller than eight (8) AWG. Connection shall be made by exothermic welding or by pressure connectors or clamps that are labeled as being suitable for the purpose and are of stainless steel, brass, copper, or copper alloy. The common bonding grid shall be permitted to be any of the following: (4-2-08)

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

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

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

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

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

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

02. Availability. This document is available at the office of the Division of Building Safety at 1090 E. Watertower St., Meridian, Idaho 83642. (4-2-08)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING

DOCKET NO. 07-0205-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 words "a job in progress" are being replaced in Subsection 012.02 to remove any mandatory requirement that the practical portion of the plumbing journeyman exam be performed on an actual job in progress. The elimination of these words allows plumbing apprentices more flexibility to take the practical portion of the exam either on an actual job site or in a lab setting. With the downturn in the economy, and the identification of specific fixtures which journeyman exam-takers are required to install, the availability of such on-the-job opportunities is greatly diminished. The elimination of these words is consistent with the substance of the original amendment to the rule -- to test the installation of specific fixtures; it merely provides more flexibility to the exam-taker and the Division of Building Safety inspector administering the practical portion of the exam with regard to where it may be performed.

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 Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 145 and 146.

FISCAL IMPACT: The following is a specific 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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 5th day of November, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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

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

The current rule relating to the plumbing journeyman exam does not provide specific requirements that will fulfill the practical portion of the exam. The rule only states the exam grade is based on "practical work on a job in progress." This current standard makes it difficult to determine what type of work satisfies the exam requirement. It also makes it difficult to apply a uniform standard of grading across all examinants to determine if the examinant possesses the minimum skill and competencies necessary for entry level plumbers. The proposed rule will outline the specific skills that shall be tested as part of the journeyman plumbing practical exam.

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

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

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 18th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

012. JOURNEYMAN.

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

02. Examination. The journeyman examination grade is based on answers to written questions and practical work performed on ~~*a job in progress*~~ *fixtures in the applications as described below* after successful completion of the written work. Time allowed for the written examination is four (4) hours. A passing grade is required on the written examination. The practical ~~*work*~~ portion of the exam shall consist of work performed in both a public and private scope, and must pass with no violations. The criteria for each application are as follows:
~~*(8-25-88)*~~*( )*

a. Public Application: Rough-in six (6) different fixtures consisting of a water closet, urinal, lavatory with carriers, floor sink, floor drain with trap primer, water heater, multi-level installation, and silver soldering. Pipe the DWV system using copper pipe and fittings. ( )

b. Private Application: Rough-in five (5) different fixtures consisting of a water closet, tub or shower, lavatory, kitchen sink/garbage disposal/dishwasher combination, and a clothes washer standpipe. Piping DWV system using ABS or PVC pipe and fittings. Pipe the water distribution system using plastic pipe and brass fittings. ( )

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING

DOCKET NO. 07-0205-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2605(1) and 54-2617, 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 Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 147 and 148.

FISCAL IMPACT: The following is a specific 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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 29th day of October, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2605(1) and 54-2617, 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 21, 2009.

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

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

In 2009, Section 54-2606, Idaho Code, was amended to provide the Idaho Plumbing Board with the authority to establish continuing education requirements for journeyman and contractor plumbers. Currently, no rules provide for specific requirements regarding continuing education. Advancements in technology and changing job responsibilities may require a plumber to update their knowledge and skills consistent with any new developments in the plumbing profession. Continuing education helps to assure the plumbing community and the public that an individual is qualified by knowledge and skills to work in the trade. This rule change would establish the specific continuing education requirements that journeyman and contractor plumbers must fulfill within specified timeframes in order to renew their certificate of competency in accordance with Section 54-2617, Idaho Code. It also requires the approval of courses of instruction and instructors by the Division of Building Safety.

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

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

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

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

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

2009.

DATED this 18th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING

DOCKET NO. 07-0205-0903

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2605(1) and 54-2614A, 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 Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 149 and 150.

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

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

DATED this 29th day of October, 2009.

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

THE FOLLOWING *NOTICE PUBLISHED* WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2605(1) and 54-2614A, 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 21, 2009.

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

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

In the 2009 legislative session, amendment was made to Section 54-2614A, Idaho Code, whereby the validity of a plumbing apprentice registration was extended from one (1) year to five (5) years and a plumbing specialty apprentice registration was extended from one (1) year to three (3) years. The current rule requires amendment in order to come into alignment with these statutory changes. Additionally, this rule will clarify that verification by the Division of employment and participation in an instructional program is not required to maintain an apprentice registration; but rather, proof of completion of the required number of employment and instructional hours will be necessary to be eligible to sit for the journeyman examination. The proposed rule will require each apprentice and specialty apprentice to register for a period of five (5) and three (3) years respectively, and eliminate the requirement that an apprentice be employed and enrolled in an instructional program in order for the registration to be valid. Instead, the rule will provide that evidence of completion of the required number of employment and instructional hours must be provided to the Division in order for an apprentice to be eligible to sit for the journeyman exam.

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

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

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

011. APPRENTICE REGISTRATION.
The minimum age for any apprentice shall be sixteen (16) years. All apprentices shall be registered with the Division~~.~~ and shall pay ~~*T*~~the registration fee ~~*shall be*~~ as prescribed by Section 54-2614, Idaho Code. No examination is required. ~~*In order to maintain registration properly, a*~~An individual must be working at the trade under the constant on-the-job supervision of a journeyman and in the employ of a contractor. ~~*The*~~ Any apprentice who desires to sit for the journeyman exam must ~~*also be enrolled and active in*~~ complete an Idaho Plumbing Board-approved related ~~*training class*~~ course of instruction for four (4) years, and work for a total of four (4) years, defined as a minimum of eight thousand (8,000) hours work experience prior to the date of the exam. Unless prior approval has been granted by the Plumbing Bureau, the apprentice must complete the required course work sequentially: year one (1) must be completed prior to beginning year two (2); year two (2) must be completed prior to beginning year three (3); and year three (3) must be completed prior to beginning year four (4). A minimum of one hundred forty-four (144) hours of classroom or other Idaho Plumbing Board-approved instruction time per school year is required. A grade average of seventy percent (70%) must be maintained in these courses. Upon completion of apprenticeship training, the apprentice must obtain a certificate of completion, or a letter signed by the chairman of his apprenticeship committee, and attach the certificate or letter to his application for a journeyman license. In order to maintain registration, the apprentice shall renew his registration ~~*annually*~~ in ~~*the month of his initial registration. The renewal fee shall be as prescribed by*~~ accordance with Sections 54-2614 and 54-2614A, Idaho Code. ~~*(4-6-05)*~~( )

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 39-4109, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 151 through 153.

FISCAL IMPACT: The following is a specific 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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 29th day of October, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-4109, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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

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

Section 39-4109, Idaho Code, provides the Building Code Board with the authority to adopt specified building codes via administrative rule. Amendments to Section 39-4109 during the 2009 legislative session provide the Board with the authority to amend the adopted codes pursuant to a negotiated rulemaking process. The rules currently adopt the 2006 editions of the building codes and need to be updated to reflect the most recent 2009 editions of the codes. Additionally, the Board's renewed amending authority is allowing it to make amendments to the building codes that since 2002 it has been unable to make. The rule would adopt the 2009 editions of the International Building Code, International Residential Code, the International Energy Conservation Code, and the International Existing Building Code, with specified amendments thereto as adopted by the Board through the negotiated rulemaking process.

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: None.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 28th day of August, 2009.

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 enumerated in this Section are hereby adopted and incorporated by reference into IDAPA 07.03.01, "Rules of Building Safety," Division of Building Safety. The effective date of a 2009 edition of any of the codes adopted in this Section with any amendments identified thereto shall be January 1, 2011. Until such time, the 2006 edition of any such code enumerated in this Section without amendment will remain effective pursuant to Section 39-4109, Idaho Code. 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. ~~*(5-8-09)*~~(____)

01. International Building Code. 200~~6~~9 Edition. ~~*(5-8-09)*~~(____)

02. International Residential Code. 200~~6~~9 Edition. ~~*(5-8-09)*~~(____)

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

b. IRC Table R302.1 Exterior Walls -- delete the figures contained in the last column of the table under the heading Minimum Fire Separation Distance, and replace with the following:

Minimum Fire Separation Distance		
Walls (fire-resistance rated):	≤	Three (3) Feet
Walls (not fire-resistance rated):	≥	Three (3) Feet
Projections (fire-resistance rated):	≤	Three (3) Feet
Projections (not fire-resistance rated):	≥	Three (3) Feet

(____)

c. Delete the exception contained under IRC section R302.2 -- Townhouses, and replace with the following: Exception: A common one-hour or two-hour fire resistance rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the

common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against the exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with section R302.4. ( )

d. Delete the exception contained under IRC section R313.1 -- Townhouse automatic fire sprinkler systems, and replace with the following: Exception: Automatic residential fire sprinkler systems shall not be required in townhouses where a two-hour fire-resistance rated wall is installed between dwelling units or when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed. ( )

e. Delete IRC section R313.2. ( )

f. Delete IRC section R322.1.10. ( )

g. Delete IRC section R322.2.2 paragraph 2.2, and replace with the following: The total net area of all openings shall be at least one (1) square inch (645 mm2) for each square foot (0.093 m2) of enclosed area, or the opening shall be designed and the construction documents shall include a statement that the design and installation of the openings will provide for equalization of hydrostatic flood forces on exterior walls by allowing the automatic entry and exit of floodwaters. ( )

03. International Existing Building Code. 200~~6~~9 Edition. ~~*(5-8-09)*~~( )

04. International Energy Conservation Code. 2009 Edition. ( )

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

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 39-4109, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 154 and 155.

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

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

DATED this 29th day of October, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-4109, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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

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

Section 39-4109, Idaho Code, provides the Building Code Board with the authority to adopt specified building codes via administrative rule. The rules currently adopt the 2006 editions of the building codes and need to be updated to reflect the most recent 2009 editions of the codes. Additionally, the American Recovery and Reinvestment Act (federal stimulus legislation) includes funding for states to build energy efficient buildings. To receive that funding, Idaho has provided assurances to the federal government that it will adopt the 2009 International Energy Conservation Code. The rule would adopt the 2009 edition of the International Energy Conservation Code with any amendments thereto as adopted by the Board through the negotiated rulemaking process.

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: None.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 28th day of August, 2009.

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 enumerated in this Section are hereby adopted and incorporated by reference into IDAPA 07.03.01, "Rules of Building Safety," Division of Building Safety. The effective date of a 2009 edition of any of the codes adopted in this Section with any amendments identified thereto shall be January 1, 2011. Until such time, the 2006 edition of any such code enumerated in this Section without amendment will remain effective pursuant to Section 39-4109, Idaho Code. 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. ~~*(5-8-09)*~~(____)

01. **International Building Code**. 2006 Edition. (5-8-09)

02. **International Residential Code**. 2006 Edition. (5-8-09)

03. **International Existing Building Code**. 200~~6~~9 Edition. ~~*(5-8-09)*~~(____)

04. **International Energy Conservation Code**. 2009 Edition. (____)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-0903

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 33-356 and 67-2601A, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, 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: N/A

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

DATED this 29th day of October, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-356 and 67-2601A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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 new section of the Idaho Code codified at Section 33-356 was passed by the legislature in 2009, which provides financial incentives for school districts to use integrated design and fundamental commissioning building practices in the construction of school building facilities. Pursuant to that statute, the administrator of the Division of Building Safety is required to promulgate rules which provide guidance and technical information for school districts, as well as rules governing an annual optimization review to ensure optimal energy performance of building systems. The rule would provide notice of the availability of guidance, educational, and technical support to school districts to implement the processes of integrated design and fundamental commissioning, as well as the availability of a list of all third party commissioning agents in the state; provide for a process of performing and certifying the annual optimization review to ensure energy efficiency; and provide for certifications regarding qualification of schools for the building replacement value calculation.

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: None.

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

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

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

comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

038. INTEGRATED DESIGN AND FUNDAMENTAL COMMISSIONING.

01. Definitions. The following definitions are intended to supplement, and should be read in conjunction with the definitions contained in Section 33-356, Idaho Code. ( )

a. Fundamental Commissioning. A quality-focused process for enhancing the delivery of a project. It makes use of a qualified third party employed directly by the building owner. ( )

b. Integrated Design. Integrated design refers to a collaborative design effort in which each of the individual architectural or engineering professionals focuses on the whole building approach, with an emphasis on optimizing the building's performance, environmental sustainability, and cost-savings, to include climate, use, loads and systems resulting in a more comfortable and productive environment, and a building that is more energy-efficient than would be realized using current best practices. ( )

02. Technical and Educational Information. Technical and educational information related to integrated design and fundamental commissioning in the form of the American Institute of Architects Integrated Project Delivery Guide; Portland Energy Conservation, Inc. (PECI) Commissioning Guides; ASHRAE Guideline 0-2005-The Commissioning Process; and the Northwest Energy Efficiency Alliance Integrated Design Special Focus on Energy Performance Guide is available at the Division office locations including 1090 E. Watertower St., Meridian, Idaho 83642, and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814. A building commissioned under the prescriptive approaches defined by any of the above-named national organizations is deemed to have completed the Fundamental Commissioning process. ( )

03. Commissioning Agents. The Division has compiled and made available for public examination a list of all known third party building commissioning agents in Idaho and its contiguous states. The Division has ensured that all such commissioning agents appearing on this list have been certified by the Building Commissioning Association (BCA) or other similar certifying entity. ( )

04. Annual Optimization Review. ( )

a. A public school building which qualifies for the school building replacement value calculation pursuant to Section 33-356(5)(a), Idaho Code, shall undergo an annual optimization review each year following the first year of operations that the involved school district seeks to

qualify such building for the building replacement value calculation. ( )

b. The systems within a building required to undergo annual optimization review, as well as any relevant measuring criteria for such systems, shall be formulated by the third party commissioning agent that performs the initial fundamental commissioning. The school district shall be provided with a written report from the commissioning agent identifying the systems which will be subject to the annual optimization review along with any other requirements.( )

c. The report required above in Paragraph 038.03.b. of these rules shall include, but is not limited to, at least the following: ( )

i. Verification that the heating, ventilation, and air conditioning (HVAC) controls, dampers, valves, sensors and other equipment used to control the system are functioning as they were at the commissioning of the building. ( )

ii. Verification that the lighting controls are functioning as they were at the commissioning of the building. ( )

iii. The requirement that any changes made to any of the controls contained on the agent's list after the initial commissioning be re-set back to the commissioned settings unless it can be demonstrated that the new settings result in greater energy efficiency. ( )

d. The annual optimization review shall be performed by persons qualified to make the required determinations and adjustments. ( )

e. The school district shall submit to the Division written verification indicating that the systems identified by the commissioning agent, including those identified in this Section are functioning as they were at the initial commissioning. Such written verification shall also identify the persons performing the optimization and their qualifications. ( )

05. Commissioning Anniversary Date. The date upon which the commissioning agent provides the school district with the required written report described in Paragraph 038.03.b. of these rules shall be the commissioning anniversary date for purposes of this Section. If a school district seeks to qualify a building for the building replacement value calculation, the annual optimization review shall be performed within thirty (30) days of the annual commissioning anniversary date following the first year the building is in operation. The written verification required by Paragraph 038.03.e. of these rules shall be received by the Division not later than sixty (60) days after the annual commissioning anniversary date. ( )

06. Fundamental Building Commissioning Requirements. ( )

a. School districts seeking to qualify a building for the building replacement value calculation shall engage a building commissioning agent. ( )

b. The commissioning agent must document the owner's requirements for each commissioned system in the facility. All HVAC and controls systems, duct work and piping, renewable and alternative technologies, lighting controls and day lighting, waste heat recovery, and any other advanced technologies incorporated in the building must be commissioned.

Building envelope systems must also be verified. The owner's requirements for these systems may include efficiency targets and other performance criteria such as temperature and lighting levels that will define the performance criteria for the functional performance testing that occurs prior to acceptance. ( )

c. The commissioning agent shall include commissioning requirements in the project construction documents. This includes the scope of commissioning for the project, the systems to be commissioned, and the various requirements related to schedule, submittal reviews, testing, training, O & M manuals, and warranty reviews. ( )

d. The commissioning agent shall develop and utilize a commissioning plan. This plan must include an overview of the commissioning process for the project, a list of commissioned systems, primary commissioning participants and their roles, a communication and management plan, an outline of the scope of commissioning tasks, a list of work products, a schedule, and a description of any commissioning testing activities. ( )

e. The commissioning agent must submit a report to the owner once the commissioning plan has been executed. ( )

03~~8~~9. -- 999. (RESERVED).

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.03 - RULES FOR MODULAR BUILDINGS

DOCKET NO. 07-0303-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 39-4302, 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 Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 159 through 161.

FISCAL IMPACT: The following is a specific 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 use of multi-hat inspectors in the factory setting will result in significant savings to the Division. Once fully implemented, predicated on FY2008 volume, DBS projects a net savings of forty thousand dollars ($40,000) or approximately ten percent (10%) of personnel costs involved in the inspection effort.

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

DATED this 29th day of October, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-4302, 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 21, 2009.

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

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

Section 39-4304A, Idaho Code, was approved by the legislature in 2009 and added to the modular building statutory scheme. Section 39-4304A provides authority for the administrator to appoint qualified modular building inspectors to assist in the enforcement of Title 39, Chapter 43, Idaho Code. One of the enumerated requirements for each inspector is that they be certified as an inspector by an organization designated in administrative rule by the Modular Building Advisory Board. Currently, no such administrative rule exists which designates approved certifying organizations. The proposed rule would identify the organizations designated by the Board from which inspectors may obtain certification as a qualified inspector. Those organizations would include the National Certification Program Construction Code Inspector program (NCPCCI), the National Inspection Testing Certification program (NITC), the International Association of Electrical Inspectors (IAEI), and the International Code Council (ICC).

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

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

The use of multi-hat inspectors in the factory setting will result in significant savings to the Division. Once fully implemented, predicated on FY2008 volume, DBS projects a net savings of forty thousand dollars ($40,000) or approximately ten percent (10%) of personnel costs involved in the inspection effort.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN

COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

032. MODULAR BUILDINGS.

01. Enforcement and Administration. The Administrator shall administer and enforce all the provisions of these rules. Any officer, agent, or employee of the Division is authorized to enter any premises during any normal or operational hours where Modular Buildings are manufactured for the purpose of examining any records pertaining to quality control and inspection and may inspect any such units, equipment, or installations to insure compliance with the provisions of these rules and codes enumerated in Title 39, Chapters 41 and 43, Idaho Code. When it becomes necessary, he may require that a portion or portions of such Modular Building units be removed in order that an inspection may be made to determine compliance. Every manufacturer of Modular Buildings shall obtain prior approval and an Insignia for each Modular Building unit to be installed in the state of Idaho. (3-26-08)

02. Inspections. (3-26-08)

a. Inspections at Manufacturing Plants. The Division shall conduct inspections at the manufacturing plant to determine compliance with the provisions of these rules and with codes adopted by Title 39, Chapter 41, Idaho Code, and Title 54, Chapters 10, 26, and 50, Idaho Code. (3-26-08)

b. In-Plant Inspections. Due to the repetitive nature of the manufacturing process, the required inspections outlined in the International Building Code or International Residential Code may not be required if, in the opinion of the Division, compliance can be obtained by periodic inspections. The Division shall conduct periodic unannounced inspections at any manufacturing site to review any or all aspects of a manufacturer's production and inspectional control procedures. Each unit, however, shall be inspected at least once during the course of production for compliance with the adopted standards. No unit manufactured to be installed in the state of Idaho will be shipped from the point of manufacture without inspection and attached Insignia. (3-26-08)

c. Field Inspections. All existing Modular Buildings to be installed in the state of Idaho not bearing the Division's Insignia shall not be used or occupied until required Idaho

Insignia has been issued by the Division and properly affixed in accordance with these rules. Applicants for Insignia shall obtain permits, plan approvals, and inspections as required by these rules. (3-26-08)

d. Qualifications of Inspectors. All inspectors performing inspections of modular buildings must be properly certified for the type of inspection being conducted. The Modular Board recognizes certifications granted through the National Certification Program Construction Code Inspector program (NCPCCI), the National Inspection Testing Certification program (NITC), the International Association of Electrical Inspectors (IAEI), and the International Code Council (ICC). Certifications shall be current and of the proper classification for the structure or subsystem being inspected. (____)

03. Installation Inspection. In order to complete the installation of the Modular Building, approval and inspection of said installation by the enforcement agency having jurisdiction over the site location shall be required. (3-26-08)

04. Field Technical Service. Any person may request field Technical Service and requests for such service shall be submitted to the Division in writing. (3-26-08)

05. Local Enforcement Agencies. (3-26-08)

a. Rights of Local Enforcement Agency. A local enforcement agency shall have the right to require a complete set of plans and specifications approved by the Division for each Modular Building to be installed within its jurisdiction, to require that all permits be obtained before delivery of any unit to a Building Site. After leaving the manufacturing facility, future alterations or conversions of Division approved Modular Buildings shall be field inspected by the local unit of government having jurisdiction. (3-26-08)

b. Limitations of Rights of Local Enforcement Agency. A local enforcement agency shall not have the right to: open for inspection any Modular Building or component bearing an Insignia to determine compliance with any codes or ordinances; require by ordinance or otherwise that Modular Buildings meet any requirements not equally applicable to on-site construction; or to charge permit or plan review fees for any portion of the structure prefabricated or assembled at a place other than the Building Site. (3-26-08)

06. Insignia. (3-26-08)

a. Required Insignia. Each Modular Building section shall bear a Division Insignia prior to leaving the manufacturing facility. Assigned Insignia are not transferable and are void when not affixed as assigned. All such voided Insignia shall be returned to, or may be confiscated by, the Division. Insignia remain the property of the Division and may be confiscated in the event of violation of conditions of approval. Assigned Insignia affixed in the field shall be under the direction of the Division's authorized agent. (3-26-08)

b. Insignia Location. Insignias shall be placed on the front, left-hand side of the building. (3-26-08)

c. Serial Number. Each Modular Building shall bear a legible identifying serial

number, which shall include the state of manufacture. Each section of a multiple Modular Building shall have the same identifying serial number followed by a numerical sequence identifier or a letter suffix, or both. Characters for serial numbers shall be three-eighths (3/8) inch minimum height. Numbers shall not be stamped into a hitch assembly or draw bar. (3-26-08)

d. Data on Insignia. The date of manufacture, showing month, week, and year will be shown on the Insignia. Such data will be provided by the manufacturer on the application for Insignia. (3-26-08)

07. Reciprocal Agreements. The provisions for Insignia of compliance as specified in a written and signed reciprocal agreement between the Division and any other state shall take precedence over the provisions of these rules. Where there is evidence that the in-plant inspection controls in out-of-state plants within states having reciprocal agreements with the state of Idaho are not being maintained for units to be placed in Idaho, the Division reserves the right to make out-of-state inspections, and fees for such inspection as set forth in these rules shall be paid by the manufacturer. (3-26-08)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.11 - RULES GOVERNING MANUFACTURED/MOBILE HOME INDUSTRY LICENSING

DOCKET NO. 07-0311-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 44-2104 and 44-2107, 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 Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 162 through 171.

FISCAL IMPACT: The following is a specific 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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 29th day of October, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 44-2104 and 44-2107, 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 21, 2009.

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

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

Section 44-2107, Idaho Code, provides the Administrator authority to impose civil penalties on those who violate provisions of Title 21, Chapter 44, Idaho Code, or IDAPA 07.03.11, Rules Governing Manufactured/Mobile Home Industry Licensing; however, the current rules do not contain any provisions regarding such civil penalties. Additionally, the term manufactured home "dealer" has been replaced with the term "retailer" in Title 21, Chapter 44, Idaho Code, to reflect a more accurate designation within the industry. The proposed rules will maintain consistent application of that term. The proposed rule will provide for civil penalties to address individuals who are in violation of Idaho's manufactured housing industry licensing laws and rules. The proposed rules will also more accurately identify those who sell manufactured homes as "retailers" instead of "dealers."

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: None.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.
~~*In accordance with Section 44-2102, Idaho Code, t*~~The administrator of the Idaho Division of Building Safety ~~*is*~~ and the Idaho Manufactured Housing Board are authorized to promulgate rules necessary to implement the provisions of Title 44, Chapters 21 and 22, Idaho Code, including the establishment of a mandatory statewide manufactured home setup code, as well as to define and prohibit deceptive practices, and to establish administrative penalties. ~~*(3-24-05)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

004. -- 009. (RESERVED).

010~~*4*~~. DEFINITIONS.
For the purposes of these rules, the following terms will be used, as defined below: (5-25-94)

01. Administrator. The administrator of the Division of Building Safety of the state of Idaho. (3-24-05)

02. Board. The Manufactured ~~*Home Advisory*~~ Housing Board. The composition and duties of the Board are set forth at Section 44-2104, Idaho Code. ~~*(5-25-94)*~~( )

03. Bond. The performance bond required by Section 44-2103, Idaho Code. (5-25-94)

04. Branch Office. An enclosed structure accessible and open to the public, at which the business of the manufactured/mobile home ~~*dealer*~~ retailer is conducted simultaneously with and physically separated from his principal place of business. There shall be displayed on the exterior a sign permanently affixed to the land or building with letters clearly visible to the major avenue of traffic. The sign shall provide the business name of the ~~*dealer*~~ retailer. ~~*(3-24-05)*~~( )

05. Business. Occupation, profession, or trade. (5-25-94)

06. Deceptive Practice. Intentionally publishing or circulating any advertising concerning mobile or manufactured homes which: (5-25-94)

a. Is misleading or inaccurate in any material ~~*particular*~~ respect; ~~*(5-25-94)*~~( )

b. Misrepresents any of the products or services sold or provided by a manufacturer, manufactured/mobile home ~~*dealer*~~ retailer, salesman, or service~~/~~ or installation company.

~~*(3-24-05)*~~(____)

07. **Division**. The Division of Building Safety for the state of Idaho. (5-25-94)

08. **Installer**. A person who owns a business which installs ~~*a*~~ manufactured/mobile homes at the sites where ~~*it is*~~ they are to be ~~*used for occupancy*~~ occupied by the consumer. The term does not include the purchaser of a manufactured/mobile home or a manufactured/mobile home ~~*dealer*~~ retailer who does not install manufactured/mobile homes. A ~~*dealer*~~ retailer who does install manufactured/mobile homes is an installer. The term also does not include concrete contractors or their employees. ~~*(3-24-05)*~~(____)

09. **Installation**. The term includes "setup" and is the complete operation of fixing in place a manufactured/mobile home for occupancy. (5-25-94)

10. **Manufactured Home**. A structure constructed according to HUD manufactured home construction and safety standards, transportable in one (1) or more sections, which: (3-24-05)

a. In the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length; or (5-25-94)

b. When erected on site, is three hundred twenty (320) or more square feet in size; and (5-25-94)

c. Is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; and (5-25-94)

d. Includes the plumbing, heating, air conditioning, and electrical systems contained therein; (5-25-94)

e. Except that such term shall include any structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of Housing and Urban Development and complies with the standards established under 42 U.S.C. Section 5401. (5-25-94)

11. **Manufactured Home** ~~***Dealer***~~ **Retailer**. Except as otherwise provided in these rules: ~~*(3-24-05)*~~(____)

a. Any person engaged in the business of selling or exchanging new and used units; or (5-25-94)

b. Any person or who buys, sells, lists, or exchanges three (3) or more new and used units in any one (1) calendar year. (5-25-94)

12. **Manufactured/Mobile Home Salesman**. Except as otherwise provided in these rules: Any person employed by a manufactured/mobile home dealer for a salary, commission, or compensation of any kind to sell, list, purchase, or exchange or to negotiate for the sale, listing, purchase, or exchange of units. (3-24-05)

13. Manufactured/Mobile Home Service Company. Any person who owns or is the responsible managing employee of a business that has grossed more than two thousand five hundred dollars ($2,500) in any one (1) year from the service of manufactured or mobile homes. The term does not include a manufactured/mobile home ~~*dealer*~~ retailer or owner. The term also does not include licensed electrical or plumbing contractors, carpet and vinyl installers, painting or concrete contractors, tape and texture installers, cabinet installers, public utilities, or the employees of any of the occupations listed in this sentence. Finally, the term does not include manufactured/mobile home installers. ~~*(5-25-94)*~~( )

14. Manufacturer. A manufacturing facility which has been certified by the U.S. Department of Housing and Urban Development (HUD) to construct prefabricated manufactured homes in accordance with the Manufactured Housing Construction Safety Standards Act of 1974. (5-25-94)

15. Mobile Home. A structure similar to a manufactured home, but built to a mobile home code prior to June 15, 1976, the date of enactment of the Federal Manufactured Housing and Safety Standards Act (HUD Code). (5-25-94)

16. Person. A natural person, corporation, partnership, trust, society, club, association, or other organization. (5-25-94)

17. Principal Place of Business. An enclosed structure accessible and open to the public at which each of the following requirements are met: (5-25-94)

a. The business of the manufactured/mobile home ~~*dealer*~~ retailer is lawfully conducted here; ~~*(3-24-05)*~~( )

b. The office or offices of the ~~*dealer*~~ retailer is or are located here; ~~*(3-24-05)*~~( )

c. The public may contact the ~~*dealer*~~ retailer or salesman here; ~~*(3-24-05)*~~( )

~~***d.*** The books and other records of the business of the dealer shall be kept and maintained; and~~ ~~(3-24-05)~~

~~**e**~~**d.** The greatest portion of the ~~*dealer's*~~ retailer's business is conducted here. The books and other records of a ~~*dealer*~~ retailer must be kept and maintained at the ~~*dealer's*~~ retailer's principal place of business and be open to inspection during normal business hours by any authorized agent of the Division. Moreover, there shall be displayed on the exterior a sign permanently affixed to the land or building with letters clearly visible to the major avenue of traffic. The sign shall provide the business name of the ~~*dealer*~~ retailer. ~~*(3-24-05)*~~( )

18. Responsible Managing Employee (RME). The person designated by the employer to supervise other employees, either personally or through others. (5-25-94)

19. Service. Service includes, but is not limited to, the installation or repair of awnings, roofing, skirting, siding, remodeling, material alterations, attached carports or decks, on or in manufactured/mobile homes. (5-25-94)

20. **Unit**. A mobile or manufactured home. (5-25-94)

21. **Used Manufactured Home or Mobile Home**. A manufactured home or mobile home, respectively, which has been: (5-25-94)

a. Sold, rented, or leased and occupied prior to or after the sale, rental, or lease; or (5-25-94)

b. Registered with or been the subject of a certificate of title issued by the Idaho Department of Transportation or the appropriate authority of any state, the District of Columbia, or foreign state or country. (5-25-94)

~~005.~~ **011. (RESERVED).**

012. LICENSE REQUIRED.
It shall be unlawful to engage in business as a manufacturer, manufactured/mobile home ~~*dealer*~~ retailer, resale broker, manufactured/mobile home salesman, responsible managing employee, or manufactured/mobile home service company~~/~~ or installer without being duly licensed by the Division pursuant to Title 44, Chapter 21, Idaho Code, and these rules. No issued licenses are transferable. ~~*(3-24-05)*~~( )

01. **Minimum Age Requirement**. No license will be issued to a person under eighteen (18) years of age at the time of license application. (5-25-94)

02. **Designated License Holder**. Any applicant for a license under these rules who is not a natural person must designate a natural person to be license holder and represent the corporation, partnership, trust, society, club, association, or other organization for all licensing purposes under these rules including, but not limited to, testing and education. (3-24-05)

a. The authorization to act as designated license holder must be in writing, signed by the applicant and the person designated, and filed with the Division along with the application. (5-25-94)

b. Any person designated under Subsection 012.02 of these rules shall represent one (1) applicant only, and shall immediately notify the Division in writing if his working relationship with the applicant has been terminated. The license will be issued in the name of the designated license holder with the name of the organization he represents also noted on the license. The license holder shall be considered by the Division to be the licensee, even if the license holder is the designated representative of an organization. (5-25-94)

c. The applicant and the person designated under Subsection 012.02 of these rules agree by acceptance of the designation that the designated person shall act as agent of the applicant for all purposes under Title 44, Chapters 21 and 22, Idaho Code, and all rules promulgated thereunder. (5-25-94)

03. **Proof of License**. Proof of the existence of any license issued pursuant to these rules shall be carried upon the person of the responsible managing employee or supervisor of any

installation or any person who is personally involved with the service of any manufactured/ mobile home at all times during the performance of the service or installation work. Such proof shall be furnished upon demand of any person. Moreover, any license issued to a manufactured/ mobile home ~~*dealer*~~ retailer, resale broker, responsible managing employee, or salesman must be posted in a conspicuous place on the business premises of the employer for whom the holder of the license is licensed. The license of a manufacturing facility or branch office shall also be posted in a conspicuous place at the location licensed. ~~*(3-24-05)*~~( )

04. Real Estate Brokers. Licensed real estate brokers or real estate salesmen representing licensed real estate brokers shall not be required to obtain a license under these rules in order to sell or lease a used unit that is currently carried on the tax rolls as personal property and that otherwise falls within the exemption contained in Section 44-2102(2), Idaho Code. (3-24-05)

05. License for Manufacturers. In order to engage in business in the state of Idaho or to be entitled to any other license or permit required by these rules each manufacturer must be licensed by the Division. (3-24-05)

06. License for Branch Office of Manufactured/Mobile Home ~~*Dealer*~~ Retailer or Resale Broker. ~~*(3-24-05)*~~( )

a. The Division shall require as a condition of licensing and bonding any information it deems necessary for each location where a manufactured/mobile home ~~*dealer*~~ retailer or resale broker maintains a branch office. The mere listing of manufactured/mobile homes for sale does not constitute a branch office, but the use of a mobile home park or a state sales office by a licensee for the sale or offering for sale of manufactured/mobile homes does constitute the maintenance of a branch office. A branch office manager may not manage more than one (1) branch office. ~~*(3-24-05)*~~( )

b. To open a branch office, a ~~*dealer*~~ retailer or resale broker must: obtain a license from the Division to operate the branch office; and provide for direct supervision of the branch office, either by himself or by employing a branch office manager. ~~*(3-24-05)*~~( )

c. If the branch office is closed, the ~~*dealer*~~ retailer or resale broker shall immediately deliver the license to the Division. ~~*(3-24-05)*~~( )

07. License to Engage in Business as Manufactured/Mobile Home ~~*Dealer*~~ Retailer, Resale Broker, Manufacturer, Service Company, or Installer; Application; Bond; Issuance, Expiration, and Renewal. ~~*(3-24-05)*~~( )

a. Applications for a manufacturer's, ~~*dealer's*~~ retailers, resale brokers, service company or installer's license must be filed upon forms supplied by the Division, and the applicant shall furnish: ~~*(3-24-05)*~~( )

i. Any proof the Division may deem necessary that the applicant is a manufacturer, ~~*dealer*~~ retailer, resale broker, service company or installer; ~~*(3-24-05)*~~( )

ii. Any proof the Division may require that the applicant has a principal place of

business; (5-25-94)

iii. Any proof the Division may require of the applicant's good character and reputation and of his fitness to engage in the activities for which the license is sought; (5-25-94)

iv. In the case of a ~~*dealer*~~ retailer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise dealer for the make concerned; ~~*(5-25-94)*~~( )

v. A reasonable fee and proof of bond fixed by rule; and (5-25-94)

vi. In the case of a ~~*dealer*~~ retailer, resale broker, service company, or installer, proof of passing the examination required by these rules. ~~*(3-24-05)*~~( )

b. Within thirty (30) days after receipt of a completed application, the Division shall issue or deny the license. (5-25-94)

c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. (5-25-94)

d. If any installer or service company's working relationship with his employer is terminated, the employer shall immediately deliver the license of the terminated installer or service company to the Division. (5-25-94)

08. License for Manufactured/Mobile Home Salesman. (5-25-94)

a. A person shall not act as a salesman in this state for a person who sells or leases any manufactured/mobile home subject to the provisions of Title 44, Chapters 21 or 22, Idaho Code, without having first received a license from the Division. Before issuing such a license, the Division shall require: (1) an application, signed by the applicant and verified by his employer, stating that he desires to act as a salesman and providing his residential address and the name and address of his employer; (2) a statement as to whether any previous application of the applicant has been denied or license revoked; (3) payment of the license fee established by rule; and (4) any other relevant information the Division deems necessary. (5-25-94)

b. Within thirty (30) days after receipt of a completed application, the Division shall issue or deny the license. (5-25-94)

c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. (5-25-94)

d. A person licensed pursuant to Subsection 012.08 of these rules shall not engage in sales activity other than for the account of, or for and on behalf of, a single employer who is a licensed ~~*dealer*~~ retailer or resale broker. ~~*(3-24-05)*~~( )

e. If a salesman ceases to be employed by a licensed ~~*dealer*~~ retailer or resale broker,

his license to act as a salesman is automatically suspended and his right to act in that capacity immediately ceases. He shall not engage in such activity until reemployed by a licensed ~~*dealer*~~ retailer or resale broker. If the salesman's working relationship with his employer is terminated, the employer shall immediately deliver his license to the Division. ~~*(3-24-05)*~~( )

09. License for Responsible Managing Employee. (5-25-94)

a. A person shall not act as a responsible managing employee for an installer or service company without first having been issued a license by the Division. Before issuing such a license the Division shall require: ~~*(5-25-94)*~~( )

i. An application, signed by the applicant and verified by his employer, stating that he desires to act as a responsible managing employee and providing his residential address and the name and address of his employer; (5-25-94)

ii. A statement as to whether any previous application of the applicant has been denied or license revoked; (5-25-94)

iii. Payment of the license fee established by rule; and (5-25-94)

iv. Any other relevant information the Division deems necessary. (5-25-94)

b. Within thirty (30) days after receipt of a completed application, the Division shall issue or deny the license. (5-25-94)

c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. (5-25-94)

d. A person licensed pursuant to Subsection 012.09 of these rules shall not engage in such activity other than for the account of, or for and on behalf of, a single employer who is a licensed service company or installer. (5-25-94)

e. If a responsible managing employee ceases to be employed by an installer or service company, his license to act as a responsible managing employee is automatically suspended and his right to act in that capacity immediately ceases. He shall not engage in such activity until reemployed by a licensed installer or service company. ~~*(5-25-94)*~~( )

f. If the responsible managing employee's working relationship with his employer is terminated, the employer shall immediately deliver his license to the Division. (5-25-94)

(BREAK IN CONTINUITY OF SECTIONS)

015. EXAMINATION OF APPLICANT FOR LICENSE.

01. Required Examinations. Effective January 1, 1995, the Division shall require a written examination of each applicant for a license, other than a license being renewed, as a manufactured/mobile home ~~*dealer*~~ retailer, resale broker, service company or installer. The examination shall include, but may not be limited to, the following subjects: Title 44, Chapters 21 and 22, Idaho Code; these rules and IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations"; and the Manufactured Housing Construction Safety Standards Act of 1974. To avoid the requirement of an examination and be considered a renewal, any licensee must renew his license within ~~*sixty (60) days*~~ six (6) months of its expiration date. ~~*(3-24-05)*~~(____)

02. Approval of Examination and Grade. Examinations for all classifications under these rules shall be approved by the Division and the Board. No license shall be issued unless the applicant receives a final grade of seventy percent (70%) or higher. (5-25-94)

03. Retesting. If an applicant for a license fails the written examination offered by the Division twice, he must wait at least thirty (30) days before retesting. (5-25-94)

016. DISCIPLINARY ACTION AGAINST LICENSEES.
The Division may deny, suspend, refuse to renew, or revoke any license issued under Title 44, Chapter 21, Idaho Code, or these rules or reissue the license subject to reasonable conditions upon any of the following grounds: (3-24-05)

01. Violation of Rules and Statutes. For any willful or repeated violation of these rules, IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," or Title 44, Chapters 21 or 22, Idaho Code. ~~*(3-24-05)*~~(____)

02. Failure to Have Principal Place of Business. With regards only to a manufactured/mobile home ~~*dealer*~~ retailer or resale broker, failure of the applicant or licensee to have a principal place of business. ~~*(3-24-05)*~~(____)

03. Revocation of License. The revocation of the license of the employer of ~~*an installer,*~~ a responsible managing employee~~,~~ or salesman~~*, or service company*~~ is grounds for the revocation of the license of the installer, responsible managing employee~~,~~ or salesman~~*, or service company employee*~~. ~~*(5-25-94)*~~(____)

04. False Information. Material misstatement in the application or otherwise furnishing false information to the Division. (5-25-94)

05. Proof of Employment. Failure of a salesman or applicant for licensing as a salesman to establish by proof satisfactory to the Division that he is employed by a licensed ~~*dealer*~~ retailer or resale broker. ~~*(3-24-05)*~~(____)

06. Disclosing Contents of Examination. Obtaining or disclosing the contents of an examination given by the Division. (5-25-94)

07. Deceptive Practice. The intentional publication, circulation, or display of any advertising which constitutes a deceptive practice as that term is defined in Subsection 01~~0~~4.06 of these rules. (3-24-05)

08. Failure to Provide Business Name. Failure to include in any advertising the name of the licensed ~~*dealer*~~ retailer, resale broker, service company, or installer, or the name under which he is doing business. ~~*(5-25-94)*~~( )

09. Encouraging Falsification. Intentionally inducing an applicant or licensee to falsify his credit application. (5-25-94)

10. Poor Workmanship. Performing workmanship which is grossly incompetent or repeatedly below the standards adopted by Title 44, Chapters 21 and 22, these rules, IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," the Federal Manufactured Housing and Safety Standards Act of 1974, or the latest Idaho adopted editions of the International Building Code, the National Electrical Code, the Uniform Plumbing Code, and the International Mechanical Code, then in effect. ~~*(3-24-05)*~~( )

11. Installation Supervisor Required. Failure to have a licensed responsible managing employee personally supervise any installation or service of a manufactured/mobile home. ~~*(5-25-94)*~~( )

12. Failure of Organizations to License its Employees. Failure of an organization to have its employees maintain any license as required by these rules. (3-24-05)

13. Failure to Honor Warranties. Failure to honor any warranty or other guarantee given by ~~*an applicant or*~~ a licensee for construction, workmanship, or material as a condition of securing a contract, or of selling, leasing, reconstructing, improving, repairing, or installing any manufactured/mobile home, or accessory structure. ~~*(5-25-94)*~~( )

14. Revocation or Denial of License. Revocation or denial of a license issued pursuant to these rules or an equivalent license by any other state or ~~*country*~~ U.S. territory. ~~*(3-24-05)*~~( )

15. Failure to Maintain Any Required License. Failure of the licensee to maintain any other license required by any city or county of this state. (5-25-94)

16. Failure to Respond to Notice. Failure to respond to a notice served by the Division as provided by law within the time specified in the notice. (5-25-94)

17. Failure to Permit Access to Documentary Materials. Failure or refusing to permit access by the Division to relevant documentary materials after being requested to do so by the Division. (5-25-94)

18. Conviction of Misdemeanor. Conviction of a misdemeanor for violation of any of the provisions of Title 44, Chapters 21 or 22, Idaho Code. (5-25-94)

19. Conviction of Felony. Conviction or withheld judgment for a felony ~~*or a crime of moral turpitude*~~ in this state, any U.S. territory, or ~~*any other state or*~~ country. ~~*(5-25-94)*~~( )

20. Dealing with Stolen Manufactured or Mobile Homes. To knowingly purchase, sell, or otherwise acquire or dispose of a stolen manufactured or mobile home. (5-25-94)

21. Violation of Permit or Inspection Requirements. To knowingly violate any permit or inspection requirements of any city or county of this state. (5-25-94)

(BREAK IN CONTINUITY OF SECTIONS)

019. FEES.

01. Fees for Issuance and Renewal of License. The following fees for the issuance and renewal of a license will be charged, and no application for licensing pursuant to these rules will be accepted by the Division unless it is accompanied by the appropriate fee: (5-25-94)

a. Manufactured/mobile home ~~*dealer's*~~ retailer or resale broker's license: four hundred forty dollars ($440). ~~*Dealers*~~ Retailers who are also installers will not have to pay an installer's license fee in order to hold both licenses. ~~*(3-24-05)*~~( )

b. Manufacturer license: four hundred forty dollars ($440); (3-24-05)

c. Manufactured/mobile home service company~~/~~ or installer license: two hundred twenty dollars ($220); ~~*(3-24-05)*~~( )

d. Manufactured/mobile home salesman's license: forty-five dollars ($45). (3-24-05)

e. ~~*Branch office/r*~~Responsible managing employee license: forty-five dollars ($45). ~~*(3-24-05)*~~( )

02. Performance Bonding Requirements. No application for licensing pursuant to these rules shall be accepted unless it is accompanied by evidence of the following performance bond: (3-24-05)

a. Manufacturer: twenty thousand dollar ($20,000) bond; (5-25-94)

b. Manufactured/mobile home ~~*dealer*~~ retailer: twenty thousand dollar ($20,000) bond; ~~*(5-25-94)*~~( )

c. Manufactured/mobile home resale broker: thirty thousand dollar ($30,000) bond; ( )

~~*c*~~**d.** Manufactured/mobile home service company~~/~~ or installer: five thousand dollar ($5,000) bond. ~~*Dealers*~~ Retailers who are also installers will not be required to post an installer's bond in order to hold both licenses. ~~*(5-25-94)*~~( )

~~*d*~~**e.** ~~*Branch office/r*~~Responsible managing employee. No bond. ~~*(5-25-94)*~~( )

03. Money or Securities Deposit in Lieu of Performance Bond. A money or

securities deposit shall be accepted by the Division in lieu of the performance bonding requirement as set forth at Title 44, Chapter 21, Idaho Code, and Subsection 019.02 of these rules, under the following circumstances: ~~(7-1-96)~~( )

a. Any such money or securities deposit shall be in a principal sum equal to the face amount of the performance bond required for the applicable licensing category; ~~(7-1-96)~~( )

b. Any such money deposit shall be deposited in a time certificate of deposit which provides on its face that the principal amount of such certificate of deposit shall be payable to the Division upon presentment and surrender of the instrument; (7-1-96)

c. Any such time certificate of deposit shall have a maturity date of one (1) year from the effective date of licensure and shall have an automatic renewal provision for subsequent years; (7-1-96)

d. Any such time certificate of deposit shall be provided to the Division at the time of application for licensure and shall be retained by the Division during the effective period of licensure unless otherwise expended by the Division to insure completion of the licensee's performance; (7-1-96)

e. Any such time certificate of deposit shall be returned to an unsuccessful applicant for licensure; (7-1-96)

f. The principal amount of any such time certificate of deposit, to the extent not otherwise expended to insure completion of the licensee's performance, shall be returned to the depositor by the Division on or before ninety (90) days subsequent to the occurrence of any of the following events: voluntary surrender or return of a license; expiration of a license; lapse of a license; or revocation or suspension of a license; and (7-1-96)

g. Any interest income earned by reason of the principal amount of the time certificate of deposit shall be the property of the licensee. (7-1-96)

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Industry Licensing. Except as provided for by Section 44-2106, Idaho Code, any person who engages in the business of a manufacturer, retailer, resale broker, salesman, installer, service company, or responsible managing employee (RME) as defined in Section 44-2101A, Idaho Code, without being duly licensed by the Division 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. Deceptive Practice. In accordance with Section 44-2106(2), Idaho Code, any retailer, resale broker, installer, salesman, service company, or RME who intentionally publishes

or circulates any advertising that is misleading or inaccurate in any material respect or that misrepresents any of the products or service sold or provided by a manufacturer, retailer, resale broker, installer, service company, or RME, 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. (____)

03. Dealing with Stolen Manufactured or Mobile Homes. In accordance with Section 44-2106(2), Idaho Code, any person who knowingly purchases, sells, or otherwise acquires or disposes of a stolen manufactured or mobile home shall be subject to a civil penalty of not more than one thousand dollars ($1,000). (____)

04. Failure to Maintain a Principal Place of Business. In accordance with Section 44-2106(2), Idaho Code, any person who is a retailer or resale broker duly licensed by the Division and who fails to maintain a principal place of business within Idaho, 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. (____)

05. Violation of Rules and Statutes. Any person who knowingly violates any of the provisions of these rules, IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," or the provisions of Title 44, Chapters 21 or 22, Idaho Code, shall be subject to a civil penalty of five hundred dollars ($500) for the first offense and one thousand dollars ($1,000) for each offense thereafter. (____)

06. Gross Violation. In case of continued, repeated, or gross violations of these rules or IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," a license revocation may be initiated for licensed individuals under Title 44, Chapter 21, Idaho Code. Non-licensed individuals shall be subject to prosecution by the appropriate jurisdiction under Idaho law. (____)

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

02~~2~~3. -- 029. (RESERVED).

030. MANUFACTURED HOME BUYER'S INFORMATION AND DISCLOSURE FORM.

The Manufactured Home Buyer's Information and Disclosure Form shall be presented by manufactured home ~~*dealers*~~ retailers to each purchaser of a new manufactured home, and shall be executed by the ~~*dealer*~~ retailer and purchaser at the time the initial purchase order is signed for the sale of a new manufactured home. The form is available at the Division office. ~~*(3-30-01)*~~(____)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.11 - RULES GOVERNING MANUFACTURED/MOBILE HOME INDUSTRY LICENSING

DOCKET NO. 07-0311-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 44-2104 and 44-2107, 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 Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 172 and 173.

FISCAL IMPACT: The following is a specific 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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 29th day of October, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2009.

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 44-2104 and 44-2107, 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 21, 2009.

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:

Currently, manufactured home retailers (dealers) and installers must provide proof of completion of industry-related education as a pre-condition to initial licensure. Current licensees must then provide proof of having completed continuing education in order to renew their licenses. These requirements have proven to be unnecessarily burdensome given the shortage of education providers and the impact of the current economy on the industry. Given that there have been no significant changes requiring training in the past year, and that there is no feasible means of providing access to training for all industry participants this year; the Manufactured Housing Board, the Division of Building Safety, and the manufactured housing industry would take this opportunity to formulate new, more workable education requirements and means for delivering same prior to promulgating new rule provisions. The proposed rule would eliminate the requirement that original and renewal applications for manufactured home retailers (dealers) and installers show proof that the applicant has completed a specified number of hours of initial and continuing education.

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

The rule changes confer a benefit on individuals licensed as manufactured housing retailers and/or installers.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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: None.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Keys, Deputy Administrator - Operations, (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 October 28, 2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

014. ~~*PROOF OF CONTINUING EDUCATION REQUIRED*~~ (RESERVED).
~~*Effective January 1, 1995, and except as otherwise provided in Section 015 of these rules, the Division:*~~ ~~*(5-25-94)*~~

~~***01. Satisfactory Proof for Application Submission****. Shall not allow an applicant for a license as a manufactured/mobile home dealer, or service company or installer to submit an application for the license until he submits proof satisfactory to the Division that he has completed the following number of hours of initial education:*~~ ~~*(3-24-05)*~~

~~***a.*** *Installers and dealers (who are also installers): eight (8) hours.*~~ ~~*(5-25-94)*~~

~~***b.*** *Dealers (who are not installers) and service company employees: four (4) hours.*~~ ~~*(3-24-05)*~~

~~***c.*** *The course of initial education will include information relating to the provisions of these rules, Title 44, Chapters 21 and 22, Idaho Code, and the Manufactured Housing Construction Safety Standards Act of 1974.*~~ ~~*(3-24-05)*~~

~~***02. Satisfactory Proof for License Renewal****. Shall not renew any license issued pursuant to Title 44, Chapters 21 or 22, Idaho Code, or these rules until the licensee has submitted proof satisfactory to the Division that he has, during the one (1) year immediately preceding the renewal of the license, completed at least the following number of hours of continuing education:*~~ ~~*(3-24-05)*~~

~~***a.*** *Installers, dealers who are also installers, and responsible managing employees: four (4) hours.* *(5-25-94)*~~

~~***b.*** *Dealers who are not installers and service company employees: two (2) hours.* *(3-24-05)*~~

~~***03.*** ***Continuing Education Course****. The course of continuing education shall include information relating to the following:* *(5-25-94)*~~

~~***a.*** *Manufactured housing or mobile home parks which will enable a person to give better service to the members of the general public and tenants of manufactured/mobile home parks;* *(5-25-94)*~~

~~***b.*** *The construction, including components and accessories, rebuilding, servicing, installation, or sale of manufactured/mobile homes;* *(5-25-94)*~~

~~***c.*** *Legislative issues concerning manufactured/mobile home housing and manufactured/mobile home parks, including pending and recently enacted state or federal legislation; and* *(5-25-94)*~~

~~***d.*** *These rules, Title 44, Chapters 21 or 22, Idaho Code, and the Manufactured Housing Construction Safety Standards Act of 1974.* *(3-24-05)*~~

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.12 - RULES GOVERNING MANUFACTURED OR MOBILE HOME INSTALLATIONS

DOCKET NO. 07-0312-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 44-2201, 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 in the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009 Idaho Administrative Bulletin, Vol. 09-7, pages 26 and 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: N/A

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

DATED this 30th day of July, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 8, 2009.

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 44-2201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 2009.

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 U.S. Department of Housing and Urban Development (HUD) recently promulgated federal installation standards for all new manufactured homes. HUD also approves Idaho's enforcement program as it relates to the installation of new manufactured homes. In order for Idaho to obtain HUD's continued approval of its installation enforcement program, HUD is requiring that all new manufactured homes be installed in accordance with its federal standards. HUD is also requiring the Idaho rules mandate that all new installations be in accordance with the manufacturer's HUD approved installation instructions. The rule changes provide that all new manufactured homes shall be installed in accordance with the manufacturer's approved instructions, as opposed to the current language which indicates they may be installed in accordance with manufacturer's instructions only when specifically required by the Idaho Manufactured Home Installation Standards.

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

The rule change is necessary to comply with deadlines in amendments to federal law.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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 Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Keys, Deputy Administrator - Operations, (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 July 22, 2009.

DATED this 27th day of May 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. ADOPTION AND INCORPORATION BY REFERENCE.
The Idaho Manufactured Home Installation Standard (January 1, 2004 edition), as adopted by the administrator, is hereby adopted and incorporated by reference into these rules. A current copy is available for review or copying at the office of the Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642. ~~*(3-20-04)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

012. USE OF MANUFACTURERS' INSTALLATION INSTRUCTIONS.
~~*Manufacturer's installation instructions may be used only where specifically permitted within Subsections 301.04 and 304.03 of the standards referenced in Section 004 of these rules.*~~ All new HUD manufactured homes shall be installed in accordance with the manufacturer's Design Approval Primary Inspection Agency (DAPIA) approved installation instructions. In any instance in which there is a conflict between the DAPIA installation instructions and the Idaho Manufactured Home Installation Standards, the DAPIA installation instructions shall supersede and serve as the controlling authority. All manufactured or mobile homes must be installed in accordance with all other applicable state laws pertaining to utility connection requirements.
~~*(5-3-03)*~~( )

IDAPA 07 - DIVISION OF BUILDING SAFETY

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

DOCKET NO. 07-0402-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-8605, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 174 and 175.

FISCAL IMPACT: The following is a specific 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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 29th day of October, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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

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

Current rule adopts the American National Standards Institute (ANSI) and American Society of Mechanical Engineers (ASME) codes relating to design, installation, operation, maintenance, and inspection standards for elevators, escalators, lifts, and all such moving conveyances in the state of Idaho. Newer editions of these adopted codes have been promulgated by ANSI/ASME and need to be incorporated into administrative rule to stay current with safety standards within the industry. The proposed rule would continue to adopt the ANSI/ASME codes that are already identified in the current rule; however, it would adopt the most recent editions of such codes with amendments.

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: None.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. ADOPTION AND INCORPORATION BY REFERENCE.

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

a. ANSI/ASME A17.1 200~~4~~7, Safety Code for Elevators and Escalators with 200~~5~~8 Addenda ~~*and 2005 Supplement*~~ with the following exceptions: ~~*(4-2-08)*~~( )

i. Compliance with section 2.8.3.2 shall require that the means for disconnecting the main power as required by this section to be within sight of controller. ( )

ii. Compliance with section 8.11.2.3.3, Category 5 Periodic Testing of oil buffers shall be conducted at slow speed in accordance with Item 5.9.2.1(a) in ANSI/ASME A17.2 2007. ( )

b. ANSI/ASME A17.2 200~~4~~7 Guide for Inspection of Elevators, Escalators, and Moving Walks. ~~*(4-2-08)*~~( )

c. ANSI/ASME A17.3 200~~5~~8 Safety Code for Existing Elevators and Escalators. ~~*(4-2-08)*~~( )

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

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

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

g. ANSI/ASME A18.1 200~~5~~8 Safety Standards for Platform Lifts and Chairlifts. ~~*(4-2-08)*~~( )

h. ASME QE-1 200~~4~~7 Standard for the Qualification of Elevator Inspectors. ~~*(4-2-08)*~~( )

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

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.05.01 - RULES OF THE PUBLIC CONTRACTORS LICENSE BOARD

DOCKET NO. 07-0501-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 176 and 177.

FISCAL IMPACT: The following is a specific 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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 29th day of October, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1907, 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 21, 2009.

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:

Public Works Contractor License statutes require that all contractors who work on public works projects possess a public works contractors license issued by the Division of Building Safety. Exemptions exist to this general licensure requirement and are contained in Section 54-1903, Idaho Code; and allow unlicensed contractors to perform work on public works projects in certain situations. One of the exemptions is subject to some misinterpretation and is being applied incorrectly by local governments who sponsor public works projects and the contractors who work on them. Defining a key term contained within that statutory exemption would clarify the meaning and intent of it. The proposed rule would provide a definition for the term "estimated cost" as that term is used in Section 54-1903(i), Idaho Code.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking: None.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

010. DEFINITIONS.
As used in these rules. (7-1-93)

01. Administrator. Refers to the administrator of the Division of Building Safety. (3-20-04)

02. Applicant. Shall mean any person who has filed an application with the administrator. (3-20-04)

03. Board. Refers to the Public Works Contractors License Board which is created within the Idaho Division of Building Safety as set forth in Title 54, Chapter 19, Idaho Code. (3-20-04)

04. Compiled. Refers to a type of financial statement in which the information presented is based solely upon representations by an organization's management. (3-20-04)

05. Estimated Cost. For the purposes of the application of Section 54-1903(i), Idaho Code, the term "estimated cost" shall refer to the total aggregate amount of the value of all the separate or individual jobs, parts, components, or undertakings involved in the construction of a single project when combined and considered as a whole, regardless of the types of trades, sub-contracts, work, or other individual aspects involved, and without regard to the number of trades or crafts that are involved. ( )

0~~5~~6. Financial Statement. A balance sheet and income statement prepared in accordance with generally accepted accounting principles. (3-20-04)

0~~6~~7. Incidental Work. Shall mean work, the nature of which does not require any additional trade licenses and which may be carried out in conjunction with an activity for which the licensee is licensed, but is not intended to produce an amount of income over ten percent (10%) of the total bid amount. (3-20-04)

0~~7~~8. Independent Audit Report. A report prepared by an independent certified public accountant presenting such auditor's opinion on the fairness of the organization's financial statements and prepared in accordance with generally accepted auditing standards. (3-20-04)

0~~8~~9. Licensee. Includes any individual proprietor, partnership, limited liability partnership, limited liability company, corporation, joint venture, or other business organization holding a current, unrevoked public works contractor license. (3-20-04)

~~09~~10. Petitioner. Shall mean: (7-1-93)

a. Any licensee who has filed with the Board a written request for the change or addition to the types of construction for which he is licensed; (7-1-93)

b. Any applicant or licensee requesting a rehearing in any proceeding or appealing from the final decision or order of the administrator or the Board; (3-20-04)

c. Any interested person requesting the promulgation, amendment or repeal of a rule; or (7-1-93)

d. Any interested person requesting a declaratory ruling on the applicability of the License Act or of any rule or order of the Board. (7-1-93)

1~~0~~1. **Reviewed**. Refers to a financial statement that is accompanied by the opinion of a certified public accountant stating that, based upon representations by the organization's management, the reviewer has a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements in order for the statements to be in accordance with generally accepted accounting principles. (3-20-04)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.06.01 - RULES GOVERNING UNIFORM SCHOOL BUILDING SAFETY

DOCKET NO. 07-0601-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 39-8006 and 39-8007, 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 Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 178 and 179.

FISCAL IMPACT: The following is a specific 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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 29th day of October, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-8006 and 39-8007, 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 21, 2009.

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 Uniform School Building Safety Code required by Section 39-8006, Idaho Code, includes model codes adopted by the various state boards and agencies with the statutory authority to adopt such construction and safety standards within a particular industry. Upon review and approval, these governing authorities typically adopt updated editions of these model codes as they are published every few years by nationally recognized organizations. By eliminating a specifically identified edition of the model codes from this rule it would eliminate the need to amend this rule each time (potentially on an annual basis) a new edition is adopted by one or more of the different governing authorities. The applicable statutes are listed in the text of the rule so that the currently adopted edition may be easily ascertained. The proposed rule would eliminate any reference to the specific edition of the various codes that are adopted. The rule also updates the statutory authority in which the codes are required to be adopted.

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: None.

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

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

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

2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. INCORPORATION BY REFERENCE.

01. Uniform Codes. The following uniform codes are hereby incorporated by reference into these rules as, and insofar as, ~~*they*~~ the most recent editions have been adopted by the appropriate governing authority for the state of Idaho pursuant to Sections 39-4109, 41-253, 39-8614, 54-1001, 54-2601, 54-5001, and 72-508, Idaho Code: ~~*(3-15-02)*~~(____)

a. ~~*2000*~~ International Building Code; ~~*(4-6-05)*~~(____)

b. ~~*2000*~~ International Mechanical Code; ~~*(4-6-05)*~~(____)

c. ~~*2000*~~ International Fuel Gas Code; ~~*(4-6-05)*~~(____)

d. ~~*2002*~~ Safety Code for Elevators and Escalators (ASME/ANSI A17.1); ~~*(4-6-05)*~~(____)

e. ~~*2000*~~ International Energy Conservation Code; ~~*(4-6-05)*~~(____)

f. ~~*1998*~~ Accessible and Usable Buildings and Facilities (ICC/ANSI A117.1); ~~*(4-6-05)*~~(____)

~~***g.***~~ ~~*1997 Uniform Code for Building Conservation (UCBC);*~~ ~~*(3-15-02)*~~

~~***h***~~**g.** ~~*2000*~~ International Fire Code (IFC); ~~*(4-6-05)*~~(____)

~~***i***~~**h.** ~~*2002*~~ National Electrical Code (NEC); ~~*(4-6-05)*~~(____)

~~***j***~~**i.** ~~*2003*~~ Uniform Plumbing Code (UPC); ~~*(4-6-05)*~~(____)

~~***k***~~**j.** ~~*1995*~~ Pacific NW AWWA Manual for Backflow Prevention and Cross Connection Control; and ~~*(3-15-02)*~~(____)

~~***l***~~**k.** ~~*2003*~~ Idaho General Safety and Health Standards. ~~*(4-6-05)*~~(____)

02. Idaho Uniform School Building Safety Code. The codes set forth in ~~Paragaraphs~~ Subsection 004.01~~.a. through 004.01.l.,~~ of this rule, together with the definitions contained therein and the written interpretations thereof, insofar as they are applicable to school facilities, shall constitute the Idaho Uniform School Building Safety Code. A copy of each of the identified codes is available for review at the main office of the Division of Building Safety. ~~*(4-6-05)*~~(____)

IDAPA 07 - DIVISION OF BUILDING SAFETY

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

DOCKET NO. 07-0701-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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(2), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 180 and 181.

FISCAL IMPACT: The following is a specific 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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 29th day of October, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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

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

The current HVAC rules regarding civil penalties indicate that, among other acts, failure to post a permit or pay the applicable permit fee may subject a violator to civil penalties; however, there is no provision which specifically provides for a civil penalty for failure to request an inspection. Adding such a rule would provide some leverage to help ensure that HVAC installations are properly inspected after they are installed. The proposed rule would provide authority for the Division of Building Safety to impose a civil penalty against any person who fails to request an inspection of an HVAC installation.

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: None.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

070. CIVIL PENALTIES.
The following acts shall subject the violator to penalties based on the following schedule. (3-30-07)

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. (3-30-07)

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. (3-30-07)

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. (3-30-07)

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. (3-30-07)

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. (3-30-07)

06. Fees and Permits. Any person failing to pay applicable fees or properly post an HVAC permit <u>for, or to request an inspection of, any installation, alteration, improvement, or extension of any piping, venting, ductwork, appliances and appurtenances in connection with any heating, ventilation, or air conditioning system or subsystems of such</u> shall be subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty of not

more than one thousand dollars ($1,000) for each offense thereafter. ~~*(3-30-07)*~~(____)

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. (3-30-07)

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. (3-30-07)

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. (3-30-07)

IDAPA 07 - DIVISION OF BUILDING SAFETY

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

DOCKET NO. 07-0701-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-5005(2), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 182 through 185.

FISCAL IMPACT: The following is a specific 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 Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 29th day of October, 2009.

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

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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:

Concerns in the industry have been raised about the placement of the secondary regulator gas pipe that is stubbed out of buildings. The pipe vents out of the side of the building and it is subject to being placed in a location that may be covered or damaged by heavy snowfall. This may prevent proper venting and pose a potential health and/or safety hazard to the occupants. Currently, the International Fuel Gas Code provides no guidance or requirements regarding the proper placement of such pipes. The proposed rule would amend the Fuel Gas Code and provide guidance regarding the proper placement of such gas pipes. The proposed rule would require piping, regulators, meters, and other equipment to be installed in a manner that protects it from any physical damage, including heavy snowfall. It also provides specific requirements regarding the location and minimum spacing of certain gas piping stubbed out for meter or regulator connection.

The HVAC industry has expressed concern about whether the state's HVAC and mechanical installation regulatory and enforcement program extends to solid fuel burning and hearth-related installations. Because of the potential ambiguity about the breadth of the regulatory scheme there is concern that some solid fuel and hearth related installations are installed without inspection, and without assurances that the individuals performing the work possess the requisite skill and experience. To eliminate these concerns, the HVAC Board has determined to make it clearer that the scope of the HVAC regulatory program does extend to solid fuel burning and hearth-related installations by adopting the applicable codes that address such installation standards. The proposed rule would continue to adopt the International Fuel Gas Code and the International Mechanical Code as the minimum standards for HVAC and mechanical installations in the state. Currently, these codes are only used as the minimum standard in commercial buildings. The proposed rule would make such codes applicable to installations performed in residential buildings as well. Using such codes would capture solid fuel burning and hearth-related HVAC and mechanical installations and eliminate the need to use the International Residential 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: None.

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL MECHANICAL CODE, 2003 EDITION.

01. The International Mechanical Code, 2003 Edition, including appendix "A," (herein IMC) is adopted and incorporated by reference with the following amendments: (4-11-06)

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

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

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

d. Section 101.2. Delete the Exception. The International Mechanical Code shall apply to detached one- and two-family dwellings and multiple single family dwellings (townhouses). ( )

e. Section 109. Delete. ( )

~~d~~f. Section 312. Sizing requirements shall be as established by the authority having jurisdiction. (4-11-06)

02. The International Mechanical Code. The 2003 Edition is available at the Division of Building Safety offices located at 1090 E. Watertower St., Meridian, Idaho 83642 and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814. (4-11-06)

005. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL FUEL GAS CODE, 2003 EDITION.

01. The International Fuel Gas Code, 2003 Edition, including appendixes "A, B, C, and D," (herein IFGC) is adopted and incorporated by reference with the following amendments: (4-11-06)

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

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

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

d. Section 101.2. Delete the Exception. The International Fuel Gas Code shall apply to detached one- and two-family dwellings and multiple single family dwellings (townhouses). ( )

e. Section 109. Delete. ( )

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

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

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

~~e~~i. Section 406.4.1. Test Pressure. Not less than twenty (20) psig (140kPa gauge) test

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

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

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

02. The International Fuel Gas Code. The 2003 Edition, is available at the Division of Building Safety offices located at 1090 E. Watertower St., Meridian, Idaho 83642 and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814. (4-11-06)

006. ~~*ADOPTION AND INCORPORATION BY REFERENCE OF PARTS V (MECHANICAL) AND PARTS VI (FUEL GAS) OF THE INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO FAMILY DWELLINGS, 2003 EDITION*~~ (RESERVED).

~~***01. Parts V (Mechanical) and Parts VI (Fuel Gas) of the International Residential Code for One and Two Family Dwellings, 2003 Edition***, including appendixes "A, B, C, and D," (herein IRC) are adopted and incorporated by reference with the following amendments. (4-11-06)~~

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

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

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

~~***d.*** Section M1401.3. Sizing requirements shall be as established by the authority having jurisdiction. (4-11-06)~~

~~***e.*** Section G2417.4 (406.4). Change the last sentence to: Mechanical gauges used to measure test pressure shall have a range such that the highest end of the scale is not greater than two (2) times the test pressure nor lower than one and one-half (1.5) times the test pressure. (4-11-06)~~

~~***f.*** Section G2417.4.1 (406.4.1). Test Pressure. Not less than twenty (20) psig (140kPa gauge) test pressure shall be required for systems with a maximum working pressure up to ten~~

~~(10) inches water column. For systems with a maximum working pressure between ten (10) inches water column and ten (10) psig (70kPa gauge); not less than sixty (60) psig (420kPa gauge) test pressure shall be required. For systems over ten (10) psig (70kPa gauge) working pressure, minimum test pressure shall be no less than six (6) times working pressure. (4-11-06)~~

~~***g.*** Section G2417.4.2 (406.4.2). The test duration shall not be less than twenty (20) minutes. (4-11-06)~~

~~***02.*** ***The International Residential Code for One- and Two-Family Dwellings, 2003 Edition***, is available at the Division of Building Safety offices located at 1090 E. Watertower St., Meridian, Idaho 83642 and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814. (4-11-06)~~

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

10.01.01 - RULES OF PROCEDURE

DOCKET NO. 10-0101-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

There is no change to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the August 5, 2009 Idaho Administrative Bulletin, Vol. 09-8, pages 46 through 53.

FISCAL IMPACT: The following is a specific 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 not be any negative fiscal impact on the state general fund.

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

DATED this 11th day of September, 2009.

David L. Curtis, P.E.
Executive Director
Board of Professional Engineers and Professional Land Surveyors
5535 W. Overland Road
Boise, Idaho 83705
Voice (208) 373-7210
Fax (208) 373-7213
Email: dave.curtis@ipels.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

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

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

TUESDAY - AUGUST 18, 2009 - 9:00 a.m.

J.R. WILLIAMS EAST CONFERENCE ROOM
700 W. State St., Boise, ID 83702

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

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

In anticipation of the likelihood of the conversion of the licensing and certification examinations to a computer-based format rather than the current paper-and-pencil format, the proposed changes provide the Board flexibility in accepting examinations offered at different frequencies, of different duration, and different organization than the current examinations. The proposed changes make technical corrections and remove some obsolete language; clarify that an individual must first be licensed as a professional engineer in Idaho especially qualified in a "base" discipline before taking the exam in structural engineering; reflect the fact that the examinations are no longer administered directly by the Board; and clarify the Board's right to publish disciplinary actions.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 3, 2009 Idaho Administrative Bulletin, Vol. 09-6, page 45.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 26, 2009.

DATED this 19th day of June, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

010. OFFICERS AND COMMITTEES.

01. Duties of Chairman. The Chairman shall be the executive head of the Board and shall: preside at meetings; appoint committees; perform all duties pertaining to the office of the Chairman. (7-1-93)

02. Duties of Vice Chairman. The Vice Chairman shall, in the absence or incapacity of the Chairman, exercise the duties and possess all the powers of the Chairman. (7-1-93)

03. Duties of Secretary. The Secretary shall, with the assistance of the Executive Director and staff, and under the direction of the Board, perform the following functions and duties: (4-5-00)

a. Keep correct minutes of the Board; (7-1-93)

b. Furnish a copy of all minutes to each member of the Board; (7-1-93)

c. Send written notice of regular and special meetings of the Board to each Board member not less than ten (10) days in advance thereof, as well as provide appropriate public notice; (7-1-93)

d. Review each application for licensure or certification for essential data prior to consideration thereof by the Board; (5-8-09)

e. Verify qualifications, experience and character of the applicants; (7-1-93)

f. Make arrangements for examinations, interviews and hearings; (7-1-93)

g. Report to the Board members the results of every examination and other evidence of qualifications, with recommendations to the Board; (7-1-93)

h. Assist in the investigations of complaints and charges and arrange for hearings by the Board; (7-1-93)

i. Prepare and present the required annual report and roster as the Board may direct; (7-1-93)

j. Keep all records, including minutes, register of applicants for licensure and the roster of licensees and certificate holders; (5-8-09)

k. Attend to all official correspondence of the Board; (7-1-93)

l. Perform all other duties ~~*prescribed by the Act*~~ as directed by the Board; and ~~*(7-1-93)*~~(_____)

m. Otherwise perform all the duties normally pertaining to the Office of Secretary. (7-1-93)

04. Duties and Qualifications of Executive Director. The Executive Director of the Board of Licensure of Professional Engineers and Professional Land Surveyors shall: (5-8-09)

a. Not be a member of the Board. (7-1-93)

b. Be a licensed professional engineer or professional land surveyor in the state of Idaho and possess other qualifications required for members of the Board. (5-8-09)

c. Hold office at the pleasure of the Board. (7-1-93)

d. Receive such compensation as the Board may determine. (7-1-93)

e. Perform such other duties as may from time to time be assigned by the Board. (7-1-93)

05. Surety Bond. To comply with the requirements of Section 41-3502, Idaho Code, state officials and state employees are covered by blanket bond with the premium prorated to the several departments and agencies. The portion of cost prorated to the Board of Licensure of Professional Engineers and Professional Land Surveyors shall be paid from the "Professional Engineers and Land Surveyors" Fund. (5-8-09)

06. Committees. Regular and special committees of the Board shall perform the duties assigned to them and shall present reports to the Board at the time specified or at the earliest regular or special meeting of the Board. A special voluntary committee from the public, which may include members of the Board, may be formed to render special services as the Board may assign to them. (7-1-93)

011. FEES.

01. Applications and Renewals. All fees shall be set by the Board in the following categories and shall in no event be more than the amount specified in Sections 54-1213, 54-1214, 54-1216, 54-1219 and 54-1223, Idaho Code. Fees are not refundable. (4-5-00)

a. Licensure as a professional engineer or professional land surveyor by examination.

(5-8-09)

b. Certification as an engineer intern or land surveyor intern by examination. (5-8-09)

c. Certification for a business entity applying for a certificate of authorization to practice or offer to practice engineering or land surveying. (3-15-02)

d. Applications for reexamination in professional engineering, professional land surveying, engineer intern or land surveyor intern. (5-8-09)

e. Renewals for professional engineers, professional land surveyors, engineer interns, land surveyor interns and business entities. (5-8-09)

f. Licensure for professional engineers or professional land surveyors by comity. (5-8-09)

02. Late or Denied Renewals. Failure on the part of any licensee or business entity to renew their ~~*fees*~~ license or certificate of authorization prior to their expiration shall not deprive such persons or business entity of the right of renewal, but the fees to be paid for renewal after their expiration shall be increased as prescribed in Section 54-1216, Idaho Code. ~~*(5-8-09)*~~( )

03. Reexaminations. Separate fees will be assessed for each examination and such fees shall accompany all applications for examination for professional engineers, professional land surveyors, engineer interns, and land surveyor interns. (5-8-09)

04. Schedule of Fees. The schedule of fees as determined by the Board shall be furnished to applicants with application forms. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

017. EXAMINATIONS.

01. Semiannually or Annually; Special or Oral Examination. Examinations for licensure as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern will be held ~~*annually or semi-annually, the exact time and place*~~ on dates and at times and places to be determined by the Board. Special oral or written examinations ~~*during the year*~~ may be given by the Board as necessary. ~~*(5-8-09)*~~( )

02. Eligibility for Examinations, Educational Requirements. The application for licensure as a professional engineer, professional land surveyor or certification as an engineer intern or land surveyor intern, together with the written examination, shall be considered in the determination of the applicant's eligibility. Each applicant must meet the minimum requirements as set forth in Section 54-1212, Idaho Code, before ~~*admittance*~~ being assigned to any examination. ~~*(5-8-09)*~~( )

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~~)~~, Inc. Non-EAC/ABET accredited engineering programs, related science programs, and engineering technology programs will be considered by the Board on their specific merits, but are not considered equal to engineering programs accredited by EAC/ABET. The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee. ~~*(3-20-04)*~~( )

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 Intern or as required by Section 54-1212(1)(b), Idaho Code, for assignment to the examination for licensure as a professional engineer. (5-8-09)

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

i. Three (3) credits in Surveying Law and Boundary Descriptions; (3-30-07)

ii. Three (3) credits in Route Surveying; (3-30-07)

iii. Three (3) credits in Public Land Surveying; (3-30-07)

iv. Three (3) credits in Surveying Software Applications; (3-30-07)

v. Three (3) credits in Research and Evidence in Surveying; (3-30-07)

vi. Three (3) credits in Surveying Adjustments and Coordinate Systems; (3-30-07)

vii. Three (3) credits in Subdivision Planning and Platting; (3-30-07)

viii. Three (3) credits in Geodesy; and (3-30-07)

ix. Three (3) credits in Survey Office Practice and Business Law in Surveying. (3-30-07)

d. 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~~ licensed as a professional engineer in Idaho especially qualified in a discipline other than structural engineering. ~~(5-8-09)~~( )

ii. Have two (2) years of work experience in the field of structural engineering after being licensed 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 duration of the examination shall be ~~*sixteen (16) hours*~~ as determined by the Board. ~~(5-8-09)~~( )

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 or Doctor of Philosophy 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*~~ ABET, Inc. in the discipline of the applicant's master's degree or Doctor of Philosophy degree, and, in addition, has completed the coursework requirements of Subsection 017.02.b. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. ~~(5-8-09)~~( )

~~***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)~~

0~~5~~3. 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)

0~~6~~4. Two Examinations for Engineering Licensure. The complete examining procedure for licensure as a professional engineer normally consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer intern certification, and the second is the Principles and Practice of Engineering for professional engineer licensure. ~~*Each*~~ The examination shall be ~~*eight (8) hours in length*~~ a duration as determined by the Board. Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering program. A certificate as an Engineer Intern will be issued only to those student applicants who earn a passing grade on the examination and who receive a degree. Having passed the Fundamentals of Engineering examination, applicants will be required to take the Principles and Practice of Engineering examination at a later date when qualified by experience. ~~*(5-8-09)*~~( )

0~~7~~5. Fundamentals of Engineering. The Fundamentals of Engineering examination will cover such subjects as are ordinarily given in engineering college curricula and which are common to all fields of practice. The examination may also cover subject matters that are specific to the engineering discipline of the applicants' education. (5-8-09)

0~~8~~6. 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)

0~~9~~7. Two Examinations for Land Surveying Licensure. The complete examining procedure for licensure as a professional land surveyor consists of two (2) separate written examinations. The first is the Fundamentals of Surveying examination for land surveyor intern certification, and the second is the Principles and Practice of Surveying for professional land surveyor licensure. ~~*Each*~~ The examination ~~*will*~~ shall be a ~~*total of eight (8) hours in length*~~ duration as determined by the Board. Having passed the Fundamentals of Surveying examination, applicants will be required to take the Principles and Practice of Surveying examination at a later date when qualified by experience. The examination shall cover the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of Surveying examination may consist of separate modules, each of which must be passed. ~~*(5-8-09)*~~( )

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

~~11~~09. Special Examinations. A special examination, written or oral or both, may be required in certain instances where the applicant is seeking licensure through comity or reciprocity with another state or political entity having required written examinations that are not wholly comparable in length, nature or scope. This examination supplements the certified qualifying record of the applicant and establishes a more common basis for judging the application and awarding a certificate of qualification or licensure in this state. The length of these special examinations shall be determined by the Board, but shall in no case exceed the lengths specified for the regular examination. Special examinations may be given at any date and need not conform with regular examination dates. (5-8-09)

1~~2~~0. Grading. Each land surveyor intern, engineer intern and professional engineer applicant must normally attain a scaled score of seventy (70) or above on the entire ~~*eight (8) hour*~~ examination or modules as determined by the Board, before being awarded certification or licensure. Examinees on the Principles and Practice of Land Surveying examination must normally attain a scaled score of seventy (70) or above on each ~~*section*~~ module of the examination. ~~*(5-8-09)*~~( )

1~~3~~1. Use of NCEES Examinations. Examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) for professional engineer, engineer intern, professional land surveyors, and land surveyor intern may be used by the Board. The examination for the field of structural engineering shall be the ~~*sixteen (16) hour*~~ examination as determined by the Board. ~~*(5-8-09)*~~( )

1~~4~~2. 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)*~~

1~~6~~3. Proctoring of Examinations. Unless otherwise approved, the Board will not proctor an examination for another jurisdiction except State-Specific examinations nor will they request another jurisdiction to proctor an examination for an Idaho applicant. (5-8-09)

018. REEXAMINATIONS.

01. Allowing Reexamination upon Failure. An applicant failing any portion of ~~*the Principles and Practice of Surveying*~~ an examination, and having applied for reexamination as permitted by law, may at the discretion of the Board, be required to take only the portion of the examination for which a failing grade was received. ~~*(5-8-09)*~~( )

02. Application for Reexamination. An applicant who has failed any examination~~, *as previously described*,~~ may be assigned by the Board to reexamination upon written request and payment of fees~~ *at least sixty (60) days prior to any scheduled examination date*~~. ~~*(7-1-93)*~~( )

03. Failure of Reexamination. An applicant who fails on reexamination, must present evidence of having met the requirements set forth in Section 54-1214, Idaho Code in order to be reassigned to an examination. (5-8-09)

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

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

a. The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has been licensed in another jurisdiction of the United States for an minimum of ten (10) years and has not had any disciplinary action against them and there is none pending, and possesses the education, experience and examination credentials that were specified in the applicable registration chapter in effect in this state at the time such certification was issued. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (5-8-09)

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

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

i. Three (3) credits in Surveying Law and Boundary Descriptions; (3-30-07)

ii. Three (3) credits in Route Surveying; (3-30-07)

iii. Three (3) credits in Public Land Surveying; (3-30-07)

iv. Three (3) credits in Surveying Software Applications; (3-30-07)

v. Three (3) credits in Research and Evidence in Surveying; (3-30-07)

vi. Three (3) credits in Surveying Adjustments and Coordinate Systems; (3-30-07)

vii. Three (3) credits in Subdivision Planning and Platting; (3-30-07)

viii. Three (3) credits in Geodesy; and (3-30-07)

ix. Three (3) credits in Survey Office Practice and Business Law in Surveying. (3-30-07)

02. Denials or Special Examinations. An application from a licensee of another state, territory or foreign country may be denied by the Board for any just cause and the application fee retained; or the Board may approve the applicant for a special written and/or oral examination. ~~*If the applicant is assigned to examination no additional fee shall be required.* *(5-8-09)*~~(____)

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

(BREAK IN CONTINUITY OF SECTIONS)

021. RIGHT TO PUBLISH DISCIPLINARY ACTIONS.

The Board office may disclose the filing and the nature of a complaint, but may not disclose the details of an investigation. Final, formal enforcement~~*, including, but not limited to actions such as fines, assessment of expenses, revocations or suspensions*~~ shall be public information. ~~*Probations and conditions may be subject to public disclosure whenever the Board believes it is in the public interest.*~~ Following a hearing or the entry of a consent agreement, the Board may publish a summary of any order issued by it, in a newsletter or newspaper of general circulation or, for a period of up to ten (10) years, may post it on the Internet. ~~*The Board may also advise anyone requesting such information of the contents of any order issued by it.*~~ ~~*(5-3-03)*~~(____)

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

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY

DOCKET NO. 10-0102-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

There is no change to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the August 5, 2009 Idaho Administrative Bulletin, Vol. 09-8, pages 54 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: There will not be any negative fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact David L. Curtis at (208) 373-7210.

DATED this 11th day of September, 2009.

David L. Curtis, P.E.
Executive Director
Board of Professional Engineers and Professional Land Surveyors
5535 W. Overland Road
Boise, Idaho 83705
Voice (208) 373-7210
Fax (208) 373-7213
Email: dave.curtis@ipels.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

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

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

TUESDAY - AUGUST 18, 2009 - 9:00 a.m.

J.R. WILLIAMS EAST CONFERENCE ROOM
700 W. State St., Boise, ID 83702

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

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

The proposed rules amendments define "deceit" and "incompetence" and clarify the definition of "misconduct." They clarify the standard of care and the obligations of engineers and land surveyors in reports, statements or testimony and communication with clients. They make technical corrections in spelling and grammar.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 3, 2009 Idaho Administrative Bulletin, Vol. 09-6, page 46.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 26, 2009.

DATED this 19th day of June, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. DEFINITIONS.
For the purposes of these rules, the following terms are used as defined below: (7-1-93)

01. Board. The Board of Licensure of Professional Engineers and Professional Land Surveyors. (5-8-09)

02. Certificate Holder. Any person holding a current certificate as an Engineer Intern or a Land Surveyor Intern or a business entity (which is also herein referred to as a "person") holding a current certificate of authorization, which has been duly issued by the Board. (5-8-09)

03. Deceit. To intentionally misrepresent a material matter, or intentionally omit to disclose a known material matter. ( )

04. Incompetence. Failure to meet the standard of care. ( )

0~~3~~5. Licensee. Any person holding a current license as a Professional Engineer, a Professional Land Surveyor, or a combination thereof, which has been duly issued by the Board. (5-8-09)

0~~4~~6. Misconduct. A violation or attempt to violate these rules of professional responsibility or to knowingly assist or induce another to do so, or do so through the acts of another; ~~*commission of a criminal act that reflects adversely on the licensee's or certificate holder's honesty, trustworthiness or fitness as a licensee or certificate holder in other respects; engage in conduct involving dishonesty, fraud, deceit or misrepresentation*~~ a finding of guilt of commitment of a felony or a plea of guilty to a felony; commit fraud or deceit; state or imply an ability to influence improperly a government agency or official. ~~*(5-8-09)*~~( )

005. RESPONSIBILITY TO THE PUBLIC.

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

02. Standard of Care. Each Licensee and Certificate Holder shall ~~*perform in accordance with the standard of care for the profession and is under duty to the party for whom the service is to be performed to*~~ exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. ~~*(5-8-09)*~~( )

03. Professional Judgment. If any Licensee's or Certificate Holder's professional judgment is overruled under circumstances where the safety, health and welfare of the public are

endangered, the Licensee or Certificate Holder shall inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation. (5-8-09)

04. Obligation to Communicate Discovery of Discrepancy. If a Licensee or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Licensee or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer shall make a reasonable effort to inform, in writing, the Licensee or Certificate Holder whose work is believed to contain the discrepancy, error or omission. Such communication shall reference specific codes, standards or physical laws which are believed to be violated and identification of documents which are believed to contain the discrepancies. The Licensee or Certificate Holder whose work is believed to contain the discrepancy shall respond in writing within sixty (60) calendar days to any question about his work raised by another Licensee or Certificate Holder. Failure to respond on the part of the Licensee or Certificate Holder whose work is believed to contain the discrepancy shall be considered a violation of these rules and may subject the Licensee or Certificate Holder to disciplinary action by the Board. The discoverer shall notify the Board in the event a response satisfactory to the discoverer is not obtained within sixty (60) days. (5-8-09)

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

~~***06. Obligation to Communicate with Clients****. A Licensee shall be complete, objective and truthful in all communications with clients.* *(5-8-09)*~~

(BREAK IN CONTINUITY OF SECTIONS)

007. PUBLIC STATEMENTS.

01. ~~*Complete, Objective and Truthful*~~ Reports, Statements or Testimony. A Licensee shall ~~*be complete, objective and truthful*~~ not commit fraud, violate the standard of care, or engage in deceit or misconduct in ~~*all*~~ professional reports, statements or testimony. He shall, to the best of his knowledge, include all relevant and pertinent information in such reports, statements or testimony. ~~*(5-8-09)*~~(____)

02. Opinions Based on Adequate Knowledge. A Licensee or Certificate Holder, when serving as an expert or technical witness before any court, commission or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his testimony. (5-8-09)

03. Statements Regarding Public Policy. On matters connected with establishing public policy a Licensee or Certificate Holder shall issue no statements, criticisms or arguments which are paid for by an interested party, or parties, unless he has prefaced his comment by

explicitly identifying himself, by disclosing the identities of the party, or parties, on whose behalf he is speaking, and by revealing the existence of any pecuniary interest he may have in the matters. (5-8-09)

04. Actions in Regard to Other Registrants or Certificate Holders. A Licensee or Certificate Holder shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another Licensee or Certificate Holder, nor shall he indiscriminately criticize another Licensee's or Certificate Holder's work in public. If he believes that another Licensee or Certificate Holder is guilty of fraud, deceit, negligence, incompetence, misconduct or violation of these rules he should present such information to the Board for action. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

011. RULE AND STATUTE VIOLATIONS.

01. Affidavits for Rule and Statute Violations. Any person who believes that a Licensee or Certificate Holder by his actions, or failure to properly act, is guilty of fraud, deceit, negligence, incompetenc~~y~~e, misconduct, or violation of these rules, or any applicable statute, may file a written affidavit with the Executive Director of the Board which shall be sworn to or affirmed under penalty of perjury, signed and in which the alleged rule and statute violations shall be clearly set forth and that the applicable Licensee or Certificate Holder, or both, should be considered for the appropriate disciplinary action by the Board. Following the receipt of such affidavit, the Board may investigate, hold hearings and adjudicate the charges. Proceedings shall be exempt from all statutes of limitations. ~~*(5-8-09)*~~(____)

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

IDAPA 12 - DEPARTMENT OF FINANCE

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 26-31-103, 26-31-204(5), 26-31-302(1)(a), and 26-31-302(2), Idaho Code.

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

There are no changes to the pending rule; therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 38 through 49.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael Larsen, Consumer Finance Bureau Chief, Idaho Department of Finance, P.O. Box 83720, Boise, Idaho 83720-0031; Telephone: (208) 332-8000; Facsimile: (208) 332-8096.

DATED this 2nd day of November, 2009.

Gavin M. Gee
Director
Idaho Department of Finance
800 Park Blvd., Suite 200
Boise, Idaho 83712
(208) 332-8000
Fax: (208) 332-8097

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rules is July 29, 2009.

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 26-31-103, 26-31-204(5), 26-31-302(1)(a), and 26-31-302(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, by no later than September 16, 2009.

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 2009 Idaho Legislature repealed the former Idaho Residential Mortgage Practices Act, Section 26-3101, Idaho Code, and replaced it with a new version of the Idaho Residential Mortgage Practices Act, Section 26-31-101, Idaho Code, (the new Act). The new Act incorporates the standards of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the S.A.F.E. Act), as required by federal law, and includes changes to prior law. Among the changes to Idaho law included in the new Act are:

1. **New requirements for providers of residential mortgage loan and for loan modification services;**
2. **Specific requirements concerning continuing education for licensees under the new Act; and**
3. **Authorization for the Director of the Idaho Department of Finance to limit fees and charges imposed by providers of residential mortgage loan modification services.**

The Director found it necessary to adopt temporary rules to establish consistency with the requirements of the new Act, and to interpret some of such requirements, to include:

1. **Corrections to citation references to the Act;**
2. **Deletion of all continuing education definitions and provisions to reflect statutory changes and the role of the Nationwide Mortgage Licensing System and Registry in testing and education;**
3. **A definition of "application" for a residential mortgage loan and a loan modification;**
4. **A requirement that an "application fee" must be based on actual costs incurred by a licensee, or person required to be licensed under the new Act, in taking the**

application; and

5. **A requirement that a "cancellation fee" may only be charged at the time of, or subsequent to, a request by a borrower to cancel services authorized under the Act and must bear a reasonable relationship to the actual costs incurred for services provided to a borrower up to the point of cancellation.**

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

The Department of Finance was required to update the Rules Pursuant to the Idaho Residential Mortgage Practices Act to establish consistency with the new version of the Idaho Residential Mortgage Practices Act that was adopted by the 2009 Idaho Legislature (the new Act). A portion of the new Act was mandated by the federal government to be in place by July 1, 2009. These changes will ensure that the Department maintains consistency with the requirements of the new Act, which became effective on July 1, 2009.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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 Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the timing of the effective date of the new Idaho Residential Mortgage Practices Act, July 1, 2009, did not provide adequate time to conduct negotiated rulemaking by the effective date of the new Act or within a reasonably short time thereafter, requiring that temporary rules be adopted to establish consistency between the rules and the new Act and interpret some of the new requirements included in the new Act.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact: Michael Larsen, Consumer Finance Bureau Chief, (208) 332-8000.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned at the address set forth above, and must be delivered on or before September 23, 2009.

DATED this 29th day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY (RULE 0).

This chapter is promulgated pursuant to Sections ~~*26-3105(5)*~~ 26-31-103, 26-31-204(5), 26-31-

302(1)(a), and 26-31-302(2), Idaho Code. ~~*(11-1-98)*~~( )

001. TITLE AND SCOPE (RULE 1).
The title of this chapter is "Rules Pursuant to the Idaho Residential Mortgage Practices Act," ~~*of*~~ which rules are administered by the Idaho Department of Finance, and may be cited as IDAPA 12.01.10. These rules ~~*implement*~~ interpret the Idaho Residential Mortgage Practices Act, Title 26, Chapter 31, Idaho Code. ~~*(11-1-98)*~~( )

002. WRITTEN INTERPRETATIONS -- AGENCY ACCESS -- FILINGS (RULE 2).
Written interpretations of these rules are available by mail from the Idaho Department of Finance, P.O. Box 83720, Boise, Idaho 83720-0031. The street address of the agency is Idaho Department of Finance, 800 Park Boulevard, Suite 200, Boise, Idaho 83712. The telephone numbers of the ~~*agency include*~~ Idaho Department of Finance are: (208) 332-8000 - Administration; and (208) 332-8002 - Consumer Finance Bureau. The ~~*telephone*~~ number ~~*of*~~ for the facsimile machine in the Consumer Finance Bureau is (208) 332-8096. All filings with the ~~*agency*~~ Idaho Department of Finance in connection with rulemaking or contested cases shall be made with the Director of the Idaho Department of Finance, and shall include an original and one (1) copy. ~~*(3-30-07)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

005. INCORPORATION BY REFERENCE (RULE 5).
~~*IDAPA 12.01.10,*~~ The "Rules Pursuant to the Idaho Residential Mortgage Practices Act," incorporate~~s~~ 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 Idaho Department of Finance, as noted in Section 002 of these rules. ~~*(3-30-07)*~~( )

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 the Idaho Residential Mortgage Practices Act and these rules, the following definitions apply: ~~*(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)*~~

0~~2~~1. **Act**. Means the Idaho Residential Mortgage Practices Act, Title 26, Chapter 31, Idaho Code. (3-30-06)

02. **Application**. In relation to a "residential mortgage loan" or "loan modification" as defined in the Act, an "application" means a request for a residential mortgage loan or loan

modification and any form or document representing such request. The term "application" does not include the processing of such request. (____)

~~***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)***~~

0~~4~~3. Closing. Means the process of executing legally binding documents regarding a lien on property that is subject to a residential mortgage loan and includes the day agreed upon by a borrower and a licensee or person required to be licensed under the Act to complete such process. ~~(3-30-06)~~(____)

~~***05. Credit Hour**. Means fifty (50) minutes of accredited instruction attained through actual course attendance or an allotted increment of time of accredited instruction through independent study, as predetermined by the director. (5-8-09)***~~

0~~6~~4. 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)***~~

0~~9~~5. Real Estate Settlement Procedures Act. Means the act set forth in 12 USCA 2601, et seq., as amended to and including January 1, 2009. (5-8-09)

~~10~~06. Regulation X. Means Regulation X as promulgated by the Department of Housing and Urban Development and codified in 24 CFR 3500 et seq., as amended to and including January 1, 2009. (5-8-09)

~~11~~07. Regulation Z. Means Regulation Z as promulgated by the Board of Governors of the Federal Reserve System and codified in 12 CFR 226 et seq., as amended to and including January 1, 2009. (5-8-09)

~~***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~~08. Truth in Lending Act. Means the act set forth in 15 USCA 1601 et seq., as amended to and including January 1, 2009. (5-8-09)

007. -- 0~~0~~39. (RESERVED).

~~***010. REQUIREMENTS FOR CONTINUING PROFESSIONAL EDUCATION (RULE 10).***~~

~~***01. Licensee**. For purposes of the "Requirements for Continuing Professional Education" provisions of this rule, the term "licensee" means a person: (3-30-06)***~~

~~***a.** Who is a loan originator licensed under the Act; or (3-30-06)***~~

~~***b.*** *Who is designated pursuant to Section 26-3108, Idaho Code, as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act.* *(3-30-06)*~~

~~***02.*** ***Minimum Requirements****.* *(3-30-06)*~~

~~***a.*** *A loan originator licensed under the Act shall attain sixteen (16) credit hours within each reporting period.* *(3-30-06)*~~

~~***b.*** *Persons designated in the director's files, as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act shall attain sixteen (16) credit hours within each reporting period.* *(3-30-06)*~~

~~***c.*** *Credit hours accrued in excess of the required sixteen (16) credit hours in any reporting period shall not carry over nor be credited to any subsequent reporting period.* *(3-30-06)*~~

~~***03.*** ***Accrual of Credit Hours****.* *(3-30-06)*~~

~~***a.*** *For the purpose of accruing credit hours within any reporting period, a licensee shall attain no less than two (2) credit hours directly related to the Act and these rules.* *(3-30-06)*~~

~~***b.*** *For the purpose of accruing credit hours within any reporting period, a licensee shall attain no less than two (2) credit hours directly related to ethics.* *(5-8-09)*~~

~~***c.*** *For the purpose of accruing credit hours within any reporting period, a licensee shall attain no less than twelve (12) credit hours related to the following:* *(5-8-09)*~~

~~*i.* *Basics of home purchase and ownership;* *(3-30-06)*~~

~~*ii.* *The mortgage industry generally;* *(3-30-06)*~~

~~*iii.* *Loan evaluation and documentation;* *(3-30-06)*~~

~~*iv.* *Features of various loan products;* *(3-30-06)*~~

~~*v.* *State and federally required disclosures;* *(3-30-06)*~~

~~*vi.* *Ethical considerations;* *(3-30-06)*~~

~~*vii.* *The Idaho Credit Code;* *(3-30-06)*~~

~~*viii.* *The Idaho Mortgage Company Act;* *(3-30-06)*~~

~~*ix.* *The Idaho Escrow Act;* *(3-30-06)*~~

~~*x.* *The Idaho Residential Mortgage Practices Act;* *(5-8-09)*~~

~~*xi. Law related to mortgages, deeds of trust, liens, and pledges;* (3-30-06)~~

~~*xii. Real estate and appraisal law;* (3-30-06)~~

~~*xiii. Principal and agency law;* (3-30-06)~~

~~*xiv. Contract law;* (3-30-06)~~

~~*xv. The Real Estate Settlement Procedures Act; or* (3-30-06)~~

~~*xvi. Truth in Lending and the federal Consumer Credit Protection Act.* (3-30-06)~~

~~***c.*** *Accredited instruction shall be of a minimum duration of one (1) credit hour and shall contribute to the goal of maintaining or increasing the knowledge, skill and competence of licensees. The principal focus of accredited instruction shall not be sales, marketing, commercial lending or commercial loan brokering, motivational, or skills pertaining to running a business.* (3-30-06)~~

~~***d.*** *A participant who successfully completes a course of accredited instruction may not repeat that course for credit hours with the same education provider within the same reporting period.* (3-30-06)~~

~~***e.*** *A participant may accrue credit hours within ninety (90) days prior to initial submission of an application for a loan originator license under the Act. Such credit hours shall not accrue to the participant unless the initial license application is subsequently approved by the director and a license is issued. Credit hours shall not be granted to a participant under this provision unless the participant provides the director with a copy of the certificate of completion for such accredited instruction within sixty (60) days of initial licensure.* (3-30-06)~~

~~***f.*** *Persons designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act may accrue credit hours for accredited instruction attended within ninety (90) days prior to the date of approval by the director of such designation.* (3-30-06)~~

~~***g.*** *Persons who, as of January 1, 2006, are designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act may accrue credit hours for accredited instruction completed on or after October 1, 2005.* (3-30-06)~~

~~***04. Recordkeeping and Reporting of Accrued Credit Hours.*** (3-30-06)~~

~~***a.*** *Every licensee shall maintain copies of certificates of completion for a period of no less than three (3) years following completion of the accredited instruction.* (3-30-06)~~

~~***b.*** *The initial reporting period for a loan originator licensed under the Act shall commence on November 1st immediately succeeding his initial licensure.* (3-30-06)~~

~~***c.*** *The initial reporting period for persons who are not loan originators, but who*~~

~~*have been designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act shall commence:* *(3-30-06)*~~

~~*i. On November 1, 2006, if the person has been so designated prior to November 1, 2006; or* *(3-30-06)*~~

~~*ii. On November 1st immediately following the director's approval of the person's designation, if the person is so designated on or after November 1, 2006.* *(3-30-06)*~~

~~***d.*** *Within thirty (30) days following the expiration of each reporting period a licensee shall deliver copies of certificates of completion to the director demonstrating the licensee's completion of the credit hours required under these rules.* *(3-30-06)*~~

~~***e.*** *A licensee who fails to attain the credit hours required by these rules, or fails to maintain records as required in Section 010 of these rules, or fails to timely report compliance with the credit hour requirements of these rules shall be subject to license revocation or suspension as prescribed in Section 26-3109, Idaho Code.* *(3-30-06)*~~

~~***f.*** *Upon revocation or suspension of a license issued under the Act for failure to complete or report credit hour requirements, no person shall obtain a new license or a reinstated license in the case of a license suspension, as a loan originator, mortgage broker or mortgage lender without first satisfying the credit hour requirements, which, having been previously incomplete or not reported, were the cause of the license revocation or suspension.* *(3-30-06)*~~

~~***011. EDUCATION PROVIDERS AND CONTENT OF CONTINUING PROFESSIONAL EDUCATION (RULE 11).***~~

~~***01. Submission of Continuing Professional Education Courses for Accreditation by the Director****. Education provider applicants shall submit an application, in a form provided by the director, for accreditation of continuing professional education for each instructional course proposed to be offered by the education provider applicant. The application shall be accompanied by a non-refundable application fee of two hundred fifty dollars ($250) and shall include, but not be limited to, the following information:* *(3-30-06)*~~

~~***a.*** *The name and address of the education provider and date(s) on and locations at which the program is to be offered;* *(3-30-06)*~~

~~***b.*** *The qualifications and experience of the education provider's principal officers, staff, and instructor(s);* *(3-30-06)*~~

~~***c.*** *The costs of all programs for which approval is sought;* *(3-30-06)*~~

~~***d.*** *A copy of the proposed course materials together with a description of each course for which approval is sought; and* *(3-30-06)*~~

~~***e.*** *A sample of what is provided to participants to verify course completion.(3-30-06)*~~

~~***02. Granting of Accreditation of Professional Education Courses****. The director shall*~~

~~*grant accreditation to continuing professional education courses if he finds:* (3-30-06)~~

~~***a.*** *That the course constitutes an organized program of learning which provides instruction on subject matter as described in Subsection 010.03 of these rules;* (3-30-06)~~

~~***b.*** *That course materials are prepared, and instruction conducted, by an individual or group qualified by practical or academic experience in the subject or subjects to be presented;* (3-30-06)~~

~~***c.*** *That the course shall be presented in a setting physically suited to the educational activity or in a manner which allows for participant interaction and comprehension of course materials. Training facilities for live class settings shall be easily accessible and comply with all applicable state and federal laws, including, but not limited to, the Americans With Disabilities Act of 1990;* (3-30-06)~~

~~***d.*** *That course outlines, syllabi, workbooks, examinations, study guides, or other instructional material are of a high quality, readable, and carefully prepared and relevant to the course of study offered; and* (3-30-06)~~

~~***e.*** *That the prospective education provider's application is complete and truthful.* (3-30-06)~~

~~***03.*** ***Review of Accredited Instruction****.* (3-30-06)~~

~~***a.*** *An education provider shall designate one (1) person as its contact person who shall be available to the director, or to his designated representative, during ordinary business hours and shall be knowledgeable and have authority to act with regard to all administrative matters concerning instructors, scheduling, advertising, recordkeeping, and supervising all programs offered by the education provider.* (3-30-06)~~

~~***b.*** *The director may periodically review the content and facilitation of accredited instruction for the purposes of verifying that such accredited instruction continues to meet the requirements of these rules.* (3-30-06)~~

~~***c.*** *The education provider shall be required to permit the director, or the director's representative, to audit the accredited instruction and course material at no cost to the director or to the director's representative. The audit shall evaluate whether the accredited instruction meets the requirements of these rules. The education provider shall permit the director or the director's representative to review records appropriate to selected course offerings. Upon a finding that accredited instruction no longer meets the requirements of these rules, the director may suspend or revoke the approval of the accredited instruction. The education provider shall be responsible for payment of audits conducted under Section 011 of these rules.* (3-30-06)~~

~~***d.*** *Education providers shall notify the director of any material changes which have been made to accredited instruction within thirty (30) days of such changes. Material changes include changes materially affecting the content or facilitation of accredited instruction as it applies to the requirements of Subsection 011.02 of these rules.* (3-30-06)~~

~~***e.*** *Within thirty (30) days of conclusion of a course of accredited instruction, an education provider shall submit to the director an attendance roster in a form prescribed by the director. Education providers shall maintain records related to participant attendance and completion of accredited instruction for a period of no less than three (3) years.* *(3-30-06)*~~

~~***04.*** ***Suspension of Accreditation****. The accreditation of a continued professional education course may be suspended if the director determines that:* *(3-30-06)*~~

~~***a.*** *The accredited instruction teaching method or program content no longer meets the standards of these rules, or have been materially changed without notice to the director as required; or* *(3-30-06)*~~

~~***b.*** *The education provider granted a certificate of completion when in fact the participant had not satisfactorily completed the accredited instruction; or* *(3-30-06)*~~

~~***c.*** *The education provider failed to grant a certificate of completion to a participant when in fact the participant had satisfactorily completed the accredited instruction; or* *(3-30-06)*~~

~~***d.*** *The education provider or any of its instructors have had a mortgage license revoked or suspended in any jurisdiction; or* *(3-30-06)*~~

~~***e.*** *There is other good cause why accreditation should be suspended.* *(3-30-06)*~~

~~***05.*** ***Reinstatement of Accreditation****. Reinstatement of a suspended accreditation will be made upon the furnishing of proof satisfactory to the director that the conditions responsible for the suspension have been corrected.* *(3-30-06)*~~

~~***06.*** ***Renewal of Approval of Accredited Instruction****. The director's accreditation of a continuing professional education course shall expire two (2) years from the date of issuance and thereafter on each subsequent two (2) year anniversary of the renewal date. Application for renewal of accreditation shall be filed by not later than sixty (60) days prior to each such expiration date and shall be accompanied by a non-refundable renewal fee of one hundred fifty dollars ($150). Applications for renewal of accreditation shall be in a form prescribed by the director and shall include documentation demonstrating that the accredited instruction continues to meet the requirements of Subsection 011.02 of these rules.* *(3-30-06)*~~

~~***07.*** ***Prohibited Practices****.* *(3-30-06)*~~

~~***a.*** *No person shall represent, in any manner that an instructional course has received approval or accreditation from the director or, that participants will receive credit hours for attendance and completion of an instructional course, unless such course has been approved by the director.* *(3-30-06)*~~

~~***b.*** *No person shall misrepresent, circumvent or conceal, through whatever subterfuge or device, any of the material particulars of the status, content, or facilitation of an instructional course offered to participants for the purposes of meeting the continuing professional education requirements of these rules.* *(3-30-06)*~~

~~012. PRESUMPTIVE ACCREDITATION (RULE 12).~~

~~01. Instructional Courses Presumptively Accredited. Instructional courses that cover subject matter set forth in Subsection 010.03 of these rules, that are provided by the following listed organizations, or by such other organizations as may be determined by the director, are presumptively accredited and no request for accreditation of an instructional course offered by these organizations is required, unless the director determines otherwise. (3-30-06)~~

~~a. The Idaho Department of Finance. (3-30-06)~~

~~b. The National Association of Mortgage Brokers. (3-30-06)~~

~~c. The Mortgage Bankers Association. (3-30-06)~~

~~d. The National Association of Professional Mortgage Women. (3-30-06)~~

~~e. The Idaho Housing and Finance Association. (3-30-06)~~

~~f. Federal National Mortgage Association. (3-30-06)~~

~~g. Federal Home Loan Mortgage Corporation. (3-30-06)~~

~~h. The American Bankers Association. (3-30-06)~~

~~i. Regulatory agencies of any state or of the United States that have regulatory authority over mortgage related activity. (3-30-06)~~

~~j. Institutions of higher education accredited by the Idaho State Board of Education or by similar accrediting agencies of any other state. (3-30-06)~~

~~k. The Conference of State Bank Supervisors. (3-30-06)~~

~~l. The American Association of Residential Mortgage Regulators. (3-30-06)~~

~~02. Acceptance of Credit Hours for Presumptively Accredited Instruction. Credit hours for presumptively accredited instruction may be credited to participants in the following manner: (3-30-06)~~

~~a. Upon timely submission of a copy of a certificate of completion as set forth in Subsection 010.04 of these rules; or (3-30-06)~~

~~b. By written application by the participant, in a form prescribed by the director, within ninety (90) days of successful course completion. The application shall be accompanied by a non-refundable fee of twenty-five dollars ($25). (5-8-09)~~

~~013. – 039. (RESERVED).~~

040. DECEPTIVE ADVERTISING (RULE 40).

01. Advertising. Advertising means making or permitting to be made any oral, written, graphic or pictorial statements, in any manner, in the course of the solicitation of business authorized under the Act. Deceptive advertising is defined to include the following practices by a licensee, or a person required to be licensed under the Act: ~~*(3-30-06)*~~(____)

a. Making a representation or statement of fact in an advertisement if the representation or statement is false or misleading, or if the licensee or person required to be licensed under the Act does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based. ~~*(11-1-98)*~~(____)

b. Advertising without clearly and conspicuously disclosing the ~~*licensee's*~~ business name and unique identifier assigned by the Nationwide Mortgage Licensing System and Registry (NMLSR) to the licensee or person required to be licensed under the Act. ~~*(11-1-98)*~~(____)

c. Engaging in bait and switch advertising or misrepresenting, directly or indirectly, the terms, conditions or charges incident to ~~*the mortgage loan being advertised*~~ services authorized under the Act. Bait and switch advertising, for the~~*se*~~ purposes of these rules, means ~~*an alluring, but insincere offer to procure, arrange, or otherwise assist a borrower in obtaining a mortgage loan on terms which the licensee cannot, does not intend, or want to provide, or which the licensee knows cannot be reasonably provided. Its purpose is to switch borrowers from obtaining the advertised mortgage loan product to obtaining a different mortgage loan product, usually at a higher rate or on a basis more advantageous to the licensee*~~ advertising services without the intent to provide them but, rather, to lure a person into making an application for services and then switch the person from obtaining the advertised services to other or different services on a basis more advantageous to the licensee or person required to be licensed under the Act. ~~*(3-30-06)*~~(____)

d. ~~*Advertising*~~ Using an address in advertising at which the licensee or person required to be licensed under the Act conducts no mortgage brokering, ~~*or*~~ mortgage lending, or mortgage loan origination activities or for which the licensee or person required to be licensed does not hold a license. ~~*(3-30-06)*~~(____)

e. Advertising or soliciting in a manner that has the effect of misleading a person to believe that the advertisement or solicitation is from a person's current mortgage holder, a government agency, or that an offer is a limited opportunity, when such is not the case. ~~*(3-30-06)*~~(____)

041. -- 049. (RESERVED).

050. WRITTEN DISCLOSURES (RULE 50).

01. ~~*Upon*~~ Receipt of an ~~*Residential Mortgage Loan*~~ Application. Upon receipt of an ~~*residential mortgage loan*~~ application as defined in Subsection 006.02 of these rules, and before receipt of any moneys from a borrower, a licensee or person required to be licensed under the Act shall disclose to each borrower information about the licensee or person required to be licensed under the Act, ~~*in a form acceptable to the Director, information about the licensee, the services that a licensee may provide and the services that the licensee will provide*~~ including the services

that may be provided and the services that will be provided, in a form acceptable to the Director. ~~*(3-30-06)*~~( )

02. Information Provided Within Three Days. Within three (3) business days after receipt of a residential mortgage loan application, a licensee or person required to be licensed under the Act shall provide to the borrower the following disclosures specific to the residential mortgage loan application: ~~*(3-30-06)*~~( )

a. Disclosures in compliance with the requirements of the ~~*federal*~~ Truth-in-Lending Act and Regulation Z. These include the annual percentage rate, finance charge, amount to be financed, total of all payments, number of payments, amount of each payment, and amount of points or prepaid interest~~;~~. ~~*and if*~~ If the loan is a variable rate loan, such disclosures shall include the circumstances under which the rate may increase, any limitation on the increase, the effect of an increase on the monthly payment amount, ~~*and*~~ the total interest to be paid, and an example of the payment terms resulting from an increase ~~*for a loan in the approximate amount of the loan that is being requested*~~ in the amount of the loan and fees associated with the loan. ~~*(11-1-98)*~~( )

b. Disclosures through good faith estimates of settlement services in compliance with the requirements of the ~~*federal*~~ Real Estate Settlement Procedures Act and Regulation X. ~~*These*~~ Such disclosures include the itemized costs of any credit report, appraisal, title report, title insurance policy, mortgage insurance, premium pricing, escrow fee, loan closing fee, property tax, insurance premium, structural or pest inspection, and any mortgage broker or mortgage ~~*banker*~~ lender fees associated with the residential mortgage loan. ~~*(11-1-98)*~~( )

03. Interest Rate Lock-In Agreement Not Entered. If, at the time of a residential mortgage loan application, an interest rate lock-in agreement has not been entered, disclosure shall be made to the borrower, in a form approved by the director, that the disclosed interest rate and terms are subject to change. A licensee or person required to be licensed under the Act shall provide such disclosure to the borrower within three (3) business days of ~~*the licensee's*~~ receipt by the licensee or person required to be licensed under the Act of an application for a residential mortgage loan. ~~*(3-30-06)*~~( )

04. ~~*Licensee Enters into a*~~ Lock-In Agreement Entered. If a licensee or person required to be licensed under the Act enters into an interest rate lock-in agreement with a lender or represents to the borrower that ~~*the licensee has entered into*~~ a lock-in agreement has been entered into, then within no more than three (3) business days thereafter, including Saturdays, the licensee or person required to be licensed under the Act shall deliver or send by first-class mail to the borrower a written confirmation of the term of the lock-in agreement. ~~*(3-30-06)*~~( )

05. Loan Modification Confirmation. Within three (3) business days, including Saturdays, of receipt of a notice from a creditor or its agent of a loan modification offer, a licensee or person required to be licensed under the Act shall deliver or send by first-class mail to the borrower a written confirmation of the terms of the loan modification offer. Such confirmation shall include information regarding proposed rates, payments, and loan balance. ( )

0~~5~~6. ~~*In*~~ Additional ~~*to*~~ Disclosures Required. In addition to the disclosures required under Subsection 050.02 of these rules, if a prepayment penalty ~~*may be*~~ is a condition of a

residential mortgage loan offered by a licensee or person required to be licensed under the Act, that fact shall be separately disclosed in writing to the borrower by the licensee or person required to be licensed under the Act. ~~*The*~~ Such disclosure shall state that a prepayment penalty provision imposes a charge if the borrower refinances or pays off the residential mortgage loan before the date for repayment stated in the loan agreement. This written disclosure shall be in a form approved by the ~~*d*~~Director, and shall be delivered to the borrower within three (3) business days of ~~*the licensee's*~~ receipt by the licensee or person required to be licensed under the Act of an application for a residential mortgage loan. ~~*(3-30-06)*~~(____)

051. RESTRICTIONS ON FEES (RULE 51).
If a licensee or person required to be licensed under the Act imposes fees authorized by Section 26-31-210 of the Act, the following restrictions apply, subject to the Director's authority to set limits on fees and charges pursuant to Section 26-31-204(6) of the Act: (____)

01. Application Fee. An application fee shall include only the actual costs incurred by a licensee or person required to be licensed under the Act in connection with the taking of an application and transcribing application information. (____)

02. Cancellation Fee. A cancellation fee may only be charged at the time of, or subsequent to, a request or instruction by a borrower to a licensee or person required to be licensed under the Act to cancel a request for services authorized under the Act. Such fee must bear a reasonable relationship to the actual costs incurred by the licensee or person required to be licensed under the Act for services provided to a borrower up to the borrower's request or instruction to cancel the request for services. A cancellation fee must comply with the requirements of Regulation Z, when applicable. (____)

05~~1~~2. -- 059. (RESERVED).

060. PROHIBITED PRACTICES (RULE 60).

~~***01. Prohibited Practices.***~~ It shall be a prohibited practice for any licensee, or person required to be licensed under the Act, in connection with offering or providing services authorized under the Act, to: ~~*(3-30-06)*~~(____)

~~***a***~~**01. Make False or Misleading Statements**. Make any representation or statement of fact, or omit to state a material fact, if the representation, statement or omission is false or misleading or has the tendency or capacity to be misleading, or if the licensee or ~~*lender*~~ person required to be licensed under the Act does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based. Such claims or omissions include, but are not limited to, the availability of funds, terms, conditions, ~~*or*~~ changes incident to the mortgage transaction, prepayment penalties, ~~*and*~~ the possibility of refinancing, and the likelihood of successfully obtaining specific mortgage loan modification terms.
~~*(11-1-98)*~~(____)

~~***b***~~**02. Fail to Disburse Funds Timely**. Fail to disburse funds in a timely manner, in accordance with any commitment or agreement with the borrower, either directly or through a mortgage broker: ~~*(11-1-98)*~~(____)

~~i~~**a.** Either immediately upon closing of the loan in the case of a purchase/sale transaction; or (11-1-98)

~~ii~~**b.** Immediately upon expiration of the three (3) day rescission period in the case of a refinancing, or taking of a junior mortgage on the existing residence of the borrower. (3-30-06)

~~iii~~**c.** For the purposes of this ~~*paragraph*~~ Subsection, the term "immediately" represents a period of time no greater than seventy-two (72) hours. ~~*(3-30-06)*~~(____)

~~*c*~~**03. Fail to Provide Reasonable Opportunity for Document Review**. Fail to give the borrower, upon the borrower's verbal or written request, a reasonable opportunity of at least twenty-four (24) hours prior to closing to review every document to be signed or acknowledged by the borrower for the purpose of obtaining a residential mortgage loan, and every document ~~*which*~~ that is required pursuant to these rules, and other applicable laws, rules or regulations. ~~*(3-30-06)*~~(____)

~~*d*~~**04. Require Excessive Insurance**. Require a borrower to obtain or maintain fire insurance or other hazard insurance in an amount that exceeds the replacement value of the improvements to the real estate. ~~*(3-30-06)*~~(____)

~~*e*~~**05. Engage in Deceptive Advertising**. Engage in any deceptive advertising as set forth in Section 040 of these rules. ~~*(11-1-98)*~~(____)

~~*f*~~**06. Provide or Offer Services Without a License or Approval**. Provide or offer to provide any services, for compensation or gain, or in the expectation of compensation or gain, incident to services authorized under the Act, such as ~~*credit repair, credit or debt counseling,*~~ investment advising, real estate brokerage services, tax or legal advice, unless the person offering such services has first obtained a license or the approval required by the appropriate licensing authority to engage in the offering of such services. ~~*(3-30-06)*~~(____)

061. -- 089. (RESERVED).

090. BORROWERS UNABLE TO OBTAIN LOANS (RULE 90).
If, for any reason, a licensee ~~*does not*~~ or person required to be licensed under the Act fails to obtain a residential mortgage loan for a borrower that is satisfactory to the borrower, and the borrower has paid for an appraisal, the licensee or person required to be licensed under the Act shall ~~*give*~~ provide a copy of the appraisal to the borrower and transmit and assign original appraisal reports, along with any other documents provided by the borrower, to any other ~~*licensee or person exempt from licensure*~~ person to whom the borrower directs that the documents be transmitted. The licensee or person required to be licensed under the Act shall provide ~~*the*~~ such copies or transmit ~~*the*~~ such documents within three (3) business days after the borrower makes the request in writing. ~~*(3-30-06)*~~(____)

091. -- 099. (RESERVED).

100. ~~*LEGAL AUTHORITY*~~ IDAHO LEGISLATURE'S DETERMINATION AND THE DIRECTOR'S AUTHORITY (RULE 100).
In Section ~~*26-3105(2), Idaho Code*~~ 26-31-103(1) of the Act, the Idaho Legislature determined

that a uniform multistate administration of an automated license system for mortgage brokers, mortgage lenders and mortgage loan originators is consistent with both the public interest and the purposes of the Idaho Residential Mortgage Practices Act~~, *Chapter 31, Title 26, Idaho Code (the Act)*~~. In Section ~~*26-3105(2)(b), Idaho Code*~~ 26-31-103(2)(b) of the Act, the Idaho Legislature authorized the Director of the Idaho Department of Finance to establish by rule such new requirements as are necessary for the state of Idaho to participate in a uniform multistate automated licensing system upon the Director's finding that such new requirements are consistent with both the public interest and the purposes of the Act. The Director finds that the requirements set forth in Sections 100 and 101 of these rules are consistent with the public interest and the purposes of the Act, and therefore promulgates such rules pursuant to Section ~~*26-3105(2)(b), Idaho Code*~~ 26-31-103(2)(b) of the Act. ~~*(5-8-09)*~~(____)

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

01. The Nationwide Mortgage Licensing System and Registry (NMLSR). The NMLSR is an ~~*i*~~Internet-based filing depository operated by the State Regulatory Registry, LLC (SRR), a wholly-owned operating subsidiary of the Conference of State Bank Supervisors (CSBS). The NMLSR is designed to accept license applications and license renewal applications electronically from mortgage brokers, mortgage lenders, and mortgage loan originators; collect associated statutory filing fees on behalf of participating jurisdictions, as well as the expenses associated with an applicant's or licensee's participation in the NMLSR; and provide the public with Internet-based access to information concerning ~~*state-regulated*~~ mortgage brokers, mortgage lenders, and mortgage loan originators. The NMLSR began accepting electronic filings of applications from ~~*state-regulated*~~ mortgage brokers, mortgage lenders, and mortgage loan originators from Idaho on January ~~*2*~~1, 2008. ~~*(5-8-09)*~~(____)

02. Reasonable Access to the NMLSR. All mortgage brokers, mortgage lenders, and mortgage loan originators with reasonable access to the NMLSR via the Internet who seek a license under the Act, or who wish to retain a license previously issued under the Act, must do so through the NMLSR. Applicants for a license or licensees who wish to retain a license under the Act who lack reasonable access to the NMLSR via the Internet may, upon prior approval of the Director and good cause shown, be excused from participation in the NMLSR and may apply for a license or for license renewal through an alternative method designated by the Director. ~~*(5-8-09)*~~(____)

03. Licensing. Mortgage brokers, mortgage lenders, and mortgage loan originators who seek to obtain or retain a license under the Act through the NMLSR must pay the charge imposed and retained by the NMLSR to fund the costs of the NMLSR associated with an applicant's or licensee's participation in the system. ~~*(5-8-09)*~~(____)

04. Statutory Fees. The NMLSR shall collect any statutory fees on ~~*the Department's*~~ behalf ~~*any statutory fees*~~ of the Idaho Department of Finance that are required to be paid to the Idaho Department of Finance by license applicants and licensees pursuant to the Idaho Residential Mortgage Practices Act. The NMLSR is required to forward to the Idaho Department of Finance all statutory fees it collects on ~~*the Department's*~~ behalf of the Idaho Department of Finance, pursuant to the terms of a written agreement between the Idaho Department of Finance and the SRR. ~~*(5-8-09)*~~(____)

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.13 - LIFE SETTLEMENTS

DOCKET NO. 18-0113-0901 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The effective date of the amendments to the temporary rule is January 1, 2010. This pending rule has been adopted by the agency and is now pending review by the 2010 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 Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and is also amending a temporary rule. The action is authorized pursuant to Sections 41-211 and 41-1965, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting 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:

The pending rule pertaining to Life Settlements incorporates changes that were made as a result of written comments received during the promulgation process. The following changes were made:

Section 010.03 of the rule has been changed to correct a reference to the Idaho Code.

Section 012.02.e of the rule has been changed to clarify the prohibition on advertising designed to encourage the purchase of life insurance for the purpose of transferring the insurance to investors.

Section 016.03 has been changed to require insurers to provide notice in writing when a request for verification is determined by the insurer to be incomplete.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions that have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the August 5, 2009, Idaho Administrative Bulletin, Vol. 09-8, pages 83 - 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: No negative impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions

concerning the pending rule and the amendment to temporary rule, contact Shad Priest, at 208/334-4250.

DATED this 10th day of November, 2009.

William W. Deal, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720, Boise ID 83720-0043
Phone: 208/334-4250
Fax: 208/334-4398

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 1, 2009.

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 41-1965, 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 19, 2009.

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 rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking implements House Bill 75, the Idaho Life Settlements Act, which became effective July 1, 2009. It sets forth procedures for registering as a life settlement broker or provider, requirements for filing with the Department of Insurance life settlement contracts, disclosure forms and advertising materials, sets forth disclosure requirements, and clarifies the process for rescinding a life settlement contract and requirements for life settlements that occur within two years of the policy effective date.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reason: The rule is necessary to implement a change to the governing law that took effect

July 1, 2009.

FEE SUMMARY: The following is a descriptive summary of the fee or charge being imposed or increased: The rule does not impose or increase a fee.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the change is required by a change to the governing law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Shad Priest at 208-334-4214 or Shad.Priest@doi.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 26, 2009.

DATED this 1st day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

IDAPA 18
TITLE 01
CHAPTER 13

18.01.13 - LIFE SETTLEMENTS

000. LEGAL AUTHORITY.
This rule is promulgated and adopted pursuant to the authority vested in the director under Sections 41-211and 41-1965, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. This Rule shall be cited in full as Idaho Department of Insurance Rule IDAPA 18.01.13, "Life Settlements." ( )

02. Scope. This rule sets forth requirements regarding the sale and settlement of life insurance contracts where the owner of the contract is an Idaho resident. ( )

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that 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. ( )

003. ADMINISTRATIVE APPEALS.
All administrative appeals shall be governed by Title 41, Chapter 2, 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 - General Provisions. ( )

004. INCORPORATION BY REFERENCE.
No documents are 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, Chapter 3, Title 9, Idaho Code. ( )

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Advertising Materials. ( )

a. Printed and published material, audio visual material, and descriptive literature of a broker or provider 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; ( )

b. Descriptive literature and sales aids of all kinds issued by a provider or broker for presentation to members of the insurance buying public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters; and ( )

c. Prepared sales talks, presentations and material for use by providers and brokers. ( )

02. Affiliation. For purposes of this rule and the Life Settlements Act, an affiliation shall include any contractual relationship outside of the proposed life settlement contract, any ownership interest or relation, any familial relation, an employment relation, any relationship creating financial dependency, any arrangement that provides one party the ability to control or influence the actions of another party, or any other arrangement or relationship that might reasonably result in parties treating one another in a less than arm's length manner. ( )

03. Broker. A life settlement broker as defined at section 41-1951(~~7~~6), Idaho Code. ~~*(8-1-09)T*~~( )

04. Operating as a Broker. A person is operating as a broker if the person, for a fee, commission or other valuable consideration, offers or attempts to negotiate a life settlement contract between an owner who is a resident of Idaho and one or more providers. A person working on behalf of a broker by offering or attempting to negotiate a life settlement contract for a fee, commission or other valuable consideration is operating as a broker regardless of whether the person has a direct contractual relationship with the owner. ( )

05. Operating as a Provider. A person is operating as a provider if the person offers to enter into or attempts to effectuate a life settlement contract with an owner who is a resident of Idaho. A person attempting to effectuate a life settlement contract on behalf of a provider is also operating as a provider regardless of whether the person will be a party to the life settlement contract. ( )

06. Owner. A life insurance owner or certificate holder as defined at section 41-1951(9), Idaho Code. ( )

07. Provider. A life settlement provider as defined at section 41-1951(8), Idaho Code. ( )

011. REGISTRATION REQUIRED TO OPERATE AS LIFE SETTLEMENT PROVIDER OR LIFE SETTLEMENT BROKER.

01. Producer License Required. No person shall operate as a broker or provider unless the person is first licensed with the Department of Insurance as a producer authorized to transact the business of life insurance in Idaho. ( )

02. Registration Required. Not later than ten (10) days after first operating as a provider or broker a person shall notify the Director that he is acting as a provider or broker by registering with the Department and paying applicable fees as set forth at IDAPA 18.01.44, "Schedule of Fees, Licenses and Miscellaneous Charges". Registration shall be in writing and shall be in the form and include information as required by the Director along with a certification from the applicant that he has read and familiarized himself with the requirements of Sections 41-1950 through 41-1965, Idaho Code, and these rules. ( )

03. Renewal of Registration. Registration as a broker or provider shall continue until the next renewal date of the person's producer license. If the initial registration takes place within ninety (90) calendar days from the producer license expiration date, registration shall continue until the following producer license renewal date. Registration may be renewed by payment of the applicable renewal fee as set forth at IDAPA 18.01.44, "Schedule of Fees, Licenses and Miscellaneous Charges". An insurance producer who allows his registration as a broker or provider to lapse may, within twelve (12) months from the renewal due date, reinstate the registration by paying a penalty in the amount of double the unpaid renewal fee. If a registration is allowed to lapse for more than twelve (12) months without reinstatement, a producer wishing to act a broker or provider shall re-register with the Department and pay the applicable registration fee prior to operating as a broker or provider. ( )

012. FILING OF FORMS.

01. Filing of Life Settlement Contracts and Disclosure Forms. No person shall use a life settlement contract or disclosure form in Idaho unless the form is first filed with the Department along with a certification that the form meets the requirements of Sections 41-1950 through 41-1965, Idaho Code. The certification shall be in the form as prescribed by the Director and signed by a person registered as a provider or broker. ( )

02. Filing of Advertising Materials. No person shall use advertising materials promoting or advertising the availability of life settlements or life settlement services in Idaho unless the materials are first filed with the Department. If the advertising is not in written form, a written script shall be filed. All advertising relating to the business of life settlements shall have a unique identifying form number in the lower left hand corner of the advertising piece and shall comply the following standards: ( )

a. Be truthful and not misleading in fact and implication. All information shall be set out conspicuously and in close conjunction with the statements to which such information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading. ( )

b. Reference the complete form number of any life settlement contract being advertised and clearly identify the full and complete name of the provider or broker using the promotional material. Advertising materials shall not use a trade name, any insurance group designation, name of the parent company of the provider or broker, name of a particular division of the provider or broker, service mark, slogan, symbol or other device which would have the capacity and tendency to mislead or deceive as to the true identity of the provider or broker without disclosing the name of the actual provider or broker using the advertising material.( )

c. 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 sellers or prospective sellers as to the nature or extent of any policy benefit payable. The fact that the contract offered is made available to a prospective seller for inspection prior to consummation of the sale or an offer is made to rescind the life settlement contract if the seller is not satisfied, does not remedy misleading statements. ( )

d. Advertising materials shall not use words or phrases in a manner which exaggerates any benefits beyond the terms of the life settlement contract and shall fairly and accurately describe the negative features as well as the positive features of the life settlement contract and life settlement program. An advertisement shall not represent or imply that life settlements by the provider are "liberal" or "generous," or use words of similar import, or that benefits of a life settlement are or will be beyond the actual terms of the life settlement contract. ( )

e. Advertising materials shall not be designed to encourage or promote the purchase of life insurance for the purpose of transferring ownership ~~*through a life settlement contract*~~ *to third party investors who lack an insurable interest in the in the life of the insured*. ~~*(8-1-09)T*~~*( )*

f. An advertisement shall not create the impression directly or indirectly that a provider, a broker, its financial condition or status, a life settlement contract or program, or the payment of life settlement benefits is approved, endorsed, or accredited by any division or agency of this state or the United States Government. ( )

g. Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the life settlement contract advertised and be accurately reproduced. A provider or broker using a testimonial makes as its own all of the statements contained therein, and the advertisement, including such statement, is subject to all the provisions of these rules. If the person making a testimonial, an endorsement or an appraisal has a financial interest in the provider or broker, or a related entity as a stockholder, director, officer, employee, or otherwise, such fact shall be disclosed in the advertisement. If a person is compensated for making a testimonial, endorsement or appraisal, such fact shall be disclosed in the advertisement by language substantially as follows: "Paid Endorsement." ( )

h. The source of any statistics used in an advertisement shall be identified in the advertisement. ( )

03. Font Size for Printed Materials. Pertinent text of all printed materials required to be filed with the director under the Life Settlement Act, including, but not limited to, notices, disclosure forms, contract forms, and advertising material, is required to be formatted using at least a twelve (12) point font. Signature blocks, footnotes or text not relevant to the understanding of the printed material may be printed in a smaller font, but in no case smaller than a ten (10) point font. ( )

04. Disapproval of Noncompliant Forms. The Director may disapprove for use in Idaho any form required to be filed pursuant to this Section if, in the opinion of the Director, the form does not comply with any part of Title 41, Idaho Code, or these rules, or the form is unreasonable in its terms, contrary to the interests of the public, misleading to the public, unfair to the owner, or is printed or provided in a manner making any part of the form substantially illegible. ( )

013. ANNUAL REPORTING REQUIREMENTS.
All persons registered with the Director as a provider shall file with the Director, on or before

March 1st of each year, an annual statement in the form and containing information as set forth at Appendix A. The forms are available from the Department of Insurance. An annual report is required regardless of whether any life settlement contracts with Idaho owners were executed during the year. ( )

014. EXAMINATION AND RECORDS.

Brokers and providers are subject to examination by the Director in accordance with Chapter 2, Title 41, Idaho Code, and shall pay, at the direction of the Director, the actual travel expenses, reasonable living expense allowance, and reasonable compensation incurred on account of the examination upon presentation of a detailed account of the charges and expenses. ( )

015. REQUIRED DISCLOSURES TO OWNER.

01. Disclosure to Owner Upon Application. A broker or provider shall not provide an owner with an application for a life settlement contract unless the owner has also been provided a disclosure form containing all the information required by Idaho Code, 41-1956 and in substantially the same form as set forth at Appendix B. The disclosures shall be provided in a separate document in at least twelve (12) point font. Each page of the disclosure document shall be initialed by the owner indicating that it has been received and read by the owner, and the final page shall be dated and signed by the owner and the broker or provider that delivered the disclosure document to the owner. ( )

02. Disclosures to Owner by Provider Upon Settlement. Prior to the time an owner signs a life settlement contract, the provider shall provide the owner a disclosure form containing all the information required by Idaho Code 41-1957 and in substantially the same form as set forth at Appendix C. The disclosures may be made by a separate document or included as a part of the life settlement contract. If the disclosures are included in the life settlement contract, they shall be conspicuously displayed in the contract by segregating the disclosures from the rest of the contract on a separate page or as a separate section using at least twelve (12) point font and with a heading in bold font stating: "Important Disclosures Required by Law." Each disclosure page of the life settlement contract shall be initialed by the owner indicating that the owner has read the page. If the disclosures are provided in a separate document, each page of the document must be initialed by the owner and the final page shall be dated and signed by the owner and the provider. ( )

03. Disclosure to Owner by Broker Upon Settlement. Prior to the time an owner signs a life settlement contract, the broker shall provide the owner a disclosure form containing all the information required by Idaho Code 41-1958 and in substantially the same form as set forth at Appendix D. The disclosures may be made by a separate document or included as a part of the life settlement contract. If the disclosures are included in the life settlement contract, they shall be conspicuously displayed in the contract by segregating the disclosures from the rest of the contract on a separate page or as a separate section using at least twelve (12) point font, and a heading in bold font stating: "Important Disclosures Required by Law." Each disclosure page of the life settlement contract shall be initialed by the owner indicating that the owner has read the page. If the disclosures are provided in a separate document, each page of the document must be initialed by the owner and the final page shall be dated and signed by the owner and the broker. ( )

04. Affiliations to be Disclosed. As a part of the disclosures required under this Section, a provider shall disclose in writing to the owner any affiliation between the provider and the issuer of the insurance policy to be settled, and a broker shall disclose in writing any affiliation or contractual arrangement between the broker and any person making an offer in connection with a proposed life settlement contract. ( )

016. ADDITIONAL REQUIREMENTS.

01. Owner's Statement. ( )

a. Prior to entering into a life settlement contract, the provider shall obtain from each owner a written statement in substantially the following form: "I, [owners name], have freely and voluntarily consented to the life settlement contract that accompanies this statement. I have carefully read my insurance policy that is the subject of the life settlement contract and I understand the benefits that are available under the policy. I further understand that by entering into the life settlement contract, the right to benefits under the insurance policy will be sold to another party and I, my heirs or former beneficiaries will no longer have any right to receive those policy benefits." ( )

b. If the owner has a terminal or chronic illness, the following wording shall also be included in the owner's statement: "I am currently suffering from a terminal or chronic illness that was not diagnosed until after the policy that is the subject of the life settlement contract was issued." ( )

c. The statement of the owner must also be acknowledged by a notary public. ( )

02. Owner's Right to Rescind Life Settlement Contract. ( )

a. The life settlement contract shall conspicuously inform the owner in bold type of at least twelve (12) point font that the owner has an absolute right to rescind a life settlement contract within twenty (20) calendar days of the date the contract is executed and shall set forth the manner in which notice is to be given. ( )

b. Upon being informed of the owner's intention or desire to rescind a life settlement contract, the provider shall immediately provide the owner with a full accounting of the amount that must be repaid by the owner in order to rescind the policy. The amount due shall include only amounts actually paid to and received by the owner pursuant to the terms of the life settlement contract along with any premiums, loans and loan interest paid by or on behalf of the provider in connection with or as a direct consequence of the life settlement contract. An owner shall not be required to pay any financial penalties, liquidated damages or other punitive fees or charges in connection with rescission of a life settlement contract. ( )

c. Until the owner receives from the provider an accounting of the full and correct repayment amount needed to rescind the life settlement contract, a tender of payment by the owner of amounts actually received and reasonably believed to be due upon rescission shall be deemed substantial compliance with the requirement of notice and repayment of proceeds within the twenty (20) day rescission period. ( )

03. Life Settlements Occurring Within Two (2) Years of Policy Origination.( )

a. No broker or provider shall solicit, arrange for or enter into a life settlement contract within two (2) years of the date of issuance of the life insurance policy or certificate being settled unless one (1) or more of the conditions identified in Section 41-1961, Idaho Code, applies. If one (1) or more of the conditions is present, the provider shall obtain from the owner a written statement sworn before a notary public setting forth in detail the circumstances permitting the early settlement of the contract. The sworn statement shall also include the following or substantially similar wording: "I hereby affirm that there was no plan or arrangement in place or under discussion, or any promises made, regarding the settlement of this life insurance policy at the time the policy was purchased." ( )

b. In addition to the sworn statement, the provider shall obtain and retain as a part of its records independent documentation of the circumstances permitting early settlement of the life insurance policy along with all documentation relating to any premium financing arrangements made in connection with the policy being settled. ( )

c. The sworn statement and copies of all supporting documentation shall be provided to the insurer at the time a request for verification of coverage is submitted to the insurer. A request for verification of coverage relating to a policy or certificate that has been in effect for two (2) years or less will be considered incomplete if it is not accompanied by the owner's sworn statement and supporting documentation~~*, and the insurer shall promptly inform the provider or broker submitting the request for verification form that the form will not be considered complete until the sworn statement or other necessary supporting documentation is received*~~. *An insurer that determines a request for verification of coverage is incomplete shall, without undue delay, inform the broker or provider in writing that the verification is incomplete and identify all items needed to complete the request.* ~~*(8-1-09)T*~~*( )*

017. -- 999. (RESERVED).

Appendix A-1

Life Settlement Provider Report - Idaho Transactions Only

Report year:_____

Life Settlement provider's name:_____

Name, address and telephone number of contact person for this report:_____

Email address:_____

Applications (#'s): **Settled_____** **Rejected_____**

Pending _____ **Pending_____** **Total applications:_____**

	SEE INSTRUCTIONS	Contract #1	Contract #2	Contract #3	Contract #4	Contract #5
1	Life settlement provider settlement number					
2	Life settlement contract purchased date					
3	Date policy initially purchased by owner					
4	Was policy premium financed prior to purchase? Y or N ?					
5	List the ownership type of the policy					
6	Owner's or insured's reason for selling if less than 2 years					
7	Age of insured at time of contract					
8	Each life expectancy (in months) at time of contract					
9	Insurance company name and NAIC number					
10	Total net death benefit ($)					
11	Net amount paid to the seller of the policy ($)					
12	Policy type: individual or group					
13	Type of funding for transaction F, P, I, T or RPT (see instructions)					
14	What is the product type?					

15	Date proceeds transferred to escrow/trust account					
16	List escrow agent or trust institution along with account number					
17	Purchase source of policy: B, D, SM, P or O (see instructions)					
18	Name of the source of the transaction					
19	Commission amount paid to source ($)					
20	Date disclosures per Sections 41-1956 & 41-1957, Idaho Code made to owner					
21	Date ownership transferred by provider and name of new owner					
22	Total premiums paid in report year to maintain policy					
23	Date of authorization for release of medical information					

I_____, the undersigned_____of the reporting entity, first being duly sworn, state and affirm that I am the described officer, manager or employee of the reporting entity and that the information contained in this report is complete, true and accurate.

_____ _____
By (printed name) Signature

_____
(title)

State of_____ County of _____

Subscribed and sworn to (or affirmed) before me this_____day of_____ , 20____.

Notary Public _____ My commission expires on:_____

Appendix A-2

Life Settlement Provider Report Idaho Insureds Only Instructions
NOTE: This form must be accompanied by the Life Settlement Provider Certification Form. See Chapter 19 on Idaho Department of Insurance Web site: http://www.legislature.idaho.gov/idstat/Title41/T41.htm ATTACH A SEPARATE SHEET IF NECESSARY
Question 1. List the settlement number, case number or unique identifying number used to identify this specific life settlement transaction.
Question 2. List the date the life settlement contract was purchased by the provider during the current calendar year, whether or not the insured is still alive at the end of the calendar year.
Question 3. List the date the owner of the policy originally initiated coverage.
Question 4. Was the policy being purchased previously financed? Yes or No.
Question 5. List the ownership type of the policy, such as trust, corporate or individually owned.
Question 6. If the difference between the date shown in question 3 and the date shown in question 2 is less than 2 years, provide the reason the contract was sold. In accordance with Section 41-1961, Idaho Code, use "a" if exercise of conversion rights, "bi" if terminally/chronically ill, "bii" if owner's spouse dies, "biii" if owner divorces spouse, "biv" if owner retires, "bv" if owner becomes disabled and cannot work fulltime, "bvi" if owner decreed bankrupt or insolvent, or "O" for other and provide an explanation.
Question 7. List the age (in years) of the person insured by the policy being sold at the time of the life settlement contract.
Question 8. List the life expectancy (LE) in months of the person insured at the time of the life settlement contract. If more than one LE was ordered, provide individual information on each LE.
Question 9. List the name of the insurance company along with its NAIC company code number.
Question 10. List the net amount (in dollars) for the policy being sold.
Question 11. List the net amount (in dollars) paid to the seller of the policy.
Question 12. Identify whether the policy was an individual policy (I) or a group policy (G).
Question 13. List the type of funding for the transaction: "F" for a licensed financial institution (policies collateralized), "P" for private (purchaser) funding, "I" for internal funding, "T" for trust, and "RPT" for related provider trust.
Question 14. What is the product type? Term, UL, SUL, VUL, SVUL, WL, SWL, etc.
Question 15. List the date the proceeds of the agreement are paid or transferred to an escrow or trust account
Question 16. List the name of the escrow agent and the account number, or provide the trust institution and account number.
Question 17. Indicate the purchase source of the policy. Use "B" for life settlement broker, **"**D**"** for direct from the insured or owner, "I" for insurance agent/producer, "SM" for a secondary market or life settlement provider, "P" for private (purchaser) funding or "O" for other and provide an explanation.
Question 18. List the name of the source of the life settlement transaction. If it is a broker, producer or other licensee, name that person; if it is direct, from a relative, from the corporation of the insured or any other entity that could possibly reveal the insured, designate by writing "Direct," "Relative," "Corporation" or other non-designating word.

Question 19. List the amount of commissions (in dollars) paid to the source involved in the transaction whether that is a life settlement broker, an insurance producer or other licensed entity authorized to be a life settlement source.
Question 20. List the date the disclosures required by Idaho Code §§41-1956 and 1957 were made to the owner/ seller of the policy. This includes but is not limited to alternatives to life settlement contracts, tax consequences and rights of owners.
Question 21. If the provider transferred ownership of life settlement contract, list the date the transfer occurred and provide the name of the new owner. If not applicable show "N/A".
Question 22. List the total amount of premiums (in dollars) paid to the insurer to maintain the policy during the report period.
Question 23. Date the authorization for release of medical information was signed by the insured.

Appendix A-3

Life Settlement Provider Report- Idaho Transactions Only
SUPPLEMENTAL REPORT

Complete this section ONLY if death benefit proceeds were paid

Report year:_____

Life Settlement provider's name: _____

Name, address and telephone number of contact person for this report:

Email address:

SEE INSTRUCTIONS		Contract #1	Contract #2	Contract #3	Contract #4	Contract #5
1	Life settlement provider settlement number					
2	Life settlement contract purchased date					
3	Age of insured at time of contract					
4	Life expectancy at time of contract					
5	Net amount paid to owner/ seller ($)					
6	Insured's date of death					
7	Number of months between contract date and date of death.					
8	Number of months between life expectancy at time of contract and date of death (+/-)					
9	Death benefit collected					
10	Total premiums paid to maintain policy ($)					

I_____, the undersigned_____of the reporting entity, first being duly sworn, state and affirm that I am the described officer, manager or employee of the reporting entity and that the information contained in this report is complete, true and accurate.

Signature _____ By (printed name)_____

(title)

State of_____ County of_____

Subscribed and sworn to (or affirmed) before me this_____day of_____ , 20____.

Notary Public My Commission expires on:

Appendix A- 4

SUPPLEMENTAL REPORT INSTRUCTIONS

Complete this section ONLY if death benefit proceeds were paid

Question S1. List the settlement number, case number or unique identifying number used to identify this specific life settlement transaction.

Question S2. List the date the life settlement contract was purchased by the provider.

Question S3. List the age (in years) of the person insured by the policy being sold at the time of the life settlement contract.

Question S4. List the life expectancy (in months) of the person insured by the policy being sold at the time of the life settlement contract.

Question S5. List the net amount (in dollars) paid to the policy owner/seller.

Question S6. Date of death of the person insured by the policy.

Question S7. List the difference (in months) between the date shown in question S2 and the date shown in **question S6.**

Question S8. List the number of months between the life expentancy of the Insured at the time of contract and the insured's date of death. This should be noted as a plus (+) figure if the insured died after the estimated life expectancy or a minus (-) if the insured died prior to the estimated life expectancy.

Question S9. Total amount of death benefit collected.

Question S10. List the total amount of premiums (in dollars) paid to the insurer to maintain the policy, from the Life Settlement contract date to the date of death.

Appendix B

DISCLOSURE TO OWNER

(To be provided no later than at time of application for any life settlement agreement)

(With acknowledgement of life settlement provider or broker)

IMPORTANT – READ THIS DISCLOSURE FORM AND THE ENCLOSED LIFE SETTLEMENT INFORMATION BROCHURE BEFORE SIGNING ANY LIFE SETTLEMENT AGREEMENT.

You should carefully read all of the following points and seek financial, insurance, tax and other advice where appropriate.

1. Possible alternatives to life settlement contracts include any accelerated death benefits or policy loans offered under your life insurance policy.

2. A life settlement broker exclusively represents you, the owner, and not the insurer or the life settlement provider, and owes a fiduciary duty to the owner, including a duty to act according to the owner's instructions and in the best interest of the owner.

3. Some or all of the proceeds of the life settlement may be taxable under federal and state law, and assistance should be sought from a professional tax advisor.

4. Proceeds of the life settlement could be subject to the claims of your creditors.

5. Receipt of the proceeds of a life settlement may adversely affect your eligibility for Medicaid or other government benefits or entitlements, and advice should be obtained from the appropriate government agencies.

6. You have the right to rescind (cancel) a life settlement contract within twenty (20) days of the date it is signed by all parties. If you want to rescind the contract, you must provide notice to the life settlement provider and repay all proceeds and any premiums, loans and loan interest paid on account of the life settlement contract within the twenty (20) day rescission period. If the insured dies during the twenty (20) day rescission period, the life settlement contract will be deemed to have been rescinded, subject to repayment by the owner or the owner's estate of all life settlement proceeds and any premiums, loans and loan interest.

7. Funds will be sent to you within three (3) business days after the life settlement provider has received the insurer or group administrator's written acknowledgment that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated.

8. Entering into a life settlement contract may cause you to forfeit other rights or benefits including conversion rights and waiver of premium benefits that may exist under the policy or certificate. Assistance should be sought from a financial adviser.

Policy Owner's Initials: _____

9. You will be provided a brochure approved for use by the Department of Insurance that describes the process of life settlements. You should review this brochure carefully.

10. All medical, financial or personal information solicited or obtained by a life settlement provider or life settlement broker about an insured, including the insured's identity or the identity of family members, a spouse or a significant other may be disclosed as necessary to effect the life settlement between the owner and the life settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two (2) years.

11. Following execution of a life settlement contract, the insured may be contacted for the purpose of determining the insured's health status and to confirm the insured's residential or business street address and telephone number, or as otherwise provided in sections 41-1950 through 41-1965, Idaho Code. This contact shall be limited to once every three (3) months if the insured has a life expectancy of more than one (1) year, and no more than once per month if the insured has a life expectancy of one (1) year or less. All such contacts shall be made only by a life settlement provider licensed in the state of Idaho.

12. If you have any questions, you may call the Idaho Department of Insurance at 800-721-3272 or 208-334-4250.

LIFE INSURANCE POLICY OWNER'S ACKNOWLEDGMENT: I have read and fully understand this disclosure form. I have received copies of this disclosure form and the life settlement information brochure to keep for my records.

LIFE INSURANCE POLICY OWNER

By: _____

Printed Name

Date: _____

LIFE SETTLEMENT PROVIDER OR BROKER

By: _____

Printed Name/Title

Date: _____

JOINT LIFE INSURANCE POLICY OWNER

By: _____

Printed Name

Date: _____

Appendix C

LIFE SETTLEMENT PROVIDER'S DISCLOSURE TO OWNER UPON SETTLEMENT

IMPORTANT – READ THIS DISCLOSURE FORM BEFORE
SIGNING ANY LIFE SETTLEMENT CONTRACT.

The life settlement provider must provide you with at least the following disclosures prior to signing of the life settlement contract. You should carefully read all of the following points and seek financial, insurance, tax and other advice where appropriate.

1. The person or entity identified on this form is acting as a life settlement provider and does not represent you.

2. The affiliation, if any, between the life settlement provider and the issuer of the insurance policy to be settled is:

[ ] None

[ ] _____

3. The name, business address and telephone number of the life settlement provider are as follows:

4. If an insurance policy to be settled has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be settled, the possibility of loss of coverage on the other lives under the policy exists. If this is the case, the insurance producer or the insurer issuing the policy should be consulted for advice on the proposed life settlement.

[ ] The insurance policy DOES NOT provide coverage to any person other than the insured.

[ ] The insurance policy DOES provide coverage to other persons as follow:

_____
_____

Policy Owner's Initials: _____

5. The current death benefit payable under insurance policy or certificate number_____ issued by _____ is: $_____

The availability of additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate, and the extent to which your interest in these benefits will be transferred as a result of the life settlement contact are:

[ ] Unknown

[ ] _____
_____

6. You may inspect or receive copies of the relevant escrow, trust agreements or other documents by contacting the independent third party escrow agent. You may contact that agent at (name, business address, telephone number):

_____
_____

INSURANCE POLICY OWNER'S ACKNOWLEDGMENT: I have read and fully understand this Disclosure form, and I have received a copy of this form to keep for my records.

LIFE INSURANCE POLICY OWNER

By: _____

Printed Name _____

Date: _____

JOINT LIFE INSURANCE POLICY OWNER

By: _____

Printed Name _____

Date: _____

LIFE SETTLEMENT PROVIDER

This form was prepared by: _____

Printed Name/Title

Date: _____

Appendix D

LIFE SETTLEMENT BROKER'S DISCLOSURE FORM

IMPORTANT – READ THIS DISCLOSURE FORM BEFORE SIGNING ANY LIFE SETTLEMENT CONTRACT.

The life settlement broker is representing you in this transaction and has a duty to act in your best interest. The life settlement broker must provide you with at least the following disclosures prior to the time you sign the life settlement contract. You should carefully read all the following points and seek financial, insurance, tax and other advice where appropriate.

1. The name, business address and telephone number of the life settlement broker are as follows:

_____

2. A full, complete and accurate description of all offers, counteroffers, acceptances and rejections relating to the proposed life settlement contract (including name of party, date made, price and any other material terms) is:

[ ] Attached

[ ] As follows:

_____

3. The affiliation or contractual arrangements between the life settlement broker and any person making an offer in connection with a proposed life settlement contract are as follows:

[ ] None
[ ] Attached
[ ]_____

Policy Owner's Initials: _____

4. The amount, method of calculation and the party who is responsible for paying the broker's compensation are listed below. The term "compensation" includes anything of value to be paid or given to a life settlement broker for the placement of a policy.

5. Where any portion of the life settlement broker's compensation is taken from a proposed life settlement offer, the total amount of the life settlement offer and the percentage of the life settlement offer comprised by the life settlement broker's compensation are:

_____

[ ] N/A

[ ] _____

LIFE INSURANCE POLICY OWNER'S ACKNOWLEDGMENT: I have read and fully understand this disclosure form and have received a copy to keep for my records.

LIFE INSURANCE POLICY OWNER	JOINT LIFE INSURANCE POLICY OWNER
By:_____	By:_____
Printed Name_____	Printed Name_____
Date: _____	Date: _____

LIFE SETTLEMENT BROKER

This form was prepared by:_____

Printed Name/Title _____

Date:_____

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.53 - CONTINUING EDUCATION

DOCKET NO. 18-0153-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-1013, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 80 through 85.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Genetti, 208-334-4250.

DATED this 30th day of October, 2009.

Jim Genetti, Bureau Chief
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
E-mail: jim.genetti@doi.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1013, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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 18.01.53.012.01.b. states that three hours of law or ethics must be earned in each licensing period. This Subsection is being amended to delete the law requirement, since this is not required under the NAIC Producer Licensing Model Act and is not uniform with the model act provisions.

IDAPA 18.01.53.016 adds general subjects acceptable for public adjusters.

IDAPA 18.01.53.019 is being amended to add additional language to outline the qualification and standards that must be met to give credit to courses taught on-line.

IDAPA 18.01.53.021.01 is being amended to require reporting of course completion within one-hundred and eighty (180) days or at least thirty (30) days prior to the producer's license expiration date. This is to accommodate the processing of renewal applications and the verification of completion of Continuing Education Requirements.

IDAPA 18.01.53.024 addresses requirements for pursuing independent study courses.

IDAPA 18.01.53.025.02 gives additional credit when an individual teaches a course for credit. The Continuing Education requirements were decreased from forty (40) to twenty four (24) hours several years ago. The present standard of twenty four (24) hours is considered to be a minimal standard and the additional credit given for teaching is no longer necessary.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the changes were discussed and decided upon by a committee made up of representatives of the affected industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim

Genetti, 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 October 28, 2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

011. APPLICABILITY.

01. Applicability to Certain Insurance Professionals. This rule applies to all resident producers licensed by the Department of Insurance except for producers licensed to sell only "limited lines (other than crop) insurance" as defined by Title 41, Chapter 10.~~*(5-3-03)*~~( )

02. High Standards for Programs. The Department of Insurance anticipates and expects that licensees will maintain high standards of professionalism in selecting quality education programs to fulfill the continuing education requirements set forth herein. (7-1-93)

012. BASIC REQUIREMENTS.

01. Proof of Completion. As a condition for the continuation of a license, a licensee must furnish the Director of the Department of Insurance ("Director"), on or before the licensing renewal date, proof of satisfactory completion of approved subjects or courses meeting the following requirements: (4-5-00)

a. Twenty-four (24) hours of continuing education credit during each licensing period, which licensing period is for two (2) years. (3-20-04)

b. At least three (3) hours of continuing education credit in ~~*insurance law and/or*~~ ethics must be earned each licensing period. The ethics courses must be stand-alone courses and not part of other courses. ~~*(3-20-04)*~~( )

c. No more than four (4) hours of continuing education credit from courses approved for public adjusters shall apply toward the continuation of a producer license. ( )

02. Relicensing Procedures After Voluntary Termination of License. An insurance agent who voluntarily terminates his/her license can apply to be relicensed without testing if the application is received by the Department within twelve (12) months after the termination and if the continuing education requirements were completed during the licensing period prior to voluntary termination. Non-resident insurance agents who were former resident agents and who wish to obtain a resident license once again will be subject to the continuing education

requirements on a pro-rata basis. (4-5-00)

03. Completion Within Two Years. Each course to be applied toward satisfaction of the continuing education requirement must have been completed within the two (2) year period immediately preceding renewal of the license. Courses may not have been duplicated in the same renewal period. The date of completion for a self-study course is the date of successful completion of exam. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

016. PROGRAMS WHICH QUALIFY.

01. Requirements of Acceptable Program. A specific program will qualify as an acceptable continuing education program if it is a formal program of learning which contributes directly to the professional competence of a licensee. It will be left to each individual licensee to determine the course of study to be pursued. All programs must meet the standards outlined in Section 018. (7-1-93)

02. Subjects Which Qualify. (7-1-93)

a. The following general subjects are acceptable as long as they contribute to the knowledge and professional competence of an individual licensee as a producer and demonstrate a direct and specific application to insurance. (3-20-04)

i. Insurance, annuities, and risk management. (7-1-93)

ii. Insurance laws and rules. (7-1-93)

iii. Mathematics, statistics, and probability. (7-1-93)

iv. Economics. (7-1-93)

v. Business law. (7-1-93)

vi. Finance. (7-1-93)

vii. Taxes, Trusts, Estate Planning. (4-5-00)

viii. Business environment, management, or organization. (7-1-93)

ix. Securities. (7-1-98)

b. The following general subjects are acceptable for public adjusters as long as they contribute to the knowledge and professional competence of an individual licensee and demonstrate a direct and specific application to adjusting. ( )

i. Insurance. ( )

ii. Insurance laws and rules. ( )

iii. Mathematics, statistics, and probability. ( )

iv. Economics. ( )

v. Business law. ( )

vi. Restoration. ( )

vii. Communications. ( )

viii. Arbitration. ( )

ix. Mitigation. ( )

x. Glass replacement and/or repair. ( )

~~b~~c. Areas other than those listed above may be acceptable if the licensee can demonstrate that they contribute to professional competence and otherwise meet the standards set forth in this rule. The responsibility for substantiating that a particular program meets the requirements of this rule rests solely upon the licensee. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

019. MEASUREMENT OF CREDIT.

01. Credits Measured in Full Hours. Professional education courses shall be credited for continuing education purposes in full hours only. The number of hours shall be equivalent to the actual number of contact hours which must include at least fifty (50) minutes of instruction or participation. As an example, a program will be granted eight (8) hours of credit if the total lapsed time is approximately eight (8) hours and the contact time is at least four hundred (400) minutes. The approved credit hours assigned a course determines the number of hours participants are required to complete. No credit will be given for partial attendance. (7-1-93)

02. College Courses. University or college upper division credit or noncredit courses shall be evaluated as follows: (7-1-93)

a. Credit courses -- each semester system credit hour shall not exceed fifteen (l5) hours toward the requirement; each quarter system credit hour shall not exceed ten (l0) hours. The final number of credits shall be determined by the Continuing Education Advisory Committee. (7-1-93)

b. Non-credit courses -- number of credits to be determined by the Continuing

Education Advisory Committee. (7-1-93)

03. **Internet Courses**. Internet self-study courses will be credited one (1) hour of continuing education for every fifty (50) minutes of study material, excluding exams. Credit will be given based on the information received in accordance with Section 021 of these rules. (____)

04. **Webinar Courses**. Webinars will be credited as classroom instruction or participation. In the event one course encompasses multiple webinars and self-study is required between webinars, the self-study material must be submitted to the Continuing Education Advisory Committee to be evaluated for additional credit in accordance with Section 021of these rules. (____)

05. **Power Point Courses**. Power point course presentations will be evaluated as follows: (____)

a. Each power point slide must be accompanied by a timed outline of the subject matter to be presented. (____)

b. Credit will be given based on the information received in accordance with Section 021 of these rules. (____)

(BREAK IN CONTINUITY OF SECTIONS)

021. APPROVED PROGRAMS OF STUDY - CERTIFICATION BY DIRECTOR.

01. Requirements of Course Approval. All courses must be approved by the Continuing Education Advisory Committee and certified by the Director, except as noted under program requirements pursuant to Section 015. If a course is not approved in advance of presentation, an application for credit must be submitted to the Continuing Education Advisory Committee within sixty (60) days of completion of the course on forms promulgated by the Director, with the exception of an individual licensee who may submit an application for courses completed within ~~*the license renewal period if the licensee does so prior to his/her renewal date*~~ one hundred eighty (180) days of the course completion date and at least thirty (30) days prior to the license expiration date. All correspondence courses or individual study programs must be approved and certified in accordance with Section 024 prior to being offered to licensees for continuing education credit. ~~*(5-3-03)*~~(____)

02. Nonrefundable Application Fee. Each course application shall be accompanied by a nonrefundable application fee (as set forth in IDAPA 18.01.44, "Schedule of Fees, Licenses and Miscellaneous Charges"). (7-1-93)

03. Course Approval Procedures. Any individual, school, insurer, industry association, or other organization intending to provide classes, seminars, or other forms of instruction as approved subjects shall apply for such approval to the Director on forms approved by the Director or on other forms which provide information including but not limited to the following: (5-3-03)

a. A specific outline and/or course material; (7-1-93)

b. Time schedule; (7-1-93)

c. Method of presentation; (7-1-93)

d. Qualifications of instructor; and (7-1-93)

e. Other information supporting the request for approval. (7-1-93)

04. Method to Determine Completion Required. The submission shall include a statement of the method used to determine the satisfactory completion of an approved subject. Such method may be a written examination, a written report by the agent, certification by the providing organization of the agent's program attendance or completion, or other methods approved by the Director as appropriate for the subject. (7-1-93)

05. Final Acceptance/Rejection of Program. Except as noted under Section 015, all continuing education course material received will be submitted to the Continuing Education Advisory Committee who will approve or deny the course or program as qualifying for credit, indicate the number of hours that will be awarded for approved subjects, and refer the class, seminar, or program to the Director for his certification. In cases of denial, the Continuing Education Advisory Committee will furnish a written explanation of the reason for such action. (5-3-03)

06. List of Programs Certified Acceptable. The Director will provide, upon request, a list of all programs currently available which the Department of Insurance has certified. (7-1-93)

07. Certification of Program. Certification of a program may be effective for a period of time not to exceed two (2) years or until such time as any material changes are made in the program, after which it must be resubmitted to the Continuing Education Advisory Committee for its review and approval. (7-1-93)

08. Advertising Programs Prior to Certification. If any course has not been approved and certified by the Director before the date on which it is to be presented, the course may be advertised or presented as "continuing education credits have been applied for" but shall not be represented or advertised in any manner as "approved" for continuing education credit. (5-3-03)

022. PROOF OF COMPLETION.
Upon completion of a class, program, or course of study, the authorized representative of the sponsoring organization shall, within ~~*sixty*~~ thirty (~~6~~30) days of completion of the course: ~~*(7-1-93)*~~(_____)

01. Certificate of Completion. Provide a certificate of completion to each individual who satisfactorily completes the class, program, or course of study; and (7-1-93)

02. Certification of Attendees Completion. Certify to the Director electronically a list of all such individuals~~*, specifying whether the determination of satisfactory completion was based upon attendance, written report, or examination*~~. ~~*(7-1-93)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

024. CREDIT FOR INDIVIDUAL STUDY PROGRAMS.

01. Requirements for Credit of Independent Study Programs. All approved correspondence courses or independent study programs must include an examination which requires a score of seventy percent (70%) or better to earn a certificate of completion. For each approved course, the sponsoring organization shall maintain multiple tests (two (2) or more) sufficient to maintain the integrity of the testing process. A written explanation of test security and administration methods shall accompany the course examination materials. Producers must enroll and pay for courses before receiving access to course materials. Exams may not be accessed prior to course review. Exams must not be available for downloading. Each unit and/or chapter of a course must contain review questions that must be answered before access to the following unit/chapter is allowed. Final exam questions must not duplicate unit/chapter questions. Course materials must not be accessible once the exam has been opened. Online course submissions must include access codes for review by the Continuing Education Advisory Committee. The examinations shall be administered, graded, and the results recorded by the organization to which approval was originally granted. Completed tests shall be retained by the sponsoring organization and shall not be returned to any licensee. ~~*(7-1-93)*~~(____)

02. Prior Approval Required for Independent Study Programs. All correspondence courses or individual study programs must be submitted for approval and must be approved prior to being offered to licensees for continuing education credit. (7-1-93)

03. Time Period for Credit. Credit will be allowed only in the renewal period in which the course is completed. (7-1-93)

025. CREDIT FOR SERVICE AS LECTURER, DISCUSSION LEADER, OR SPEAKER.

~~***01.***~~ **Credit for Instructor**. One (l) hour of continuing education credit will be awarded for each hour completed as an instructor or discussion leader, provided the class or program is certified by the Director and meets the continuing education requirements of those attending. ~~*(7-1-93)*~~(____)

~~***02. Additional Credit for Instructor****. In addition, an instructor or discussion leader may claim an additional one (1) hour of credit for advance preparation for each one (1) hour of teaching, provided the time is actually devoted to preparation. For example, an instructor may claim up to twelve (l2) hours of credit for teaching a six (6) hour course. Credit for either preparation or presentation will only be granted once for each course or program, not for successive preparation or presentations.*~~ ~~*(7-1-93)*~~

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.54 - RULE TO IMPLEMENT THE NAIC MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS MODEL ACT

DOCKET NO. 18-0154-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2009. This pending rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 41-211, Idaho Code and Chapter 44, Title 41, 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:

Three modifications are being made to the rule to maintain uniformity with the National Association of Insurance Commissioners' Medicare Supplement Minimum Standards Model Act, and to further maintain compliance with the federal requirements contained in the Genetic Information Nondiscrimination Act, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 and the Medicare Improvements for Patients and Provider Act of 2008.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only those sections that have changes different from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the June 3, 2009 Idaho Administrative Bulletin, Vol. 09-6, pages 58 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: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Joan Krosch at 208-334-4300.

DATED this 1st day of July, 2009

Shad Priest, Deputy Director
Idaho Department of Insurance
700 West State Street, 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2009.

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 44, 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 June 17, 2009.

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 changes will amend Idaho's administrative rule Implementing the National Association of Insurance Commissioners' Medicare Supplement Minimum Standards Model Act to comply with federal requirements contained in the Genetic Information Nondiscrimination Act, the Medicare Prescription Drug, Improvement and Modernization Act of 2003, and the Medicare Improvements for Patients and Provider Act of 2008 (MIPPA).

The revised NAIC Model Rule conforms to federal laws and regulations that make major changes to Medicare Supplement plans and benefits, including the elimination of some types of plans and the addition of several new categories of plans. States are required to adopt these revisions in order to continue to regulate the Medicare Supplement market.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: **The rule is necessary to comply with deadlines in amendments to federal programs**

and confers a public benefit.

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 Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the changes made by this rulemaking were needed to conform the existing rule to changes in federal law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joan Krosch at 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 June 24, 2009.

DATED this 1st day of May, 2009.

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 18.01.54, ~~*Title 01, Chapter 54,*~~ "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act." ~~*(4-5-00)*~~(____)

02. Scope. (4-5-00)

a. Except as otherwise specifically provided in Sections 0~~*09*~~20, 0~~*14*~~28, 0~~*15*~~29, 0~~*18*~~32, and 0~~*2*~~37, this rule shall apply to: ~~*(4-5-00)*~~(____)

i. All Medicare supplement policies delivered or issued for delivery in this state on or after the effective date of this rule; and (4-5-00)

ii. All certificates issued under group Medicare supplement policies, which certificates have been delivered or issued for delivery in this state. (4-5-00)

b. This rule shall not apply to a policy or contract of one (1) or more employers or labor organizations, or of the trustees of a fund established by one (1) or more employers or labor

organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organization. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.
All ~~*contested cases*~~ administrative appeals shall be governed by ~~*the provisions of*~~ 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." ~~*(4-5-00)*~~(____)

004. INCORPORATION BY REFERENCE.
This rule incorporates by reference Appendixes A, B, and C and all other outlines of coverage and specific plan designs of the National Association of Insurance Commissioners (NAIC) Model Act implementing the Medicare supplement insurance minimum standards, July 1, 2009. The Model Act is available from the National Association of Insurance Commissioners, 2301 McGee Street, Suite 800, Kansas City, MO 64108-2662 and from the Idaho Department of Insurance. (____)

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. -- 009. (RESERVED).

0~~04~~10. DEFINITIONS.
For the purposes of ~~*IDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act,"*~~ this rule, the following terms will be used as defined below: ~~*(4-5-00)*~~(____)

01. Applicant. (4-5-00)

a. In the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits; and (4-5-00)

b. In the case of a group Medicare supplement policy, the proposed certificateholder. (4-5-00)

02. Bankruptcy. A Medicare Advantage organization that is not an issuer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in the state. (4-11-06)

03. Certificate. Any certificate delivered or issued for delivery in this state under a group Medicare supplement policy. (4-5-00)

04. Certificate Form. The form on which the certificate is delivered or issued for delivery by the issuer. (4-5-00)

05. Continuous Period of Creditable Coverage. The period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than sixty-three (63) days. (4-5-00)

06. Creditable Coverage. (4-5-00)

a. With respect to an individual, coverage of the individual provided under any of the following: (4-5-00)

i. A group health plan; (4-5-00)

ii. Health insurance coverage; (4-5-00)

iii. Part A or Part B of Title XVIII of the Social Security Act (Medicare); (4-5-00)

iv. Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under Section 1928; (4-5-00)

v. Chapter 55 of Title 10 United States Code (CHAMPUS); (4-5-00)

vi. A medical care program of the Indian Health Service or of a tribal organization; (4-5-00)

vii. A state health benefits risk pool; (4-5-00)

viii. A health plan offered under chapter 89 of Title 5 United States Code (Federal Employees Health Benefits Program); (4-5-00)

ix. A public health plan as defined in federal regulation; and (4-5-00)

x. A health benefit plan under Section 5(e) of the Peace Corps Act (22 United States

Code 2504(e)). (4-5-00)

b. Creditable coverage shall not include one (1) or more, or any combination of, the following: (4-5-00)

i. Coverage only for accident or disability income insurance, or any combination thereof; (4-5-00)

ii. Coverage issued as a supplement to liability insurance; (4-5-00)

iii. Liability insurance, including general liability insurance and automobile liability insurance; (4-5-00)

iv. Workers' compensation or similar insurance; (4-5-00)

v. Automobile medical payment insurance; (4-5-00)

vi. Credit-only insurance; (4-5-00)

vii. Coverage for on-site medical clinics; and (4-5-00)

viii. Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits. ~~*(3-15-02)*~~(____)

c. Creditable coverage shall not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan: (4-5-00)

i. Limited scope dental or vision benefits; (4-5-00)

ii. Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and (4-5-00)

iii. Such other similar, limited benefits as are specified in federal regulations. (4-5-00)

d. Creditable coverage shall not include the following benefits if offered as independent, non-coordinated benefits: (4-5-00)

i. Coverage only for a specified disease or illness; and (4-5-00)

ii. Hospital indemnity or other fixed indemnity insurance. (4-5-00)

e. Creditable coverage shall not include the following if it is offered as a separate policy, certificate, or contract of insurance: (4-5-00)

i. Medicare supplemental health insurance as defined under ~~s~~Section 1882(g)(1) of the Social Security Act; ~~*(4-5-00)*~~(____)

ii. Coverage supplemental to the coverage provided under chapter 55 of title 10, United States Code; and (4-5-00)

iii. Similar supplemental coverage provided to coverage under a group health plan. (4-5-00)

f. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) specifically addressed separate, noncoordinated benefits in the group market at PHSA Section 2721(d)(2) and the individual market at Section 2791(c)(3). HIPAA also references excepted benefits at PHSA Sections 2701(c)(1), 2721(d), 2763(b) and 2791(c). In addition, credible coverage has been addressed in an interim final rule (62 Fed. Reg. At 16960-16962 (April 8, 1997)) issued by the Secretary of Health and Human Services, pursuant to HIPAA, and may be addressed in subsequent regulations. (4-1-06)

07. Employee Welfare Benefit Plan. A plan, fund, or program of employee benefits as defined in 29 U.S.C. Section 1002 (Employee Retirement Income Security Act). (4-5-00)

08. Insolvency. When an issuer, licensed to transact the business of insurance in this state, has had a final order of liquidation entered against it with a finding of insolvency by a court of competent jurisdiction in the issuer's state of domicile. (4-5-00)

09. Issuer. Includes insurance companies, fraternal benefit societies, managed care organizations, and any other entity delivering or issuing for delivery in this state Medicare supplement policies or certificates. (4-5-00)

10. Medicare. The "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended. (4-5-00)

11. Medicare Advantage Plan. A plan of coverage for health benefits under Medicare Part C as defined in 42 U.S.C. 1395w-28 (b)(1), and includes: (4-11-06)

a. Coordinated care plans which provide health care services, including but not limited to managed care organization (with or without a point-of-service option), plans offered by provider-sponsored organizations, and preferred provider organization plans; (4-5-00)

b. Medical savings account plans coupled with a contribution into a Medicare Advantage medical savings account; and (4-11-06)

c. Medicare Advantage private fee-for-service plans. (4-11-06)

12. Medicare Supplement Policy. A group or individual policy of accident and sickness insurance or an enrollee contract under a managed care organization, other than a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C. Section 1395 et seq.) or an issued policy under a demonstration project specified in 42 U.S.C. Section 1395ss(g)(1), which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare. "Medicare Supplement Policy" does not include Medicare Advantage plans established under Medicare Part C. Outpatient Prescription Drug plans established under

Medicare Part D, or any Health Care Prepayment Plan (HCPP) that provides benefits pursuant to an agreement under Section 1833(a)(1)(A) of the Social Security Act; provided, however, that under Section 104(c) of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA), policies that are advertised, marketed or designed primarily to cover out-of-pocket costs under Medicare Advantage Plans (established under Medicare Part C) must comply with the Medicare supplement requirements of Section 1882(o) of the Social Security Act.~~*(4-11-06)*~~( )

13. **Pre-Standardized Medicare Supplement Benefit Plan**. A group or individual policy of Medicare supplement insurance issued prior to July 1, 1992 ~~*on which the state made its revisions to conform to the Omnibus Budget Reconciliation Act of 1990*~~. ~~*(7-1-09)T*~~( )

14. **1990 Standardized Medicare Supplement Benefit Plan**. A group or individual policy of Medicare supplement insurance issued on or after July 1, 1992 and with an effective date for coverage prior to June 1, 2010 and includes Medicare supplement insurance policies and certificates renewed on or after that date which are not replaced by the issuer at the request of the insured. ( )

15. **2010 Standardized Medicare Supplement Benefit Plan**. A group or individual policy of Medicare supplement insurance with an effective date for coverage issued on or after June 1, 2010. ( )

1~~3~~6. **Policy Form**. The form on which the policy is delivered or issued for delivery by the issuer. (4-5-00)

1~~4~~7. **Secretary**. The Secretary of the United States Department of Health and Human Services. (4-5-00)

0~~05~~11. POLICY DEFINITIONS AND TERMS.
No policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy or certificate unless the policy or certificate contains definitions or terms which conform to the requirements of this section. (4-5-00)

01. **Accident, Accidental Injury, or Accidental Means**. To employ "result" language and shall not include words ~~*which*~~ that establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization. ~~*(4-5-00)*~~( )

a. The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force." (4-5-00)

b. The definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law. (4-5-00)

02. **Benefit Period or Medicare Benefit Period**. Shall not be defined more restrictively than as defined in the Medicare program. (4-5-00)

03. Convalescent Nursing Home, Extended Care Facility, or Skilled Nursing Facility. Shall not be defined more restrictively than as defined in the Medicare program. (4-5-00)

04. Health Care Expenses. For purposes of Section 0~~16~~29, expenses of managed care organizations associated with the delivery of health care services, which expenses are analogous to incurred losses of insurers. ~~*Expenses shall not include:*~~ ~~*(4-11-06)*~~(____)

~~***a.*** *Home office and overhead costs;* *(4-5-00)*~~

~~***b.*** *Advertising costs;* *(4-5-00)*~~

~~***c.*** *Commissions and other acquisition costs;* *(4-5-00)*~~

~~***d.*** *Taxes;* *(4-5-00)*~~

~~***e.*** *Capital costs;* *(4-5-00)*~~

~~***f.*** *Administrative costs; and* *(4-5-00)*~~

~~***g.*** *Claims processing costs.* *(4-5-00)*~~

05. Hospital. May be defined in relation to its status, facilities, and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals, but not more restrictively than as defined in the Medicare program. (4-5-00)

06. Medicare. Shall be defined in the policy and certificate. Medicare may be substantially defined as "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)*~~(____)

07. Medicare Eligible Expenses. Expenses of the kinds covered by Medicare Parts A and B, to the extent recognized as reasonable and medically necessary by Medicare. (4-11-06)

08. Physician. Shall not be defined more restrictively than as defined in the Medicare program. (4-5-00)

09. Sickness. Shall not be defined to be more restrictive than the following: "Sickness means illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force." The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability, or similar law. (4-5-00)

~~***006. – 007. (RESERVED).***~~

0~~08~~12. POLICY PROVISIONS.

01. Medicare Supplement Policy. Except for permitted preexisting condition clauses as described in ~~*Subsections*~~ Paragraphs 0~~09~~20.01.a., ~~*and*~~ 0~~10~~21.01.a. and 022.01.a., no policy or certificate may be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare. ~~*(4-5-00)*~~(____)

02. Waivers. No Medicare supplement policy or certificate may use waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions. (4-5-00)

03. Duplicate Benefits. No Medicare supplement policy or certificate in force in the state shall contain benefits which duplicate benefits provided by Medicare. (4-5-00)

04. Outpatient Prescription Drugs. (4-11-06)

a. Subject to ~~*Subsections*~~ Paragraphs 0~~09~~20.01.d., 0~~09~~20.01.e., 0~~09~~20.01.j., and 0~~10~~21.01.d., and 0~~10~~21.01.e. of this rule, a Medicare Supplement Policy with benefits for outpatient prescription drugs in existence prior to January 1, 2006 shall be renewed for current policyholders who do not enroll in Part D at the option of the policyholder. ~~*(4-11-06)*~~(____)

b. A Medicare supplement policy with benefits for outpatient prescription drugs shall not be issued after December 31, 2005. (4-11-06)

c. After December 31, 2005, a Medicare supplement policy with benefits for outpatient prescription drugs may not be renewed after the policyholder enrolls in Medicare Part D unless: (4-11-06)

i. The policy is modified to eliminate outpatient prescription coverage for expenses of outpatient prescription drugs incurred after the effective date of the individual's coverage under a Part D plan; and (4-11-06)

ii. Premiums are adjusted to reflect the elimination of outpatient prescription drug coverage at the time of Medicare Part D enrollment, accounting for any claims paid, if applicable. (4-11-06)

013. -- 019. (RESERVED).

0~~09~~20. MINIMUM BENEFIT STANDARDS FOR PRE-STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES ISSUED FOR DELIVERY PRIOR TO JULY 1, 1992.
No policy or certificate may be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy or certificate unless it meets or exceeds the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards. ~~*(4-5-00)*~~(____)

01. General Standards. The following standards apply to Medicare supplement

policies and certificates and are in addition to all other requirements of ~~*IDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act."*~~ this rule. ~~*(4-5-00)*~~(____)

a. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage. (4-5-00)

b. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents. (4-5-00)

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible~~ *amount and copayment percentage factors*~~, copayment, or coinsurance amounts. Premiums may be modified to correspond with such changes. ~~*(4-5-00)*~~(____)

d. A "non-cancelable," "guaranteed renewable," or "non-cancelable and guaranteed renewable" Medicare supplement policy shall not: (4-5-00)

i. Provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or (4-5-00)

ii. Be canceled or non-renewed by the issuer solely on the grounds of deterioration of health. (4-5-00)

e. Except as authorized by the director of this state, an issuer shall neither cancel nor non-renew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation. (4-5-00)

f. If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in ~~*Subsection*~~ Paragraph 0~~*09*~~20.01.h., the issuer shall offer certificate–holders an individual Medicare supplement policy. The issuer shall offer the certificate-holder at least the following choices: ~~*(4-5-00)*~~(____)

i. An individual Medicare supplement policy currently offered by the issuer having comparable benefits to those contained in the terminated group Medicare supplement policy; and~~/ *or*~~ ~~*(4-5-00)*~~(____)

ii. An individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in Subsection 0~~*10*~~21.02. ~~*(4-5-00)*~~(____)

g. If membership in a group is terminated, the issuer shall: (4-5-00)

i. Offer the certificate-holder the conversion opportunities described in ~~*Subsection*~~ Paragraph 0~~*09*~~20.01.f.; or ~~*(4-5-00)*~~(____)

ii. At the option of the group policyholder, offer the certificate-holder continuation of coverage under the group policy. ~~*(4-5-00)*~~(____)

h. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced. (4-5-00)

i. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss. (4-11-06)

j. If a Medicare supplement policy eliminates an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, the modified policy shall be deemed to satisfy the guaranteed renewal requirements of Subsection 0~~*09*~~20.01. ~~*(4-11-06)*~~(____)

02. Minimum Benefit Standards. (4-5-00)

a. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth day in any Medicare benefit period; (4-5-00)

b. Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount; (4-5-00)

c. Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days; (4-5-00)

d. Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent (90%) of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days; (4-5-00)

e. Coverage under Medicare Part A for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B; (4-5-00)

f. Coverage for the coinsurance amount or in the case of hospital outpatient department services paid under a prospective payments system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a

maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible; (5-3-03)

g. Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount. (4-5-00)

0~~*10*~~21. BENEFIT STANDARDS FOR 1990 STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES ISSUED FOR DELIVER~~*ED*~~Y ON OR AFTER JULY 1, 1992 AND WITH AN EFFECTIVE DATE FOR COVERAGE PRIOR TO JUNE 1, 2010.
The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after July 1, 1992, and with an effective date for coverage prior to June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards. ~~*(4-5-00)*~~(____)

01. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of ~~*IDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act."*~~ this rule. ~~*(4-5-00)*~~(____)

a. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage. (4-5-00)

b. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents. (4-5-00)

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, ~~*amount and*~~ copayment~~*-percentage factors*~~, or coinsurance amounts. Premiums may be modified to correspond with such changes. ~~*(4-5-00)*~~(____)

d. No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium. (4-5-00)

e. Each Medicare supplement policy shall be guaranteed renewable. (4-5-00)

i. The issuer shall not cancel or non-renew the policy solely on the ground of health status of the individual. (4-5-00)

ii. The issuer shall not cancel or non-renew the policy for any reason other than

nonpayment of premium or material misrepresentation. (4-5-00)

iii. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under Sub~~*section*~~paragraph 0~~*10*~~21.01.e.v., the issuer shall offer certificate–holders an individual Medicare supplement policy which (at the option of the certificate-holder): ~~*(4-5-00)*~~(____)

(1) Provides for continuation of the benefits contained in the group policy; or (4-5-00)

(2) Provides for benefits that otherwise meet the requirements of ~~*this s*~~Subsection 021.01 through 021.01.h.iv. ~~*(4-5-00)*~~(____)

iv. If an individual is a certificate-holder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall (a) offer the certificate-holder the conversion opportunity described in Sub~~*section*~~paragraph 0~~*10*~~21.01.e.iii.; or, (b) at the option of the group policyholder, offer the certificate-holder continuation of coverage under the group policy. ~~*(4-5-00)*~~(____)

v. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced. (4-5-00)

vi. If a Medicare supplement policy eliminates an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, the modified policy shall be deemed to satisfy the guaranteed renewal requirements of ~~*Section*~~ Paragraph 0~~*10*~~21.01.e. ~~*(4-11-06)*~~(____)

f. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss. (4-11-06)

~~*i*~~**g.** A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificate-holder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificate-holder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificate-holder notifies the issuer of the policy or certificate within ninety (90) days after the date the individual becomes entitled to assistance. ~~*(4-5-00)*~~(____)

i~~*i*~~. If suspension occurs and if the policyholder or certificate-holder loses entitlement to medical assistance, the policy or certificate shall be automatically re-instituted (effective as of the date of termination of entitlement) as of the termination of entitlement if the policyholder or certificate-holder provides notice of loss of entitlement within ninety (90) days after the date of

loss and pays the premium attributable to the period, effective as of the date of termination of entitlement. ~~*(4-5-00)*~~(____)

ii~~*i*~~. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862(b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificateholder loses coverage under the group health plan, the policy shall be automatically reinstituted (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within ninety (90) days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan. (5-3-03)

~~*g*~~iii. Reinstitution of coverages as defined in Sub~~*sections*~~paragraphs 0~~*10*~~21.01.~~*f*~~g.i~~*i*~~. and 0~~*10*~~21.01.~~*f*~~g.ii~~*i*~~.: ~~*(5-3-03)*~~(____)

~~*i.*~~(1) Shall not provide for any waiting period with respect to treatment of preexisting conditions; (4-5-00)

~~*ii.*~~(2) Shall provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension. If the suspended Medicare supplement policy provided coverage for outpatient prescription drugs, reinstitution of the policy for Medicare Part D enrollees shall be without coverage for outpatient prescription drugs and shall otherwise provide substantially equivalent coverage to the coverage in effect before the date of suspension; and (4-11-06)

~~*iii.*~~(3) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificate-holder as the premium classification terms that would have applied to the policyholder or certificate-holder had the coverage not been suspended. ~~*(4-5-00)*~~(____)

h. If an issuer makes a written offer to the Medicare Supplement policyholders or certificateholders of one (1) or more of its plans, to exchange during a specified period from his or her 1990 Standardized plan (as described in Section 023 of this rule) to a 2010 Standardized plan (as described in Section 024 of this rule), the offer and subsequent exchange shall comply with the following requirements: (____)

i. An issuer need not provide justification to the director if the insured replaces a 1990 Standardized policy or certificate with an issue age rated 2010 Standardized policy or certificate at the insured's original issue age. If an insured's policy or certificate to be replaced is priced on an issue age rate schedule at the time of such offer, the rate charged to the insured for the new exchange policy shall recognize the policy reserve buildup, due to the pre-funding inherent in the use of an issue age rate basis, for the benefit of the insured. The method proposed to be used by an issuer must be filed with the director. (____)

ii. The rating class of the new policy or certificate shall be the class closest to the insured's class of the replaced coverage. (____)

iii. An issuer may not apply new preexisting condition limitations or a new

incontestability period to the new policy for those benefits contained in the exchanged 1990 Standardized policy or certificate of the insured, but may apply preexisting condition limitations of no more than six (6) months to any added benefits contained in the new 2010 Standardized policy or certificate not contained in the exchanged policy. (____)

iv. The new policy or certificate shall be offered to all policyholders or certificateholders within a given plan, except where the offer or issue would be in violation of state or federal law. (____)

02. Standards for Basic (Core) Benefits Common to Benefit Plans A - J. Every issuer shall make available a policy or certificate including only the following basic "core" package of benefits to each perspective insured. An issuer may make available to prospective insureds any of the other Medicare supplement insurance benefit plans in addition to the basic core package, but not in lieu of it. (4-11-06)

a. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth day in any Medicare benefit period; (4-5-00)

b. Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used; (4-5-00)

c. Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of one hundred percent (100%) of Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balances. (4-11-06)

d. Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations; (4-5-00)

e. Coverage for the coinsurance amount, or in the case of hospital outpatient department services under a prospective payment system, the copayment amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible. In all cases involving hospital outpatient department services paid under a prospective payment system, the issuer is required to pay the copayment amount established by federal requirements, which will be either the amount established for the Ambulatory Payment Classification (APC) group, or a provider-elected reduced copayment amount. (4-11-06)

03. Standards for Additional Benefits. The following additional benefits shall be included in Medicare Supplement Benefit Plans "B" through "J" only as provided by Section 0~~11~~23 of ~~*IDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act."*~~ this rule. ~~*(4-5-00)*~~(____)

a. Medicare Part A deductible: Coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period. (4-5-00)

b. Skilled nursing facility care: Coverage for the actual billed charges up to the coinsurance amount from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A. (4-5-00)

c. Medicare Part B deductible: Coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement. (4-5-00)

d. Eighty percent (80%) of the Medicare Part B excess charges: Coverage for eighty percent (80%) of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge. (4-5-00)

e. One hundred percent (100%) of the Medicare Part B excess charges: Coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge. (4-5-00)

f. Basic outpatient prescription drug benefit: Coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollars ($250) calendar year deductible, to a maximum of one thousand two hundred fifty dollars ($1,250) in benefits received by the insured per calendar year, to the extent not covered by Medicare. The outpatient prescription drug benefit may be included for sale or issuance in a Medicare supplement policy until January 1, 2006. (4-11-06)

g. Extended outpatient prescription drug benefit. Coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollars ($250) calendar year deductible, to a maximum of three thousand dollars ($3,000) in benefits received by the insured per calendar year, to the extent not covered by Medicare. The outpatient prescription drug benefit may be included for sale or issuance in a Medicare supplement policy until January 1, 2006. (4-11-06)

h. Medically necessary emergency care in a foreign country: Coverage to the extent not covered by Medicare for eighty-percent (80%) of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician, and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars ($250), and a lifetime maximum benefit of fifty thousand dollars ($50,000). For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset. (4-5-00)

04. Preventive Medical Care Benefit. Coverage for the following preventive health services not covered by Medicare: (4-11-06)

a. An annual clinical preventive medical history and physical examination that may include tests and services from ~~*Subsection*~~ Paragraph 0~~*10*~~21.04.~~*b*~~c., and patient education to

address preventive health care measures. ~~*(4-5-00)*~~(____)

b. Preventive screening tests or preventive services, the selection and frequency of which is determined to be medically appropriate by the attending physician. (4-11-06)

c. Reimbursement shall be for the actual charges up to one hundred percent (100%) of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of one hundred twenty dollars ($120) annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare. (4-11-06)

05. At-Home Recovery Benefit. Coverage for services to provide short-term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery. For purposes of this benefit, the following definitions shall apply: (4-5-00)

a. Activities of daily living include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings. (4-5-00)

b. Care provider. A duly qualified or licensed home health aide or homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses' registry. (4-5-00)

c. Home. Any place used by the insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence. (4-5-00)

d. At-home recovery visit. The period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except each consecutive four (4) hours in a twenty-four (24) hour period of services provided by a care provider is one (1) visit. (4-5-00)

06. Coverage Requirements and Limitations. (4-5-00)

a. At-home recovery services provided must be primarily services which assist in activities of daily living. (4-5-00)

b. The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare. (4-5-00)

c. Coverage is limited to: (4-5-00)

i. No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment; (4-5-00)

ii. The actual charges for each visit up to a maximum reimbursement of forty dollars

($40) per visit; (4-5-00)

iii. One thousand six hundred dollars ($1,600) per calendar year; (4-5-00)

iv. Seven (7) visits in any one week; (4-5-00)

v. Care furnished on a visiting basis in the insured's home; (4-5-00)

vi. Services provided by a care provider as defined in this ~~s~~Section; ~~*(4-5-00)*~~(____)

vii. At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded; (4-5-00)

viii. At-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than eight (8) weeks after the service date of the last Medicare approved home health care visit. (4-5-00)

d. Coverage is excluded for: (4-5-00)

i. Home care visits paid for by Medicare or other government programs; and (4-5-00)

ii. Care provided by family members, unpaid volunteers or providers who are not care providers. (4-5-00)

07. Standards for Plan K and L. (____)

a. Standardized Medicare supplement benefit plan "K" shall consist of the following: ~~*(4-11-06)*~~(____)

~~*a*~~i. Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each day used from the sixty-first through the ninetieth day in any Medicare benefit period; (4-11-06)

~~*b*~~ii. Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the ninety-first through the one hundred fiftieth day in any Medicare benefit period; (4-11-06)

~~*c*~~iii. Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days coverage of one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance; (4-11-06)

~~*d*~~iv. Medicare Part A Deductible: Coverage for fifty percent (50%) of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in Sub~~*section*~~paragraph 0~~*10*~~21.07.~~*j*~~a.x.; ~~*(4-11-06)*~~(____)

~~*e*~~v. Skilled Nursing Facility Care: Coverage for fifty percent (50%) of the coinsurance amount for each day used from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in Sub~~*section*~~paragraph 0~~*10*~~21.07.~~*j*~~a.x.; ~~*(4-11-06)*~~(____)

~~*f*~~vi. Hospice Care: Coverage for fifty percent (50%) of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in Sub~~*section*~~paragraph 0~~*10*~~21.07.~~*j*~~a.x.; ~~*(4-11-06)*~~(____)

~~*g*~~vii. Coverage for fifty percent (50%) under Medicare Part A or B, of the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells as defined under federal regulations) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in Sub~~*section*~~paragraph 0~~*10*~~21.07.~~*j*~~a.x.; ~~*(4-11-06)*~~(____)

~~*h*~~viii. Except for coverage provided in Sub~~*section*~~paragraph 0~~*10*~~21.07.a.ix., coverage for fifty percent (50%) of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of -pocket limitation is met as described in Sub~~*section*~~paragraph 0~~*10*~~21.07.~~*j*~~a.x. ~~*(4-11-06)*~~(____)

~~*i*~~ix. Coverage of one hundred percent (100%) of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and (4-11-06)

~~*j*~~**x**. Coverage of one hundred percent (100%) of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of four thousand dollars ($4,000) in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services. (4-11-06)

~~*08*~~**b**. ~~***Standards for Plan L.***~~ Standardized Medicare supplement benefit plan "L" shall consist of the following: ~~*(4-11-06)*~~(____)

~~*a*~~i. The benefits described in Sub~~*sections*~~paragraphs 0~~*10*~~21.07.a.i. through 0~~*10*~~21.07.~~*c*~~a.iii., and 0~~*10*~~21.07.a.ix.; ~~*(4-11-06)*~~(____)

~~*b*~~ii. The benefit described in Sub~~*sections*~~paragraphs 0~~*10*~~21.07.~~*d*~~a.v. through 0~~*10*~~21.07.~~*h*~~a.viii. but substituting seventy-five percent (75%) for fifty percent (50%); and ~~*(4-11-06)*~~(____)

~~*c*~~iii. The benefit described in Sub~~*section*~~paragraph 0~~*10*~~21.07.~~*j*~~a.x. but substituting two thousand dollars ($2,000) for four thousand dollars ($4,000). ~~*(4-11-06)*~~(____)

022. BENEFIT STANDARDS FOR 2010 STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES ISSUED FOR DELIVERY WITH AN EFFECTIVE DATE FOR COVERAGE ON OR AFTER JUNE 1, 2010.

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state with an effective date for coverage on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards. No issuer may offer any 1990 Standardized Medicare supplement benefit plan for sale on or after June 1, 2010. Benefit standards applicable to Medicare supplement policies and certificates issued with an effective date for coverage prior to June 1, 2010 remain subject to the requirements of Section 021. ( )

01. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation. ( )

a. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage. ( )

b. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents. ( )

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, copayment, or coinsurance amounts. Premiums may be modified to correspond with such changes. ( )

d. No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium. ( )

e. Each Medicare supplement policy shall be guaranteed renewable. ( )

i. The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual. ( )

ii. The issuer shall not cancel or nonrenew the policy for any reasons other than nonpayment of premium or material representation. ( )

iii. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under Subparagraph 022.01.e.v. of this rule, the issuer shall offer certificateholders an individual Medicare supplement policy which (at the option of the certificateholder): ( )

(1) Provides for continuation of the benefits contained in the group policy; or ( )

(2) Provides for benefits that otherwise meet the requirements of this Subsection. ( )

iv. If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall: ( )

(1) Offer the certificateholder the conversion opportunity described in Subparagraph 022.01.e.iii. of this rule; or ( )

(2) At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy. ( )

v. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced. ( )

f. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss. ( )

g. A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of the policy or certificate within ninety (90) days after the date the individual becomes entitled to assistance. ( )

i. If suspension occurs and if the policyholder or certificateholder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstituted (effective as of the date of termination of entitlement) as of the termination of entitlement if the policyholder or certificateholder provides notice of loss of entitlement within ninety (90) days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement. ( )

ii. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226 (b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862 (b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificateholder loses coverage under the group health plan, the policy shall be automatically reinstituted (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within (90) days after the date of the loss and pays the premium attributed to the period, effective as of the date of termination of enrollment in the group health plan. ( )

iii. Reinstitution of coverages as described in Subparagraphs 022.01.g.i. and 022.01.g.ii.; ( )

(1) Shall not provide for any waiting period with respect to treatment of preexisting conditions; ( )

(2) Shall provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension; and ( )

(3) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended. ( )

02. Standards for Basic (Core) Benefits Common to Medicare Supplement Insurance Benefit Plans A, B, C, D, F, F with High Deductible, G, M, and N. Every issuer of Medicare supplement insurance benefit plans shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic core package, but not in lieu of it. ( )

a. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth day in any Medicare benefit period; ( )

b. Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used; ( )

c. Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance; ( )

d. Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations; ( )

e. Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible; ( )

f. Hospice Care. Coverage of cost sharing for all Part A Medicare eligible hospice care and respite care expenses. ( )

03. Standards for Additional Benefits. The following additional benefits shall be included in Medicare supplement benefit Plans B, C, D, F, F with High Deductible, G, M, and N

as provided by Section 024 of this rule. (____)

a. Medicare Part A Deductible. Coverage for one hundred percent (100%) of the Medicare Part A inpatient hospital deductible amount per benefit period. (____)

b. Medicare Part A Deductible. Coverage for fifty percent (50%) of the Medicare Part A inpatient hospital deductible amount per benefit period. (____)

c. Skilled Nursing Facility Care. Coverage for the actual billed charges up to the coinsurance amount from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A.(____)

d. Medicare Part B Deductible. Coverage for one hundred percent (100%) of the Medicare Part B deductible amount per calendar year regardless of hospital confinement. (____)

e. One Hundred Percent (100%) of the Medicare Part B Excess Charges. Coverage for all the difference between the actual Medicare Part B charges as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge. (____)

f. Medically Necessary Emergency Care in a Foreign Country. Coverage to the extent not covered by Medicare for eighty percent (80%) of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars ($250), and a lifetime maximum benefit of fifty thousand dollars ($50,000). For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset. (____)

0~~11~~23. STANDARD MEDICARE SUPPLEMENT BENEFIT PLANS FOR 1990 STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES ISSUED FOR DELIVERY ON OR AFTER JULY 1, 1992 AND WITH AN EFFECTIVE DATE FOR COVERAGE PRIOR TO JUNE 1, 2010.

01. Policy Form or Certificate Form. An issuer shall make available to each prospective policyholder and certificate-holder a policy form or certificate form containing only the basic core benefits, as defined in Subsection 0~~10~~21.02. ~~(4-5-00)~~(____)

02. Medicare Supplement Benefits. No groups, packages, or combinations of Medicare supplement benefits other than those listed in this ~~s~~Section shall be offered for sale in this state, except as may be permitted in Subsection 0~~11~~23.07 and in Section 0~~12~~25 of this rule. ~~(4-11-06)~~(____)

03. Benefit Plans. Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans "A" through "L" listed in this ~~s~~Subsection and conform to the definitions in Section 0~~04~~10 of this rule. Each benefit shall be structured in accordance with the format provided in Subsections 0~~10~~21.02, and 0~~10~~21.03~~,~~ or 0~~10~~21.07, ~~and 010.08~~ and list the

benefits in the order shown in this Subsection ~~011~~. For purposes of Section 0~~11~~23, "structure, language, and format" means style, arrangement and overall content of a benefit.
~~(4-11-06)~~(____)

04. Other Designations. An issuer may use, in addition to the benefit plan designations required in Subsection 0~~11~~23.03, other designations to the extent permitted by law.
~~(4-5-00)~~(____)

05. Make-Up of Benefit Plans~~:~~. ~~(4-5-00)~~(____)

a. Standardized Medicare supplement benefit plan "A" shall be limited to the basic (core) benefits common to all benefit plans, as defined in Subsection 0~~10~~21.02. ~~(4-5-00)~~(____)

b. Standardized Medicare supplement benefit plan "B" shall include only the following: The core benefit as defined in Subsection 0~~10~~21.02, plus the Medicare Part A deductible as defined in ~~Subsection~~ Paragraph 0~~10~~21.03.a. ~~(4-5-00)~~(____)

c. Standardized Medicare supplement benefit plan "C" shall include only the following: The core benefit as defined in Subsection 0~~10~~21.02, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible and medically necessary emergency care in a foreign country as defined in ~~Subsections~~ Paragraphs 0~~10~~21.03.a. through 0~~10~~21.03.c., and 0~~10~~21.03.h., respectively. ~~(4-5-00)~~(____)

d. Standardized Medicare supplement benefit plan "D" shall include only the following: The core benefit (as defined in Subsection 0~~10~~21.02), plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in ~~Subsections~~ Paragraphs 0~~10~~21.03.a., 0~~10~~21.03.b., 0~~10~~21.03.h., and Subsection 0~~10~~21.05, respectively. ~~(4-5-00)~~(____)

e. Standardized Medicare supplement benefit plan "E" shall include only the following: The core benefit as defined in Subsection 0~~10~~21.02, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and preventive medical care as defined in ~~Subsections~~ Paragraphs 0~~10~~21.03.a., 0~~10~~21.03.b., 0~~10~~21.03.h., and Subsection 0~~10~~21.04, respectively. ~~(4-5-00)~~(____)

f. Standardized Medicare supplement benefit plan "F" shall include only the following: The core benefit as defined in Subsection 0~~10~~21.02, plus the Medicare Part A deductible, the skilled nursing facility care, the Part B deductible, one hundred percent (100%) of the Medicare part B excess charges, and medically necessary emergency care in a foreign country as defined in ~~Subsections~~ Paragraphs 0~~10~~21.03.a. through 0~~10~~21.03.c., 0~~10~~21.03.e., and 0~~10~~21.03.h., respectively. ~~(4-5-00)~~(____)

g. Standardized Medicare supplement benefit high deductible plan "F" shall include only the following: one hundred percent (100%) of covered expenses following the payment of the annual high deductible plan "F" deductible. The covered expenses include the core benefit as defined in Subsection 0~~10~~21.02, plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in ~~Subsections~~

Paragraphs 0~~*10*~~21.03.a. through 0~~*10*~~21.03.c., 0~~*10*~~21.03.e., and 0~~*10*~~21.03.h., respectively. The annual high deductible plan "F" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "F" policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible Plan "F" deductible shall be one thousand five hundred dollars ($1,500) for 1998 and 1999, and shall be based on the calendar year. It shall be adjusted annually thereafter by the Secretary of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the twelve (12) month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars ($10). ~~*(4-11-06)*~~(____)

h. Standardized Medicare supplement benefit plan "G" shall include only the following: The core benefit as defined in Subsection 0~~*10*~~21.02, plus the Medicare Part A deductible, skilled nursing facility care, eighty percent (80%) of the Medicare Part B excess charges, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in ~~*Subsections*~~ Paragraphs 0~~*10*~~21.03.a., 0~~*10*~~21.03.b., 0~~*10*~~21.03.d., 0~~*10*~~21.03.h., and Subsection 0~~*10*~~21.05, respectively. ~~*(4-5-00)*~~(____)

i. Standardized Medicare supplement benefit plan "H" shall consist of only the following: The core benefit as defined in Subsection 0~~*10*~~21.02, plus the Medicare Part A deductible, skilled nursing facility care, basic prescription drug benefit, and medically necessary emergency care in a foreign country as defined in ~~*Subsections*~~ Paragraphs 0~~*10*~~21.03.a., 0~~*10*~~21.03.b., 0~~*10*~~21.03.f., and 0~~*10*~~21.03.h., respectively. The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005.
~~*(4-11-06)*~~(____)

j. Standardized Medicare supplement benefit plan "I" shall consist of only the following: The core benefit as defined in Subsection 0~~*10*~~21.02, plus the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B excess charges, basic prescription drug benefit, medically necessary emergency care in a foreign country, and at-home recovery benefit as defined in ~~*Subsections*~~ Paragraphs 0~~*10*~~21.03.a., 0~~*10*~~21.03.b., 0~~*10*~~21.03.e., 0~~*10*~~21.03.f., 0~~*10*~~21.03.h., and Subsection 0~~*10*~~21.05, respectively. The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005. ~~*(4-11-06)*~~(____)

k. Standardized Medicare supplement benefit plan "J" shall consist of only the following: The core benefit as defined in Subsection 0~~*10*~~21.02, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, extended prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care, and at-home recovery benefit as defined in ~~*Subsections*~~ Paragraphs 0~~*10*~~21.03.a. through 0~~*10*~~21.03.c., 0~~*10*~~21.03.e., 0~~*10*~~21.03.g., 0~~*10*~~21.03.h., and Subsections 0~~*10*~~21.04 and 0~~*10*~~21.05, respectively. The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005.
~~*(4-11-06)*~~(____)

l. Standardized Medicare supplement benefit high deductible plan "J" shall consist of only the following: one hundred percent (100%) of covered expenses following the payment of the annual high deductible plan "J" deductible. The covered expenses include the core benefit as defined in Subsection 0~~*10*~~21.02, plus the Medicare Part A deductible, skilled nursing facility care,

Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care benefit and at-home recovery benefit as defined in ~~*Subsections*~~ Paragraphs 0~~*10*~~21.03.a. through 0~~*10*~~21.03.c., 0~~*10*~~21.03.e., 0~~*10*~~21.03.g., 0~~*10*~~21.03.h., and Subsections 0~~*10*~~21.04 and 0~~*10*~~21.05, respectively. The annual high deductible plan "J" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "J" policy, and shall be in addition to any other specific benefit deductibles. The annual deductible shall be one thousand five hundred dollars ($1,500) for 1998 and 1999, and shall be based on a calendar year. It shall be adjusted annually thereafter by the Secretary of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the twelve (12) month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars ($10). The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005. ~~*(4-11-06)*~~( )

06. Make-Up of Two Medicare Supplement Plans Mandated by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA)~~:~~. ~~*(4-11-06)*~~( )

a. Standardized Medicare supplement benefit plan "K" shall consist of only those benefits described in ~~*Subsection*~~ Paragraph 0~~*10*~~21.07.~~*01*~~a. ~~*(4-11-06)*~~( )

b. Standardized Medicare supplement benefit plan "L" shall consist of only those benefits described in ~~*Subsection*~~ Paragraph 0~~*10*~~21.0~~*8*~~7.~~*02*~~b. ~~*(4-11-06)*~~( )

07. New or Innovative Benefits. An issuer may, with the prior approval of the director, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goals of simplification of Medicare supplement policies. After December 31, 2005 the innovative benefit shall not include an outpatient prescription drug benefit. (4-11-06)

024. STANDARD MEDICARE SUPPLEMENT BENEFIT PLANS FOR 2010 STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES WITH AN EFFECTIVE DATE FOR COVERAGE ON OR AFTER JUNE 1, 2010.

01. General Standards. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state with an effective date for coverage on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit plan standards. Benefit plan standards applicable to Medicare supplement policies and certificates with an effective date for coverage before June 1, 2010 remain subject to the requirements of Section 021 of this rule. ( )

a. An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic (core) benefits, as defined in Subsection 022.02 of this rule. ( )

b. If an issuer makes available any of the additional benefits described in Subsection 022.03, or offers standardized benefit Plans K or L (as described in Paragraphs 024.02.h. and 024.02.i. of this rule), then the issuer shall make available to each prospective policyholder and certificateholder, in addition to a policy form or certificate form with only the basic (core) benefits as described in Paragraph 024.01.a., a policy form or certificate form containing either standardized benefit Plan C (as described in Paragraph 024.02.c. of this rule) or standardized benefit Plan F (as described in Paragraph 024.02.e. of this rule). ( )

c. No groups, packages or combinations of Medicare supplement benefits other than those listed in this Section shall be offered for sale in this state, except as may be permitted in Subsection 024.03 and in Section 025 of this rule. ( )

d. Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans listed in this Subsection and conform to the definitions in Section 010 of this rule. Each benefit shall be structured in accordance with the format provided in Subsections 022.02 and 022.03 of this rule; or, in the case of plans K or L, in Paragraphs 024.02.h. and 024.02.i. of this rule and list the benefits in the order shown. For purposes of this Section, "structure, language, and format" means style, arrangement and overall content of benefit. ( )

e. In addition to the benefit plan designations required in Paragraph 024.01.d., an issuer may use other designations to the extent permitted by law. ( )

02. Make-up of 2010 Standardized Benefit Plans. ( )

a. Standardized Medicare supplement benefit Plan A shall include only the following: The basic (core) benefits as defined in Subsection 022.02 of this rule. ( )

b. Standardized Medicare supplement benefit Plan B shall include only the following: The basic (core) benefit as defined in Subsection 022.02 of this rule, plus one hundred percent (100%) of the Medicare Part A deductible as defined in Paragraph 022.03.a. of this rule. ( )

c. Standardized Medicare supplement benefit Plan C shall include only the following: The basic (core) benefit as defined in Subsection 022.02 of this rule, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03. a., 022.03.c., 022.03.d., and 022.03.f of this rule, respectively. ( )

d. Standardized Medicare supplement benefit Plan D shall include only the following: The basic (core) benefit (as defined in Subsection 022.02 of this rule), plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03.a., 022.03.c., and 022.03.f. of this rule, respectively. ( )

e. Standardized Medicare supplement [regular] Plan F shall include only the following: The basic (core) benefit as defined in Subsection 022.02 of this rule, plus one hundred

percent (100%) of the Medicare Part A deductible, the skilled nursing facility care, one hundred percent (100%) of the Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03.a., and 022.03.c., through 022.03.f. of this rule, respectively. ( )

f. Standardized Medicare supplement Plan F With High Deductible shall include only the following: One hundred percent (100%) of covered expenses following the payment of the annual deductible set forth in Subparagraph 024.02.f.ii. ( )

i. The basic (core) benefit as defined in Subsection 022.02 of this rule, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03.a., and 022.03.c., through 022.03.f. of this rule, respectively. ( )

ii. The annual deductible in Plan F With High Deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by [regular] Plan F, and shall be in addition to any other specific benefit deductibles. The basis for the deductible shall be fifteen hundred dollars ($1,500) and shall be adjusted annually from 1999 by the Secretary of the U.S. Department of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars ($10). ( )

g. Standardized Medicare supplement benefit Plan G shall include only the following: The basic (core) benefit as defined in Subsection 022.02 of this rule, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03.a., 022.03.c., 022.03.e., and 022.03.f. of this rule, respectively. ( )

h. Standardized Medicare supplement Plan K is mandated by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following: ( )

i. Part A Hospital Coinsurance sixty-first through ninetieth days: Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each day used from the sixty-first through the ninetieth day in any Medicare benefit period. ( )

ii. Part A Hospital Coinsurance ~~*ninetieth*~~ *ninety-first* through one hundred fiftieth day: Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the ~~*ninetieth*~~ *ninety-first* through the one hundred fiftieth day in any Medicare benefit period; ~~*(7-1-09)T*~~*( )*

iii. Part A Hospitalization After One Hundred Fiftieth Day: Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five (365)

days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance; ( )

iv. Medicare Part A Deductible: Coverage for fifty percent (50%) of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in Subparagraph 024.02.h.x. ( )

v. Skilled Nursing Facility Care: Coverage for fifty percent (50%) of the coinsurance amount for each day used from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in Subparagraph 024.02.h.x. ( )

vi. Hospice Care: Coverage for fifty percent (50%) of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in Subparagraph 024.02.h.x. ( )

vii. Blood: Coverage for fifty percent (50%), under Medicare Part A or B, of the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in Subparagraph 024.02.h.x. ( )

viii. Part B Cost Sharing: Except for coverage provided in Subparagraph 024.02.h.ix., coverage for fifty percent (50%) of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in Subparagraph 024.02.h.x. ( )

ix. Part B Preventive Services: Coverage of one hundred percent (100%) of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and ( )

x. Cost Sharing After Out-of-Pocket Limits: Coverage of one hundred percent (100%) of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of four thousand dollars ($4,000) in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services. ( )

i. Standardized Medicare supplement Plan L is mandated by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following: ( )

i. The benefits described in Subparagraphs 024.02.h.i. through 024.02.h.iii., and 024.02.h.ix. ( )

ii. The benefits described in Subparagraphs 024.02.h.iv. through 024.02.h.viii. but substituting seventy-five percent (75%) for fifty percent (50%); and ( )

iii. The benefit described in Subparagraph 024.02.h.x. but substituting two thousand

dollars ($2,000) for four thousand dollars ($4,000). ( )

j. Standardized Medicare supplement Plan M shall include only the following: The basic (core) benefit as defined in Subsection 022.02 of this rule, plus fifty percent (50%) of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03.b., 022.03.c., and 022.03.f. of this rule, respectively. ( )

k. Standardized Medicare supplement Plan N shall include only the following: The basic (core) benefit as defined in Subsection 022.02 of this rule, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in foreign country as defined in Paragraphs 022.03.a., 022.03.c., and 022.03.f. of this rule, respectively, with copayments in the following amounts: ( )

i. The lesser of twenty dollars ($20) or the Medicare Part B coinsurance or copayment for each covered health care provider office visit (including visits to medical specialists); and ( )

ii. The lesser of fifty dollars ($50) or the Medicare Part B coinsurance or copayment for each covered emergency room visit, however, this copayment shall be waived if the insured is admitted to any hospital and the emergency visit is subsequently covered as a Medicare Part A expense. ( )

03. New or Innovative Benefits. An issuer may, with the prior approval of the director, offer policies or certificates with new or innovative benefits, in addition to the standardized benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits shall include only benefits that are appropriate to Medicare supplement insurance, are new or innovative, are not otherwise available, and are cost-effective. Approval of new or innovative benefits must not adversely impact the goal of Medicare supplement simplification. New or innovative benefits shall not include an outpatient prescription drug benefit. New or innovative benefits shall not be used to change or reduce benefits, including a change of any cost-sharing provision, in any standardized plan. ( )

0~~1~~25. MEDICARE SELECT POLICIES AND CERTIFICATES.
This ~~s~~Section shall apply to Medicare Select policies and certificates, as defined in this ~~s~~Section. No policy or certificate may be advertised as a Medicare Select policy or certificate unless it meets the requirements of this ~~s~~Section. ~~(4-5-00)~~( )

01. Definitions. For the purposes of Section 0~~1~~25: ~~(4-5-00)~~( )

a. Complaint. Any dissatisfaction expressed by an individual concerning a Medicare Select issuer or its network providers. (4-5-00)

b. Grievance. Dissatisfaction expressed in writing by an individual insured under a Medicare Select policy or certificate with the administration, claims practices, or provision of services concerning a Medicare Select issuer or its network providers. (4-5-00)

c. Medicare Select issuer. An issuer offering, or seeking to offer, a Medicare Select

policy or certificate. (4-5-00)

d. Medicare Select policy or Medicare Select certificate. Respectively a Medicare supplement policy or certificate that contains restricted network provisions. (4-5-00)

e. Network provider. A provider of health care, or a group of providers of health care, which has entered into a written agreement with the issuer to provide benefits insured under a Medicare Select policy. (4-5-00)

f. Restricted network provision. Any provision which conditions the payment of benefits, in whole or in part, on the use of network providers. (4-5-00)

g. Service area. The geographic area approved by the director within which an issuer is authorized to offer a Medicare Select policy. (4-5-00)

02. Authorization to Issue Medicare Select Policy or Certificate. The director may authorize an issuer to offer a Medicare Select policy or certificate, pursuant to Section 0~~1~~25 of ~~*these*~~ this rule~~s~~ and Section 4358 of the Omnibus Budget Reconciliation Act (OBRA) of 1990 if the director finds that the issuer has satisfied all of the requirements of ~~*IDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act."*~~ this rule. ~~*(4-5-00)*~~( )

03. Filing Requirements. A Medicare Select issuer shall not issue a Medicare Select policy or certificate in this state until its plan of operation has been approved by the director. (4-5-00)

04. Proposed Plan of Operation. A Medicare Select issuer shall file a proposed plan of operation with the director in a format prescribed by the director. The plan of operation shall contain at least the following information: (4-5-00)

a. Evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that: (4-5-00)

i. Services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation, and after-hour care. The hours of operation and availability of after-hour care shall reflect usual practice in the local area. Geographic availability shall reflect the usual travel times within the community. (4-5-00)

ii. The number of network providers in the service area is sufficient, with respect to current and expected policyholders, either to deliver adequately all services that are subject to a restricted network provision or to make appropriate referrals. (4-5-00)

iii. There are written agreements with network providers describing specific responsibilities. (4-5-00)

iv. Emergency care is available twenty-four (24) hours per day and seven (7) days per week. (4-5-00)

v. In the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare Select policy or certificate. This Sub~~*section*~~paragraph ~~*012.04.a.v.*~~ shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare Select policy or certificate. ~~*(4-11-06)*~~(____)

b. A statement or map providing a clear description of the service area. (4-5-00)

c. A description of the grievance procedure to be utilized. (4-5-00)

d. A description of the quality assurance program, including: (4-5-00)

i. The formal organizational structure; (4-5-00)

ii. The written criteria for selection, retention, and removal of network providers; and (4-5-00)

iii. The procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted. (4-5-00)

e. A list and description, by specialty, of the network providers. (4-5-00)

f. Copies of the written information proposed to be used by the issuer to comply with Subsection 0~~*1*~~25.08. ~~*(4-5-00)*~~(____)

g. Any other information requested by the director. (4-5-00)

05. Proposed Changes to the Plan of Operation. A Medicare Select issuer shall file any proposed changes to the plan of operation, except for changes to the list of network providers, with the director prior to implementing the changes. Changes shall be considered approved by the director after thirty (30) days unless specifically disapproved. An updated list of network providers shall be filed with the director at least quarterly. (4-5-00)

06. Restrictions. A Medicare Select policy or certificate shall not restrict payment for covered services provided by non-network providers if: (4-5-00)

a. The services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury or a condition; and (4-5-00)

b. It is not reasonable to obtain services through a network provider. (4-5-00)

07. Payment for Full Coverage. A Medicare Select policy or certificate shall provide payment for full coverage under the policy for covered services that are not available through network providers. (4-5-00)

08. Full and Fair Disclosure. A Medicare Select issuer shall make full and fair disclosure in writing of the provisions, restrictions and limitations of the Medicare Select policy

or certificate to each applicant. This disclosure shall include at least the following: (4-5-00)

a. An outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare Select policy or certificate with: (4-5-00)

i. Other Medicare supplement policies or certificates offered by the issuer; and (4-5-00)

ii. Other Medicare Select policies or certificates. (4-5-00)

b. A description (including address, phone number and hours of operation) of the network providers, including primary care physicians, specialty physicians, hospitals and other providers. (4-5-00)

c. A description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized. Except to the extent specified in the policy or certificate, expenses incurred when using out-of-network providers do not count toward the out-of-pocket annual limit contained in plans K and L. (4-11-06)

d. A description of coverage for emergency and urgently needed care and other out-of-service area coverage. (4-5-00)

e. A description of limitations on referrals to restricted network providers and to other providers. (4-5-00)

f. A description of the policyholder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer. (4-5-00)

g. A description of the Medicare Select issuer's quality assurance program and grievance procedure. (4-5-00)

09. Medicare Select Policy or Certificate. Prior to the sale of a Medicare Select policy or certificate, a Medicare Select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to Subsection 0~~1~~25.08 ~~*of this section*~~ and that the applicant understands the restrictions of the Medicare Select policy or certificate. ~~*(4-5-00)*~~(____)

10. Complaints and Grievances. A Medicare Select issuer shall have and use procedures for hearing complaints and resolving written grievances from the subscribers. The procedures shall be aimed at mutual agreement for settlement and may include arbitration procedures. (4-5-00)

a. The grievance procedure shall be described in the policy and certificates and in the outline of coverage. (4-5-00)

b. At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder describing how a grievance may be registered with the issuer.

(4-5-00)

c. Grievances shall be considered in a timely manner and shall be transmitted to appropriate decision-makers who have authority to fully investigate the issue and take corrective action. (4-5-00)

d. If a grievance is found to be valid, corrective action shall be taken promptly. (4-5-00)

e. All concerned parties shall be notified about the results of a grievance. (4-5-00)

f. The issuer shall report no later than each March 31 to the director regarding its grievance procedure. The report shall be in a format prescribed by the director and shall contain the number of grievances filed in the past year and a summary of the subject, nature and resolution of such grievances. (4-5-00)

11. Initial Purchase. At the time of initial purchase, a Medicare Select issuer shall make available to each applicant for a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate otherwise offered by the issuer. (4-5-00)

12. Comparable or Lesser Benefits. (4-5-00)

a. At the request of an individual insured under a Medicare Select policy or certificate, a Medicare Select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies or certificates available without requiring evidence of insurability after the Medicare Select policy or certificate has been in force for six (6) months. (4-5-00)

b. For the purposes of Subsection 0~~1~~25.12, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one (1) or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of ~~*Subsection 012.12.b.*~~ this Paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for at-home recovery services or coverage for Part B excess charges. ~~*(4-11-06)*~~(____)

13. Continuation of Coverage. Medicare Select policies and certificates shall provide for continuation of coverage in the event the Secretary of Health and Human Services determines that Medicare Select policies and certificates issued pursuant to this ~~s~~Section should be discontinued due to either the failure of the Medicare Select program to be re-authorized under law or its substantial amendment. ~~*(4-5-00)*~~(____)

a. Each Medicare Select issuer shall make available to each individual insured under a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the insurer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies and certificates available without requiring evidence of insurability. (4-5-00)

b. For the purposes of Subsection 0~~1~~25.13, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one (1) or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of ~~*Subsection 012.13.b.*~~ this Paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for at-home recovery services or coverage for Part B excess charges. ~~*(4-11-06)*~~(____)

14. Requests for Data. A Medicare Select issuer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare Select Program. (4-5-00)

0~~*13*~~26. OPEN ENROLLMENT.

01. Offer of Coverage. An issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this state, nor discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six (6) month period beginning with the first day of the first month in which an individual is both sixty-five (65) years of age or older and is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an issuer shall be made available to all applicants who qualify under this Subsection ~~*013.01*~~ without regard to age. ~~*(4-5-00)*~~(____)

a. If an applicant qualifies under Subsection 0~~*13*~~26.01 and submits an application during the time period referenced in Subsection 0~~*13*~~26.01 and, as of the date of application, has had a continuous period of creditable coverage of at least six (6) months, the issuer shall not exclude benefits based on a preexisting condition. ~~*(4-5-00)*~~(____)

b. If the applicant qualifies under Subsection 0~~*13*~~26.01 and submits an application during the time period referenced in Subsection 0~~*13*~~26.01 and, as of the date of application, has had a continuous period of creditable coverage that is less than six (6) months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The Secretary of Health and Human Services shall specify the manner of the reduction under this ~~*s*~~Subsection. ~~*(4-11-06)*~~(____)

c. Except as provided in Subsection 0~~*13*~~26.01~~*.a.*~~, and Sections 0~~*14*~~27 and 0~~*25*~~38, Subsection 0~~*13*~~26.01~~*.a.*~~ shall not be construed as preventing the exclusion of benefits under a policy, during the first six (6) months, based on a preexisting condition for which the policyholder or certificate-holder received treatment or was otherwise diagnosed during the six (6) months before the coverage became effective. ~~*(4-11-06)*~~(____)

0~~*14*~~27. GUARANTEED ISSUE FOR ELIGIBLE PERSONS.

01. Guaranteed Issue. (4-5-00)

a. Eligible persons are those individuals described in Subsection 0~~*14*~~27.02 who seek to enroll under the policy during the period specified in Subsection 0~~*14*~~27.0~~*5*~~3, and who submit

evidence of the date of termination or disenrollment or Medicare Part D enrollment with the application for a Medicare supplement policy. ~~*(4-11-06)*~~(____)

b. With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in Subsection 0~~*14*~~27.05 that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy. ~~*(4-11-06)*~~(____)

02. Eligible Persons. An eligible person is an individual described here in any part of Subsection 0~~*14*~~27.02: ~~*(4-11-06)*~~(____)

a. The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual; or the individual is enrolled under an employee welfare benefits plan that is primary to Medicare and the plan terminates or the plan ceases to provide all health benefits to the individual because the individual leaves the plan; (4-5-00)

b. The individual is enrolled with a Medicare Advantage organization under a Medicare Advantage plan under Part C of Medicare, and any of the following circumstances apply, or the individual is sixty-five (65) years of age or older and is enrolled with a Program of All-Inclusive Care for the Elderly (PACE) provider under Section 1894 of the Social Security Act, and there are circumstances similar to those described below that would permit discontinuance of the individual's enrollment with such provider if such individual were enrolled in a Medicare Advantage plan: (4-11-06)

i. The certification of the organization or plan under this part has been terminated; (4-11-06)

ii. The organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides; (4-11-06)

iii. The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary of Health and Human Services, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856), or the plan is terminated for all individuals within a residence area; (4-11-06)

iv. The individual demonstrates, in accordance with guidelines established by the Secretary of Health and Human Services~~,~~: (____)

(a) ~~t~~That the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available

under the plan or the failure to provide such covered care in accordance with applicable quality standards; or (____)

(b) ~~t~~The organization, or agent, or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or (____)

(c) ~~t~~The individual meets such other exceptional conditions as the Secretary may provide. ~~*(4-11-06)*~~(____)

c. The individual is enrolled with: (4-5-00)

i. An eligible organization under a contract under Section 1876 of the Social Security Act (Medicare cost); (5-3-03)

ii. A similar organization operating under demonstration project authority, effective for periods before April 1, 1999; (4-5-00)

iii. An organization under an agreement under Section 1833(a)(1)(A) of the Social Security Act (health care prepayment plan); or (5-3-03)

iv. An organization under a Medicare Select policy; and (4-5-00)

d. The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under ~~*Subsection*~~ Paragraph 0~~*14*~~27.02.b. ~~*(4-5-00)*~~(____)

e. The individual is enrolled under a Medicare supplement policy and the enrollment ceases because: (4-5-00)

i. Of the insolvency of the issuer or bankruptcy of the non-issuer organization; or (4-5-00)

ii. Of other involuntary termination of coverage or enrollment under the policy; (4-5-00)

iii. The issuer of the policy substantially violated a material provision of the policy; or (4-5-00)

iv. The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual. (4-5-00)

f. The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare Advantage organization under a Medicare Advantage plan under Part C of Medicare, any eligible organization under a contract under Section 1876 of the Social Security Act (Medicare cost), any similar organization operating under demonstration project authority, any PACE provider under Section 1894 of the Social Security Act, or a Medicare Select policy; and (4-11-06)

g. The subsequent enrollment under ~~*Subsection*~~ Paragraph 0~~*14*~~27.02.f. is terminated by the enrollee during any period within the first twelve (12) months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under Section 1851(e) of the federal Social Security Act); or ~~*(4-5-00)*~~(____)

h. The individual, upon first becoming eligible for benefits under Part A of Medicare at age sixty-five (65), enrolls in a Medicare Advantage plan under Part C of Medicare, or with a PACE provider under Section 1894 of the Social Security Act, and disenrolls from the plan or program by not later than twelve (12) months after the effective date of enrollment. (4-11-06)

i. The individual enrolls in a Medicare Part D plan during the initial enrollment period and at the time of enrollment in Part D, was enrolled under Medicare supplement policy that covers outpatient prescription drugs and the individual terminates enrollment in the Medicare supplement policy and submits evidence of enrollment in Medicare Part D along with the application for a policy described in ~~*Subsection*~~ Paragraph 0~~*14*~~27.05.e. ~~*(4-11-06)*~~(____)

03. Guaranteed Issue Time Periods. (5-3-03)

a. In the case of an individual described in ~~*Subsection*~~ Paragraph 0~~*14*~~27.02.a., the guaranteed issue period begins on the later of the date the individual receives a notice of termination or cessation of all supplemental health benefits (or, if a notice is not received, notice that a claim has been denied because of a termination or cessation); or the date that the applicable coverage terminates or ceases; and ends sixty-three (63) days thereafter; ~~*(4-11-06)*~~(____)

b. In the case of an individual described in ~~*Subsections*~~ Paragraphs 0~~*14*~~27.02.b., 0~~*14*~~27.02.c., 0~~*14*~~27.02.f., ~~*014.02.g.*~~, or 0~~*14*~~27.02.h., whose enrollment is terminated involuntarily, the guaranteed issue period begins on the date that the individual receives a notice of termination and ends sixty-three (63) days after the date the applicable coverage is terminated; ~~*(4-11-06)*~~(____)

c. In the case of an individual described in ~~*Subsections*~~ Paragraph 0~~*14*~~27.02.e.~~*i. and 014.02.e.ii.*~~, the guaranteed issue period begins on the earlier of: ~~*(5-3-03)*~~(____)

i. The date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar notice if any; and (5-3-03)

ii. The date that the applicable coverage is terminated, and ends on the date that is sixty-three (63) days after the date the coverage is terminated; (5-3-03)

d. In the case of an individual described in ~~*Subsections*~~ Paragraph 0~~*14*~~27.02.b. and Subparagraph 0~~*14*~~27.02.~~*c*~~e.iii., and Subparagraph 0~~*14*~~27.02.~~*f*~~e.iv., Paragraph 0~~*14*~~27.02.~~*g*~~f., or 0~~*14*~~27.02.h., who disenrolls voluntarily, the guaranteed issue period begins on the date that is sixty (60) days before the effective date of the disenrollment and ends on the date that is sixty-three (63) days after the effective date; and ~~*(4-11-06)*~~(____)

e. In the case of an individual described in ~~*Subsection*~~ Paragraph 0~~*14*~~27.02.i., the guaranteed issue period begins on the date the individual receives notice pursuant to Section

1882(v)(2)(B) of the Social Security Act from the Medicare supplement issuer during the sixty-day (60) period immediately preceding the initial Part D enrollment period and ends on the date that is sixty-three (63) days after the effective date of the individual's coverage under Medicare Part D; and ~~*(4-11-06)*~~(____)

f. In the case of an individual described in Subsection 0~~*14*~~27.02 but not described in the preceding provisions of Subsection 0~~*14*~~27.03, the guaranteed issue period begins on the effective date of disenrollment and ends on the date that is sixty-three (63) days after the effective date. ~~*(4-11-06)*~~(____)

04. Extended Medigap Access for Interrupted Trial Periods. (5-3-03)

a. In the case of an individual described in ~~*Subsection*~~ Paragraph 0~~*14*~~27.02.f. (or deemed to be so described, pursuant to this ~~*Subsection 014.04.a.*~~ Paragraph) whose enrollment with an organization or provider described in ~~*Subsection*~~ Paragraph 0~~*14*~~27.02.f. is involuntarily terminated within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls with another such organization or provider, the subsequent enrollment shall be deemed to be an initial enrollment described in ~~*Subsection*~~ Paragraph 0~~*14*~~27.02.f.; ~~*(4-11-06)*~~(____)

b. In the case of an individual described in ~~*Subsection*~~ Paragraph 0~~*14*~~27.02.h. (or deemed to be so described, pursuant to this ~~*Subsection 014.04.b.*~~ Paragraph) whose enrollment with a plan or in a program described in ~~*Subsection*~~ Paragraph 0~~*14*~~27.02.h. is involuntarily terminated within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls in another such plan or program, the subsequent enrollment shall be deemed to be an initial enrollment described in ~~*Subsection*~~ Paragraph 0~~*14*~~27.02.h.; and ~~*(4-11-06)*~~(____)

c. For purposes of ~~*Subsection*~~ Paragraphs 0~~*14*~~27.02.f. and 0~~*14*~~27.02.h., no enrollment of an individual with an organization or provider described in ~~*Subsection*~~ Paragraph 0~~*14*~~27.02.f. or with a plan or in a program described in ~~*Subsection*~~ Paragraph 0~~*14*~~27.02.h. may be deemed to be an initial enrollment under ~~*Subsection 014.04.c.*~~ this Paragraph after the two-year period beginning on the date on which the individual first enrolled with such an organization, provider, plan or program. ~~*(5-3-03)*~~(____)

05. Products to Which Eligible Persons are Entitled. The Medicare supplement policy to which eligible persons are entitled under: (4-11-06)

a. ~~*Subsections*~~ Paragraphs 0~~*14*~~27.02.a. through 0~~*14*~~27.02.e. ~~*and 014.02.g.*~~ is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F (including F with a high deductible), K or L offered by any issuer. ~~*(4-11-06)*~~(____)

b. Subject to Paragraph 027.05.c., ~~*Subsection*~~ Paragraph 0~~*14*~~27.02.g. is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in ~~*Subsection*~~ Paragraph 0~~*14*~~27.05.a. ~~*(4-11-06)*~~(____)

c. After December 31, 2005, if the individual was most recently enrolled in a Medicare supplement policy with an outpatient prescription drug benefit, a Medicare supplement

policy described in Subsection 0~~*14*~~27.05 is: ~~*(4-11-06)*~~(____)

i. The policy available from the same issuer but modified to remove outpatient prescription drug coverage; or (4-11-06)

ii. At the election of the policyholder, an A, B, C, F (including F with a high deductible), K or L policy that is offered by any issuer; (4-11-06)

d. ~~*Subsection*~~ Paragraph 0~~*14*~~27.02.h. shall include any Medicare supplement policy offered by any issuer. ~~*(4-11-06)*~~(____)

e. ~~*Subsection*~~ Paragraph 0~~*14*~~27.02.i. is a Medicare supplement policy that has a benefit package classified as Plan A, B, C, F (including F with a high deductible), K, or L and that is offered and is available for issuance to new enrollees by the same issuer that issued the individual's Medicare supplement policy with outpatient prescription drug coverage. ~~*(4-11-06)*~~(____)

06. Notification Provisions. (4-5-00)

a. At the time of an event described in Subsection 0~~*14*~~27.02 of this ~~*section*~~ rule because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this Section ~~*014*~~, and of the obligations of issuers of Medicare supplement policies under Subsection 0~~*14*~~27.01. Such notice shall be communicated contemporaneously with the notification of termination. ~~*(4-5-00)*~~(____)

b. At the time of an event described in Subsection 0~~*14*~~27.02 ~~*of this section*~~ because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this ~~*s*~~Section, and of the obligations of issuers of Medicare supplement policies under Subsection 0~~*14*~~27.01. Such notice shall be communicated within ten (10) working days of the issuer receiving notification of disenrollment. ~~*(4-5-00)*~~(____)

0~~*15*~~28. STANDARDS FOR CLAIMS PAYMENT.

01. Compliance. An issuer shall comply with Section 1882(c)(3) of the Social Security Act (as enacted by Section 4081(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987 (OBRA) 1987, Pub. L. No. 100-203) by: ~~*(4-5-00)*~~(____)

a. Accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim form otherwise required and making a payment determination on the basis of the information contained in that notice; (4-5-00)

b. Notifying the participating physician or supplier and the beneficiary of the payment determination; (4-5-00)

c. Paying the participating physician or supplier directly; (4-5-00)

d. Furnishing, at the time of enrollment, each enrollee with a card listing the policy name, number and a central mailing address to which notices from a Medicare carrier may be sent; (4-5-00)

e. Paying user fees for claim notices that are transmitted electronically or otherwise; and (4-5-00)

f. Providing to the Secretary of Health and Human Services, at least annually, a central mailing address to which all claims may be sent by Medicare carriers. (4-5-00)

02. Certification. Compliance with the requirements set forth in Subsection 0~~*15*~~28.01 shall be certified on the Medicare supplement insurance experience reporting form. ~~*(4-5-00)*~~(____)

0~~*16*~~29. LOSS RATIO STANDARDS AND REFUND OR CREDIT OF PREMIUM.

01. Loss Ratio Standards. (4-5-00)

a. A Medicare supplement policy form or certificate form shall not be delivered or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificateholders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form. (4-5-00)

i. At least seventy-five percent (75%) of the aggregate amount of premiums earned in the case of group policies; or (4-5-00)

ii. At least sixty-five percent (65%) of the aggregate amount of premiums earned in the case of individual policies; (4-5-00)

b. Calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a managed care organization on a service rather than reimbursement basis and earned premiums for the period and in accordance with accepted actuarial principles and practices. Incurred health care expenses where coverage is provided by a managed care organization shall not include: (4-11-06)

i. Home office and overhead costs; (4-11-06)

ii. Advertising costs; (4-11-06)

iii. Commissions and other acquisition costs; (4-11-06)

iv. Taxes; (4-11-06)

v. Capital costs; (4-11-06)

vi. Administrative costs; and (4-11-06)

vii. Claims processing costs. (4-11-06)

c. All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this ~~s~~Section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss radio standards. ~~*(4-5-00)*~~(____)

d. For purposes of applying ~~*Subsections*~~ Paragraphs 0~~*16*~~29.01.a. and 0~~*17*~~30.0~~*1*~~5.~~*c*~~b., only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies. ~~*(4-11-06)*~~(____)

e. For policies issued prior to July 1, 1992, expected claims in relation to premiums shall meet: (4-5-00)

i. The originally filed anticipated loss ratio when combined with the actual experience since inception; (4-5-00)

ii. The appropriate loss ratio requirement from Sub~~*section*~~paragraphs 0~~*16*~~29.01.a.i. and 0~~*16*~~29.01.a.ii. when combined with actual experience beginning with July 1, 1992 to date; and ~~*(4-5-00)*~~(____)

iii. The appropriate loss ratio requirement from Sub~~*section*~~paragraphs 0~~*16*~~29.01.a.i. and 0~~*16*~~29.01.a.ii. over the entire future period for which the rates are computed to provide coverage. ~~*(4-5-00)*~~(____)

02. Refund or Credit Calculation. (4-5-00)

a. An issuer shall collect and file with the director by May 31 of each year the data contained in the applicable reporting form as defined by NAIC Model Regulation (Attachments) and accessible by the Internet (www.doi.idaho.gov) for each type in a standard Medicare supplement benefit plan. (4-11-06)

b. If on the basis of the experience as reported the benchmark ratio since inception (ratio one (1)) exceeds the adjusted experience ratio since inception (ratio three (3)), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded. (4-5-00)

c. For the purpose of Section 0~~*16*~~29, policies or certificates issued prior to July 1, 1992, the issuer shall make the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after July 1, 1992. The first report shall be due by May 31, 1994. ~~*(4-5-00)*~~(____)

d. A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credit exceeds a de minimis level. The refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of Health and Human Services, but in no event shall it be less than the average rate of interest for thirteen (13) week Treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based. (4-5-00)

03. Annual Filing of Premium Rates. An issuer of Medicare supplement policies and certificates issued before or after the effective date of July 1, 1992, in this state shall file annually its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy duration for approval by the director in accordance with the filing requirements and procedures prescribed by the director. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. An expected third-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three (3) years. As soon as practicable, but prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in this state shall file with the director, in accordance with the applicable filing procedures of this state: (4-5-00)

a. Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. The supporting documents necessary to justify the adjustment shall accompany the filing. (4-5-00)

b. An issuer shall make premium adjustments necessary to produce an expected loss ratio under the policy or certificate to conform to minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for the Medicare supplement policies or certificates. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein shall be made with respect to a policy at any time other than upon its renewal date or anniversary date. (4-5-00)

c. If an issuer fails to make premium adjustments acceptable to the director, the director may order premium adjustments, refunds, or premium credits deemed necessary to achieve the loss ratio required by Section 0~~16~~29. ~~(4-5-00)~~(____)

d. Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. The riders, endorsements, or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or certificate. (4-5-00)

04. Public Hearings. The director may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form issued before or after the effective date of July 1, 1992 if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The

determination of compliance is made without consideration of any refund or credit for the reporting period. Public notice of the hearing shall be furnished in a manner deemed appropriate by the director. (4-5-00)

0~~17~~30. FILING AND APPROVAL OF POLICIES AND CERTIFICATES AND PREMIUM RATES.

01. Filing ~~*and Premium Rates*~~ of Policy Forms. (____)

a. An issuer shall not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the director in accordance with filing requirements and procedures prescribed by the director. (____)

b. An issuer shall file any riders or amendments to policy or certificate forms to delete outpatient prescription drug benefits as required by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 only with the director in the state in which the policy or certificate was issued. (____)

02. Filing of Premium Rates. (____)

a. An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with and approved by the director in accordance with the filing requirements and procedures prescribed by the director. (____)

b. Except as provided in Subsection 0~~16~~29.03, the insured shall not receive more than one (1) rate increase in any twelve (12) month period~~,~~. ~~(4-11-06)~~(____)

~~a~~03. Except as provided in ~~*Subsection*~~ Paragraph 0~~17~~30.0~~1~~3.~~b~~a., an issuer shall not file for approval more than one (1) form of a policy or certificate of each type for each standard Medicare supplement benefit plan. ~~(4-5-00)~~(____)

~~b~~a. An issuer may offer, with the approval of the director, up to four (4) additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one (1) or each of the following cases: (4-5-00)

i. The inclusion of new or innovative benefits; (4-5-00)

ii. The addition of either direct response or agent marketing methods; (4-5-00)

iii. The addition of either guaranteed issue or underwritten coverage; (4-5-00)

iv. The offering of coverage to individuals for Medicare by reason of disability. (4-5-00)

~~c~~b. For the purposes of Subsection 0~~17~~30.0~~1~~3, "type" means an individual policy, a group policy, an individual Medicare Select policy, or a group Medicare Select policy. ~~(4-11-06)~~(____)

0~~2~~4. Availability of Policy Form or Certificate. Except as provided in ~~*Subsection*~~ Paragraph 0~~*17*~~30.0~~*2*~~4.a., an issuer shall continue to make available for purchase any policy form or certificate form issued after the effective date of ~~*IDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act," that has been approved by the director*~~ this rule. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous twelve (12) months. ~~*(4-5-00)*~~(____)

a. An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the director in writing its decision at least thirty (30) days prior to discontinuing the availability of the form of the policy or certificate. After receipt of this notice by the director, the issuer shall no longer offer for sale the policy form or certificate form in this state. (4-5-00)

b. An issuer that discontinues the availability of a policy form or certificate form pursuant to ~~*Subsection*~~ Paragraph 0~~*17*~~30.0~~*2*~~4.a. shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five (5) years after the issuer provides notice to the director of the discontinuance. The period of discontinuance may be reduced if the director determines that a shorter period is appropriate. ~~*(4-5-00)*~~(____)

c. The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of Subsection 0~~*17*~~30.0~~*2*~~4. ~~*(4-11-06)*~~(____)

d. A change in the rating structure or methodology shall be considered a discontinuance under this Subsection 0~~*17*~~30.0~~*2*~~4 unless the issuer complies with the following requirements: ~~*(4-5-00)*~~(____)

i. The issuer provides an actuarial memorandum, in a form and manner prescribed by the director, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates. (4-5-00)

ii. The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The director may approve a change to the differential which is in the public interest. (4-5-00)

0~~*3*~~5. Experience of Policy Forms. (4-5-00)

a. Except as provided in ~~*Subsection*~~ Paragraph 0~~*17*~~30.0~~*3*~~5.b., the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in Section 0~~*16*~~29. ~~*(4-5-00)*~~(____)

b. Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculation. (4-5-00)

0~~4~~6. Attained Age Rating Prohibited. With respect to Medicare supplement policies that conform to the ~~*Ten*~~ Standard Benefit Plans developed by the National Association of Insurance Commissioners and adopted by the State of Idaho July 1, 1992, under IDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act," sold to residents of this state and all those sold on or after January 1, 1995, it is an unfair practice and an unfair method of competition for any issuer, insurer, or licensee to use the increasing age of an insured, subscriber or participant as the basis for increasing premiums or prepayment charges for policyholders who initially purchase a policy after January 1, 1995. This rule explicitly authorizes both issue age ratings and community ratings consistent with the prohibition of attained age ratings and allows companies to resubmit for approval issue age ratings previously rejected. ~~*(4-5-00)*~~(____)

0~~5~~7. Rating by Area and Gender Prohibited. With respect to Medicare supplement policies that conform to the ~~*Ten*~~ Standard Benefit Plans developed by the National Association of Insurance Commissioners and adopted by the State of Idaho, July 1, 1992, under IDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act," sold to residents of this State and all those sold on or after January 1, 1999, it is an unfair practice and an unfair method of competition for any issuee, issuer, or licensee to use area or gender for rating purpose. ~~*(4-5-00)*~~(____)

0~~*18*~~31. PERMITTED COMPENSATION ARRANGEMENTS.

01. Commissions. An issuer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first-year commission or other first-year compensation is no more than two hundred percent (200%) of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period. (4-5-00)

02. Compensation in Subsequent Years. The commission or other compensation provided in subsequent renewal years must be the same as that provided in the second year or period and must be provided for no fewer than five (5) renewal years. (4-11-06)

03. Renewal Compensation. No issuer or other entity shall provide compensation to its agent or other producers and no agent or producer shall receive compensation greater than the renewal compensation payable by the replacing issuer on renewal policies or certificates if an existing policy or certificate is replaced. (4-5-00)

04. Compensation. For purposes of Section 0~~*18*~~31, compensation includes pecuniary or non-pecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate, including but not limited to bonuses, gifts, prizes, awards, and finder's fees. ~~*(4-5-00)*~~(____)

0~~*19*~~32. REQUIRED DISCLOSURE PROVISIONS.

01. General Rules. (4-5-00)

a. Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of the provision shall be consistent with

the type of contract issued. The provision shall be appropriately captioned and shall appear on the first page of the policy, and shall include any reservation by the issuer of the right to change premiums ~~*and any automatic renewal premium increases based on the policyholder's age*~~.
~~*(4-5-00)*~~(____)

b. Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy or certificate issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing and signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies, or if the increased benefits or coverage is 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. (4-5-00)

c. Medicare supplement policies or certificates shall not provide for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import. (4-5-00)

d. If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations." (4-5-00)

e. Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto, stating in substance that the policyholder or certificate-holder shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason. ~~*(4-5-00)*~~(____)

f. Issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis to persons eligible for Medicare shall provide to those applicants a "Guide to Health Insurance for People with Medicare" in the form developed jointly by the National Association of Insurance Commissions and the Centers for Medicare & Medicaid Services and in a type size no smaller than twelve (12) point type. Delivery of the Guide shall be made whether or not the policies or certificates are advertised, solicited or issued as Medicare supplement policies or certificates as defined in this rule. Except in the case of direct response issuers, delivery of the Guide shall be made to the applicant at the time of application and acknowledgment of receipt of the Guide shall be obtained by the issuer. Direct response issuers shall deliver the Guide to the applicant upon request but not later than at the time the policy is delivered. (4-11-06)

g. For the purposes of Section 0~~*19*~~32, "form" means the language, format, type size, type proportional spacing, bold character, and line spacing. ~~*(4-11-06)*~~(____)

02. Notice Requirements. (4-5-00)

a. As soon as practicable, but no later than thirty (30) days prior to the annual effective date of any Medicare benefit changes, an issuer shall notify its policyholders and certificateholders of modifications it has made to Medicare supplement insurance policies or certificates in a format acceptable to the director. The notice shall: (4-5-00)

i. Include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate, and (4-5-00)

ii. Inform each policyholder or certificateholder as to when any premium adjustment is to be made due to changes in Medicare. (4-5-00)

b. The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension. (4-5-00)

c. The notices shall not contain or be accompanied by any solicitation. (4-5-00)

03. Medicare Prescription Drug, Improvement, and Modernization Act of 2003 Notice Requirements. Issuers shall comply with any notice requirements of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. (4-11-06)

04. Outline of Coverage Requirements for Medicare Supplement Policies. (4-5-00)

a. Issuers shall provide an outline of coverage to all applicants at the time application is presented to the prospective applicant and, except for direct response policies, shall obtain an acknowledgment of receipt of the outline from the applicant; and (4-5-00)

b. If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany the policy or certificate when it is delivered and contain the following statement, in no less than twelve (12) point type, immediately above the company name:

"NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued." (4-5-00)

c. The outline of coverage provided to applicants pursuant to this ~~s~~Section consists of four (4) parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the issuer. The outline of coverage shall be in the language and format prescribed below in no less than twelve (12) point type. All plans ~~A-L~~ shall be shown on the cover page, and the plans that are offered by the issuer shall be prominently identified. Premium information for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated. ~~(4-11-06)~~(____)

05. Notice Regarding Policies or Certificates Which ~~a~~Are Not Medicare Supplement Policies. ~~*(4-5-00)*~~(____)

a. Any accident and sickness insurance policy or certificate other than Medicare supplement policy and policy issued pursuant to a contract under Section 1876 of the Federal Social Security Act (42 U.S.C. Section 1395 et seq.), disability income policy; or other policy identified in ~~*Subsection*~~ Paragraph 001.02.b. of this rule, issued for delivery in this state to persons eligible for Medicare shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy, or certificate delivered to insureds. The notice shall be in no less than twelve (12) point type and shall contain the following language:

"THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company." ~~*(4-11-06)*~~(____)

b. Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in ~~*Subsection*~~ Paragraph 0~~*19*~~32.04.a. shall disclose, using the applicable NAIC Model Regulation as incorporated by reference in Section 004 of this rule and referenced as Appendix C located ~~*on the Internet*~~ at ~~(~~www.doi.idaho.gov, - select Senior Services ~~*for People on Medicare under the Consumer Services link*~~, see ~~*Attachments*~~ incorporated documents to ~~*NAIC Model Act implementing the Medicare supplement insurance minimum standards*~~ IDAPA 18.01.54 - "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act"~~)~~, the extent to which the policy duplicates Medicare. The disclosure statement shall be provided as a part of, or together with, the application for the policy or certificate. ~~*(4-11-06)*~~(____)

0~~*20*~~33. 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 currently has another Medicare supplement, Medicare Advantage, Medicaid coverage, or another health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions and statements may be used. (4-11-06)

02. Statements. (4-5-00)

a. You do not need more than one (1) Medicare supplement policy. (4-5-00)

b. If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages. (4-5-00)

c. You may be eligible for benefits under Medicaid and may not need a Medicare

supplement policy. (4-5-00)

d. If, after purchasing this policy, you become eligible for Medicaid, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, during your entitlement to benefits under Medicaid for twenty-four (24) months. You must request this suspension within ninety (90) days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your suspended Medicare supplement policy (or, if that is no longer available, a substantially equivalent policy) will be reinstituted if requested within ninety (90) days of losing Medicaid eligibility. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstituted policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension. (4-11-06)

e. If you are eligible for, and have enrolled in a Medicare supplement policy by reason of disability and you later become covered by an employer or union-based group health plan, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, while you are covered under the employer or union-based group health plan. If you suspend your Medicare supplement policy under these circumstances, and later lose your employer or union-based group health plan, your suspended Medicare supplement policy (or, if that is no longer available, a substantially equivalent policy) will be reinstituted if requested within ninety (90) days of losing your employer or union-based health plan. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstituted policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension. (4-11-06)

f. Counseling services are available through the Senior Health Insurance Benefit Advisors program (SHIBA), to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid program, including benefits as a Qualified Medicare Beneficiary (QMB) and a Specified Low-Income Medicare Beneficiary (SLMB). (4-11-06)

03. **Questions**. See Idaho Appendix A at the end of this ~~*chapter*~~ rule. ~~*(4-11-06)*~~( )

04. **Agents**. Agents shall list any other health insurance policies they have sold to the applicant. (4-5-00)

a. List policies sold which are still in force. (4-5-00)

b. List policies sold in the past five (5) years which are no longer in force. (4-5-00)

05. **Direct Response Issuer**. In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer upon delivery of the policy. (4-5-00)

06. **Notice Regarding Replacement of Medicare Supplement Coverage**. Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer,

other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One (1) copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage. (4-5-00)

07. SHIBA And Consumer Assistance Link. The notice required in Subsection 0~~20~~33.06 for an issuer shall be provided in substantially the following form based on the NAIC Model Regulation as incorporated by reference in Section 004 of this rule, which includes NAIC Appendixes A, B, and C and all other outlines of coverage and specific plan designs. For the website, go to Idaho Department of Insurance ~~H~~home ~~P~~page~~,~~ at www.doi.idaho.gov, select Senior Services ~~for People on Medicare under Consumer Services link~~, see ~~Attachments~~ incorporated documents to ~~NAIC Model Act implementing the Medicare supplement insurance minimum standards~~ IDAPA 18.01.54 - "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act". To obtain a copy of the NAIC Model Regulation, contact SHIBA at the Idaho Department of Insurance (208) 334-4250. ~~(4-11-06)~~(____)

0~~21~~34. FILING REQUIREMENTS FOR ADVERTISING.
An issuer shall provide a copy of any Medicare supplement advertisement intended for use in this state whether through written, radio, or television medium to the director for review or approval by the director. (4-5-00)

0~~22~~35. STANDARDS FOR MARKETING.

01. Issuer. An issuer, directly or through its producers, shall: (4-5-00)

a. Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate. (4-5-00)

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 policy the following:

"Notice to buyer: This policy may not cover all of your medical expenses." (4-5-00)

d. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance. (4-5-00)

e. Establish auditable procedures for verifying compliance with this Subsection 0~~22~~35.01. ~~(4-5-00)~~(____)

02. Prohibited Acts and Practices. In addition to the practices prohibited in Chapter 13, Title 41, Idaho Code, the following acts and practices are prohibited: (4-5-00)

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 an 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 or insurance company. (4-5-00)

03. Prohibited Terms. The terms "Medicare supplement," "Medigap," "Medicare wrap-around," and words of similar import shall not be used unless the policy is issued in compliance with ~~*IDAPA 18.01.54, "Rule To Implement The NAIC Medicare Supplement Insurance Minimum Standards Model Act."*~~ this rule. ~~*(4-5-00)*~~( )

0~~2~~36. APPROPRIATENESS OF RECOMMENDED PURCHASE AND EXCESSIVE INSURANCE.
In recommending the purchase or replacement of any Medicare supplement policy or certificate, an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement. Any sale of Medicare supplement policy or certificate that will provide an individual more than one Medicare supplement policy or certificate is prohibited. An issuer shall not issue a Medicare supplement policy or certificate to an individual enrolled in Medicare Part C unless the effective date of the coverage is after the termination date of the individual's Part C coverage. (4-11-06)

0~~24~~37. REPORTING OF MULTIPLE POLICIES.

01. Reporting. On or before March 1 of each year, an issuer shall report the following information for every individual resident of this state for which the issuer has in force more than one (1) Medicare supplement policy or certificate: (4-5-00)

a. Policy and certificate number, and (4-5-00)

b. Date of issuance. (4-5-00)

02. Grouping by Individual Policyholder. The items set forth above must be grouped by individual policyholder. (4-5-00)

0~~25~~38. PROHIBITION AGAINST PREEXISTING CONDITIONS, WAITING PERIODS, ELIMINATION PERIODS AND PROBATIONARY PERIODS IN REPLACEMENT POLICIES OR CERTIFICATES.

01. Waiving of Time Periods. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement policy or certificate for similar benefits to the extent such time was spent under the original policy. (4-5-00)

02. Replacing Policy. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate which has been in effect for at last six (6) months, the replacing policy shall not provide any time period applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods for benefits similar to those contained in the original policy or certificate. (4-5-00)

039. PROHIBITION AGAINST USE OF GENETIC INFORMATION AND REQUESTS FOR GENETIC TESTING. ~~*THIS SECTION APPLIES TO ALL POLICIES WITH POLICY YEARS BEGINNING ON OR AFTER MAY 21, 2009*~~.
This section applies to all policies with policy years beginning on or after May 21, 2009.
( )

01. Prohibited Provisions. An issuer of a Medicare supplement policy or certificate: ( )

a. Shall not deny or condition the issuance of effectiveness of the policy or certificate (including the imposition of any exclusion of benefits under the policy based on a preexisting condition) on the basis of the genetic information with respect to such individual; and ( )

b. Shall not discriminate in the pricing of the policy or certificate (including the adjustment of premium rates) of an individual on the basis of the genetic information with respect to such individual. ( )

02. Denial of Coverage. Nothing in Subsection 039.01 shall be construed to limit the ability of an issuer, to the extent otherwise permitted by law, from: ( )

a. Denying or conditioning the issuance or effectiveness of the policy or certificate or increasing the premium for a group based on the manifestation of a disease or disorder of an insured or applicant; or ( )

b. Increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of an individual who is covered under the policy (in such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the group). ( )

03. Genetic Testing. An issuer of a Medicare supplement policy or certificate shall not request or require an individual or a family member of such individual to undergo a genetic test. ( )

04. Payment. Subsection 039.03 shall not be construed to preclude an issuer of a Medicare supplement policy or certificate from obtaining and using the results of a genetic test in

making a determination regarding payment (as defined for the purposes of applying the regulations promulgated under part C of title XI and Section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) and consistent with Subsection 039.01. of this rule. (____)

05. **Information**. For purposes of carrying out Subsection 039.04, an issuer of a Medicare supplement policy or certificate may request only the minimum amount of information necessary to accomplish the intended purpose. (____)

06. **Allowed Genetic Testing**. Notwithstanding Subsection 039.03, an issuer of a Medicare supplement policy may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met: (____)

a. The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or rules for the protection of human subjects in research. (____)

b. The issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that: (____)

i. Compliance with the request is voluntary; and (____)

ii. Non-compliance will have no effect on enrollment status or premium or contribution amounts. (____)

c. No genetic information collected or acquired under Subsection 039.06 shall be used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rates, or the issuance, renewal, or replacement of a policy or certificate. (____)

d. The issuer notifies the Secretary in writing that the issuer is conducting activities pursuant to the exception provided for under Subsection 039.06, including a description of the activities conducted. (____)

e. The issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under Subsection 039.06. (____)

f. An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information for underwriting purposes. (____)

g. An issuer of a Medicare supplement policy or certificate shall not request, require or purchase genetic information with respect to any individual prior to such individual's enrollment under the policy in connection with such enrollment. (____)

h. If an issuer of Medicare supplement policy or certificate obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning an individual, such request, requirement, or purchase shall not be considered a violation of Paragraph 039.06.g. if such request, requirement, or purchase is not in violation of Paragraph 039.06.f. (____)

07. **Definitions**. For the purposes of this Section only; ( )

a. "Issuer of a Medicare supplement policy or certificate" includes third-party administrator, or other person acting for or on behalf of such issuer. ( )

b. "Family member" means, with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual. ( )

c. "Genetic information" means, with respect to any individual, information about such individual's genetic tests, the genetic tests of family members of such individual, and the manifestation of a disease or disorder in family members of such individual. Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual. Any reference to genetic information concerning an individual or family member of an individual who is a pregnant woman, includes genetic information of any fetus carried by such pregnant woman, or with respect to an individual or family member utilizing reproductive technology, includes genetic information of any embryo legally held by an individual or family member. The term "genetic information" does not include information about the sex or age of any individual. ( )

d. "Genetic services" means a genetic test, genetic counseling (including obtaining, interpreting, or assessing genetic information), or genetic education. ( )

e. "Genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detect genotypes, mutations, or chromosomal changes. The term "genetic test" does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved. ( )

f. "Underwriting purposes" means: ( )

i. Rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the policy; ( )

ii. The computation of premium or contribution amounts under the policy; ( )

iii. The application of any preexisting condition exclusion under the policy; and( )

iv. Other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits. ( )

0~~26~~40. -- 999. (RESERVED).

IDAHO APPENDI*X A*

Sample Consumer Questionnaire

If you lost or are losing other health insurance coverage and received a notice from your prior insurer saying you were eligible for guaranteed issue of a Medicare supplement insurance policy, or that you had certain rights to buy such a policy, you may be guaranteed acceptance in one or more of our Medicare supplement plans. Please include a copy of the notice from your prior insurer with your application.

PLEASE ANSWER ALL QUESTIONS.

To the best of your knowledge:

1. Did you turn 65 in the last six (6) months?

2. Did you enroll in Medicare Part B in the last six (6) months?

a. If so, what is the effective date?

3. Are you covered for medical assistance through the state Medicaid program? NOTE TO APPLICANT; If you are participating in a "Spend-Down Program and have not met your "Share of Cost," please answer NO to this question.

4. Will Medicaid pay your premiums for this Medicare supplement policy?

5. Do you receive any benefits from Medicaid OTHER THAN payments toward your Medicare Part B premium?

6. If you had coverage from any Medicare plan other than original Medicare within the past sixty-three (63) days (for example, a Medicare Advantage Plan, or a Medicare HMO or PPO), fill in your start and end dates below. If you are still covered under this plan, leave "END" blank.

7. If you are still covered under the Medicare plan, do you intend to replace your current coverage with this new Medicare supplement policy?

8. Was this your first time in this type of Medicare plan?

9. Did you drop a Medicare supplement policy to enroll in the Medicare plan?

10. Do you have another Medicare supplement policy in force?

a. If so, with what company and what plan do you have?

b. If so, so you intend to replace your current medicare supplement policy with this policy?

11. Have you had coverage under any other health insurance within the past sixty-three (63) days?

a. If so, with what company and what kind of policy?

b. What are your dates of coverage under the other policy?

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.55 - FIRE SAFETY STANDARDS FOR DAY CARE

DOCKET NO. 18-0155-0901 - (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211 and 41-254, Idaho Code.

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

The rule is being repealed in its entirety because the statutory authority for the rule was eliminated by Senate Bill 1112 as passed by the 2009 Legislature.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, page 299.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mark Larson, State Fire Marshal at 208/334-4371.

DATED this 2nd day of October, 2009.

Mark Larson, State Fire Marshal
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720, Boise, ID 83720-0043
Phone: 208/334-4371 / Fax: 208/334-4398

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 41-211, and 41-254.

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 23, 2009.

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 repealed in its entirety because the statutory authority for the rule was eliminated by Senate Bill 1112 as passed by the 2009 Legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: **The change is needed to conform to governing law.**

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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 Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the change was made necessary by action of the 2009 Idaho Legislature's enactment of SB 1112.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Mark Larson, State Fire Marshal at 208/334-4371.

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 23, 2009.

DATED this 31st day of July, 2009.

IDAPA 18.01.55 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.01.01 - RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS

DOCKET NO. 24-0101-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-312, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 7, 2009, Idaho Administrative Bulletin, Vol. 09-10, pages 113 and 114.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at 208 334-3233.

DATED this 28th day of October, 2009.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83702
(208) 334-3233 Ph.
(208) 334-3945,fax

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2009.

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 54-312, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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

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

This rule updates the Board of Architectural Examiners' website address and the incorporation by reference section to include the 2009-2010 NCARB Handbook for Interns and Architects. These updates will help ensure the most up-to-date standards are being met by interns and provide current website information for the board.

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:

This temporary rule is necessary to protect the public. It ensures interns and their supervisors are using current standards.

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: None

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the change is due to update of current NCARB edition.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 17th day August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. INCORPORATION BY REFERENCE (RULE 4).
The document titled 200~~4~~9-20~~05~~10 NCARB Handbook for Interns and Architects, dated ~~*August*~~ July 200~~4~~9, referenced in Subsection 250.01, is herein incorporated by reference. The document titled NCARB Rules of Conduct as published by the National Council of Architectural Registration Boards, Dated ~~*August*~~ July 200~~4~~9, referenced in Section 750, is hereby incorporated by reference. All documents incorporated by reference can be obtained at the office of the Bureau and on the Board web site. ~~*(4-11-06)*~~(____)

005. ADDRESS OF THE IDAHO BOARD OF ARCHITECTURAL EXAMINERS (RULE 5).
The office of the Board of Architectural Examiners is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702. 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 arc@ibol.idaho.gov. The Board's official web site ~~*is*~~ can be found at http://www.ibol.idaho.gov~~*/arc.htm*~~. ~~*(4-11-06)*~~(____)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY

DOCKET NO. 24-0401-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 54-821, 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 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 306 and 307.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at 208 334-3233.

DATED this 28th day of October, 2009.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83702
(208) 334-3233 Ph.
(208) 334-3945,fax

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2009.

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 54-821, 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 16, 2009.

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 2009 Legislature passed SB1073, which added "practice" to Section 54-827, Idaho Code. Rule 176 implements the law change by adding "practice" to the permit, adding a deadline for application submission, designating the Bureau as the agent allowed to issue permits when objective requirements are met, and establishing sanitation requirements.

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

The 2009 Legislature passed S1073, which added "practice" to Section 54-827, Idaho Code. This allows the Board of Cosmetology to issue permits to practice, demonstrate or teach cosmetology. It also allows the board to designate an agent and establish requirements for a permit.

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 Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the change is due to revisions in Title 54, Chapter 8, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2009.

DATED this 1st day July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

176. APPLICATION AND FEE FOR PERMIT TO PRACTICE, DEMONSTRATE, OR TEACH COSMETOLOGY. (RULE 176).
Application and fee for permit to practice, demonstrate, or teach cosmetology shall be made by the sponsoring agent on forms furnished by the Board and must be received in that office at least seven (7) business days prior to the date of practice, demonstration, or instruction. The applicant shall include the name, address, license number, and the state, territory, possession, or country of licensure, and a ten dollar ($10) fee for each person who shall practice, demonstrate, or instruct. The permit fee shall not be required for those persons holding a current personal Idaho license issued by the Board. Said practice, demonstration, or instruction shall not commence until the permit is received by the applicant. The permit shall be available for inspection by the Board or its agent at the location of said practice, demonstration, or instruction. The applicant shall be required to inform each person of the sanitary rules for shops and schools prior to said practice, demonstration, or instruction. If the application meets objective requirements established by the Board and the location where the permitted activities are to occur meets the sanitary requirements of Board Rule 800, the Bureau may issue the permit. ~~*(3-8-02)*~~( )

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.07.01 - RULES OF THE IDAHO STATE BOARD OF LANDSCAPE ARCHITECTS

DOCKET NO. 24-0701-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 54-3003, 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 3, 2008 Idaho Administrative Bulletin, Vol. 08-12, pages 63 and 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: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at 208 334-3233.

DATED this 28th day of October, 2009.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
(208) 334-3233 Ph.
(208) 334-3945,fax

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 10, 2008.

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 54-3003, 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 17, 2008.

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 2008 Legislature approved a change to Section 004 for the CLARB model rules of professional conduct as amended February 2007. Subsection 425.01 was not updated at that time and has created a conflict of requirements. This change will protect public safety by removing the ambiguity and specifying the appropriate code of conduct.

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

The 2008 Legislature approved a change to subsection 004 for the CLARB model rules of professional conduct as amended February 2007. Subsection 425 was not updated at that time and has created a conflict of requirements. This change will protect public safety by removing the ambiguity and specifying the appropriate code of conduct.

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: None

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: None

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the change is necessary to remove ambiguity and specify appropriate code of conduct.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before December 24, 2008.

DATED this 31st day of October, 2008.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

425. RULES OF PROFESSIONAL RESPONSIBILITY (RULE 425).

01. Rules of Professional Responsibility. Pursuant to Section 004 of these rules, t~~T~~he CLARB model rules of professional conduct, as ~~amended September 2002~~ incorporated, are ~~hereby adopted as~~ the Rules of Professional Responsibility for all Idaho licensed landscape architects. ~~*(3-20-04)*~~(____)

02. Violation of the Rules of Professional Responsibility. The Board will take action against a licensee under Section 54-3004(5), Idaho Code, who is found in violation of the Rules of Professional Responsibility. (3-20-04)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.07.01 - RULES OF THE IDAHO STATE BOARD OF LANDSCAPE ARCHITECTS

DOCKET NO. 24-0701-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 54-3003, 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 Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 140 and 141.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at 208 334-3233.

DATED this 28th day of October, 2009.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83702
(208) 334-3233 Ph.
(208) 334-3945,fax

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-3003, 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 21, 2009.

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

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

The proposed rule updates the Board of Landscape Architect's website address as it has changed. Clarifies the references required for applicants.

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

No fee or charges is 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:

There is no fiscal impact to the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the changes were discussed in noticed open meetings.

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 28, 2009.

DATED this 17th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

005. ADDRESS OF IDAHO BOARD OF LANDSCAPE ARCHITECTS (RULE 5).
The office of the Board of Landscape Architects is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, 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 lar@ibol.idaho.gov. The Board's official web site ~~*is*~~ can be found at http://www.ibol.idaho.gov~~*/lar.htm*~~. ~~*(3-26-08)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

201. APPLICATION FORM (RULE 201).

01. Reference Requirements. Applicants are required to furnish the Board with four (4) references. ~~*t*~~Two (2) of the references must be from currently licensed ~~*Idaho*~~ Landscape Architects. The remaining two (2) may be licensed landscape architects, licensed engineers, licensed architects, or any combination thereof. All references must be from competent individuals who are well acquainted with the applicant's character and professional ability. ~~*(3-20-04)*~~( )

02. Materials Submitted to Board. All required applications, statements, fees and other documentation must be submitted to the Board in care of the Bureau of Occupational Licenses, and shall include: (3-20-04)

a. A passport photograph taken within thirty (30) days of the date of application; (3-20-04)

b. Documentation of being at least eighteen (18) years of age at the time of application; and (3-20-04)

c. Either certification of graduation from an approved college or school of landscape architecture; or (3-20-04)

d. Documentation of all actual landscape architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. (3-20-04)

03. Deadlines. To be considered by the Board, completed applications must be received by the Bureau at least thirty (30) days prior to the first day of the month in which the Board will meet. Applications for examination must be filed with the Bureau of Occupational Licenses by April 1 for the June examination, or October 1 for the December examination. (3-20-04)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS

DOCKET NO. 24-0801-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 54-1107, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 142 through 144.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at 208 334-3233.

DATED this 28th day of October, 2009.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
(208) 334-3233 Ph.
(208) 334-3945,fax

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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 updates the Board of Mortician's website address as it has changed. The rule also adds a section on continuing education and outlines the requirements in an effort to maintain licensee competency.

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

No fee or charges is 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:

There is no fiscal impact to the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the changes were discussed in noticed open meetings.

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 28, 2009.

DATED this 17th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

005. ADDRESS OF IDAHO BOARD OF MORTICIANS (RULE 5).
The office of the Board of Morticians is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, 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 mor@ibol.idaho.gov. The Board's official web site ~~*is*~~ can be found at http://www.ibol.idaho.gov~~*/mor.htm*~~. ~~*(4-11-06)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

401. -- 4~~24~~09. (RESERVED).

410. CONTINUING EDUCATION (RULE 410).
In order to protect the public health and safety and promote the public welfare, the Board has adopted the following rules for continuing education. (____)

01. Continuing Education (CE) Requirement. Each Idaho licensed mortician and funeral director must successfully complete a minimum of eight (8) hours of continuing education annually for license renewal. (____)

a. Beginning July 1, 2011, each licensee must certify on their renewal application form that compliance with the annual CE requirements has been met during the previous twelve (12) months. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. (____)

b. A licensee is considered to have satisfied the CE requirements for the first renewal of the initial license. (____)

c. After July 1, 2011, and prior to reinstatement of a license lapsed, canceled, or otherwise non-renewed for less than five (5) years, the applicant must provide proof of attendance of eight (8) hours of continuing education for the previous twelve (12) months. A license that has lapsed, been canceled, or otherwise not renewed for more than five (5) years may be reinstated in accordance with Section 67-2614, Idaho Code. (____)

02. Credit. Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. One (1) hour of continuing education is equal to sixty (60) minutes. Courses taken by correspondence or by computer on-line may be approved for continuing education if the courses require an exam or other proof of successful completion. Only four (4) hours of the required continuing education may be from correspondence, computer on-line, or self-study in each renewal period. The remaining hours must be in an interactive setting that provides the opportunity for participants to

communicate directly with the instructor. Each licensee must maintain proof of attendance or successful completion documentation of all continuing education courses for a period of three (3) years. ( )

a. A licensee may carryover a maximum of eight (8) hours of continuing education to meet the next year's continuing education requirement. Only four (4) hours may be carried over from correspondence, computer on-line, or self-study. ( )

03. Providers/Sponsors/Subjects of Continuing Education. The continuing education must be provided by a college or university, a national or state association, trade group, or other person or entity approved by the Board and must be germane to the license held. Continuing education may include, but shall not be limited to, the following subject areas: ( )

a. Public Health and Technical. This includes, but is not limited to, embalming, restorative art, after care, organ procurement, sanitation, and infection control. ( )

b. Business Management. This includes, but is not limited to, computer application, marketing, personnel management, accounting, or comparable subjects. ( )

c. Social Science. This includes, but is not limited to, communication skills (both written and oral), sociological factors, counseling, grief psychology, funeral customs, or comparable subjects. ( )

d. Legal, Ethical, Regulatory. This includes, but is not limited to, OSHA (Occupational Safety and Health Association), FTC (Federal Trade Commission), ethical issues, legal interpretations, or comparable subjects. ( )

04. Verification of Attendance. Each licensee must maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. ( )

05. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for a licensee who fails to certify compliance with CE requirements. A licensee who makes a false attestation regarding compliance with the CE requirements is subject to disciplinary action by the Board. ( )

06. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or other good cause. Each licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. Request for special exemption must be made prior to licensure renewal. ( )

411. -- 424. (RESERVED).

IDAPA 33 - IDAHO REAL ESTATE COMMISSION

33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 33-0101-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2007 and 54-2018(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 October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, page 306 and 307.

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

There is no fiscal impact to the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeanne Jackson-Heim, (208) 334-3285.

DATED this 2nd day of November, 2009.

Jeanne Jackson-Heim
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 NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2007 and 54-2018(3), Idaho Code.

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

THURSDAY, OCTOBER 29, 2009 -- 10:00 a.m.

IDAHO REAL ESTATE COMMISSION
633 N. Fourth Street, Boise, Idaho

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

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

Section 54-2018(3), Idaho Code, authorizes the Commission to establish the conditions for accepting a late license renewal application. The proposed rule provides that any licensee who applies to renew a license after it has expired must certify whether he or she had practiced real estate after the license expired, and, if he or she has practiced, either agree to pay the fine or request a hearing for that purpose.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee is being imposed or increased.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because interested groups participated in open meeting discussions prior to publication of the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact: Jeanne Jackson-Heim, Executive Director, Idaho Real Estate Commission, Phone: (208) 334-3285; toll free in Idaho: (866) 447-5411; Fax: (208) 334-2050.

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 28, 2009.

DATED this 27th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

105. CONDITIONS TO RENEW EXPIRED LICENSE.
The Commission may accept a licensee's application to renew an expired license upon the following conditions: ( )

01. Payment of Late Fee. The applicant must pay the late license renewal fee established by this chapter; ( )

02. Renewal After Expiration of Active License. If the license expired on active license status, the licensee must complete and submit with the application, on the form approved by the Commission, one (1) of the following: ( )

a. A certificate attesting that during the period the license was expired, the licensee did not do or attempt to do any acts described in the definitions of real estate broker or salesperson in Section 54-2004, Idaho Code; or ( )

b. A certificate admitting that during the period the license was expired, the licensee did or attempted to do an act described in the definitions of real estate broker or salesperson in Section 54-2004, Idaho Code, and either: ( )

i. Agree to pay the proposed civil fine, which amount will be in accordance with the scheduled amount approved by the Commission by motion; or ( )

ii. Request a hearing to determine any fine under the procedures set forth in the Idaho Administrative Procedure Act, Chapter 52, Title 67, and the Commission's rules under IDAPA 33.01.02, "Rules of Practice and Procedure of the Idaho Real Estate Commission Governing Contested Cases." ( )

03. Investigate or Discipline a Licensee. Nothing in this Section limits the ability of the Commission to investigate or discipline a licensee for violating Subsection 54-2018(3), Idaho Code, or for violating any other provision of the Real Estate License Law or the rules promulgated by the Commission. ( )

10~~5~~6. -- 116. (RESERVED).

IDAPA 33 - IDAHO REAL ESTATE COMMISSION

33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 33-0101-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2007 and 54-2013, 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 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, page 308 and 309.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeanne Jackson-Heim, (208) 334-3285.

DATED this 2nd day of November, 2009.

Jeanne Jackson-Heim
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 NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2007 and 54-2013, Idaho Code.

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

THURSDAY, OCTOBER 29, 2009 -- 10:00 a.m.

IDAHO REAL ESTATE COMMISSION
633 N. Fourth Street, Boise Idaho

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

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

The proposed rule would clarify the current rule to state that a late renewal constitutes a lapse of the required errors and omissions coverage, even if coverage is later made retroactive by the carrier.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee is being imposed or increased.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because interested groups participated in open meeting discussions prior to publication of the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact: Jeanne Jackson-Heim, Executive Director, Idaho Real Estate Commission, Phone: (208) 334-3285; toll free in Idaho: (866) 447-5411; Fax: (208) 334-2050.

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 28, 2009.

DATED this 27th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

121. FAILURE TO MAINTAIN INSURANCE.
Failure of a licensee to obtain and maintain insurance coverage required by Subsection 117.02 shall result in inactivation of any active license issued pursuant to Idaho Real Estate License Law or denial of any application for issuance or renewal of an active license. Failure to maintain insurance as required herein shall be deemed insufficient application for licensure under Section 67-5254, Idaho Code. (4-2-03)

01. Notice of Noncompliance. Within five (5) working days of the date the Commission is notified that a licensee does not have required coverage, the Commission shall notify the affected licensee of noncompliance. Notice shall be sent by first class mail to the licensee's business or residence address, as reflected in the Commission's records, and a copy of the notice shall be sent to the licensee's broker, if any. The notice shall provide that the licensee has ten (10) days in which to comply with the law and these rules regarding errors and omissions insurance. Failure to comply at the end of ten (10) days shall result in the license being automatically inactivated. (4-2-08)

02. Reactivation. Any licensee whose license has been inactivated for failure to comply with these rules shall be entitled to activate said license, relating back to and including the date of inactivation, provided that, within thirty (30) days of the date of inactivation, the licensee or Group Plan Administrator files with the Commission a certificate of coverage showing that such coverage has been and is currently in effect on and from the date of inactivation, with no lapse in coverage. Further, the licensee must submit required documents and fees to activate said license. In the event the certificate of coverage shows an effective date later than the date of inactivation, said license shall be activated as of the effective date of said insurance, as reflected in the certificate of coverage, and upon submission of any required documents and fees.(3-15-02)

03. Failure to Maintain Insurance. Any ~~F~~failure of a licensee to maintain errors and omissions insurance ~~*or failure of a licensee to submit or cause to be submitted a certificate of coverage as required by Section 54-2013, Idaho Code, and in accordance with these rules and while engaging in the business of real estate broker or real estate salesperson, as defined in Sections 54-2002 and 54-2004, Idaho Code*~~ while on active license status, regardless whether coverage is later obtained and made retroactive by the carrier, shall constitute a violation of these rules, and shall be grounds for disciplinary action as provided in Sections 54-2059 and 54-2060, Idaho Code, including but not limited to the assessment of civil fines. A late renewal is considered failure to maintain insurance and constitutes a violation of the law. ~~*(3-15-02)*~~( )

IDAPA 33 - IDAHO REAL ESTATE COMMISSION

33.01.02 - RULES OF PRACTICE AND PROCEDURE OF THE IDAHO REAL ESTATE COMMISSION GOVERNING CONTESTED CASES

DOCKET NO. 33-0102-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2007, 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 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, page 310 and 311.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeanne Jackson-Heim, (208) 334-3285.

DATED this 2nd day of November, 2009.

Jeanne Jackson-Heim
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 NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2007, Idaho Code.

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

THURSDAY, OCTOBER 29, 2009 -- 10:00 a.m.

IDAHO REAL ESTATE COMMISSION
633 N. Fourth Street, Boise Idaho

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

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

The proposed rule would provide that a non-Idaho attorney may represent a party and appear before the Commission in a contested case under the procedures for limited admission set forth in Idaho Bar Commission Rule 222.

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

No fee is being imposed or increased.

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

There is no negative impact to the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because interested groups participated in open meeting discussions prior to publication of the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact: Jeanne Jackson-Heim, Executive Director, Idaho Real Estate Commission, Phone: (208) 334-3285; toll free in Idaho (866) 447-5411; Fax: (208) 334-2050.

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 28, 2009.

DATED this 20th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

208. REPRESENTATION OF PARTIES AT HEARING.

01. Appearances and Representation. To the extent authorized or required by law, appearances and representation of parties or other persons at formal hearing or prehearing conference must be as follows: (7-1-93)

a. A natural person may represent himself or herself or be represented by a duly authorized employee or attorney. (7-1-93)

b. A partnership may be represented by a partner, duly authorized employee, or attorney. (7-1-93)

c. A corporation may be represented by an officer, duly authorized employee, or attorney. (7-1-93)

d. A municipal corporation, local government agency, unincorporated association or nonprofit organization may be represented by an officer, duly authorized employee, or attorney. (7-1-93)

e. A limited liability company may be represented by a member, a manager or a duly authorized employee or attorney. (7-1-96)

02. Out-of-State Attorneys. An attorney who is not an active member of the Idaho Bar may represent a party and appear before the agency if granted limited admission by the Idaho Bar in accordance with the procedure set forth in Rule 222 of the Idaho Bar Commission Rules, provided references in that rule to "the court" shall instead mean the agency. ( )

0~~2~~3. Representatives. The representatives of parties at hearing, and no other persons or parties appearing before the agency, are entitled to examine witnesses and make or argue motions. (7-1-93)