

Dear Senators ANDREASON, Coiner & Werk, and  
Representatives BLACK, Henderson & Elaine Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed  
rules of the Prof. Engineers & Prof. Land Surveyors:

IDAPA 10.01.01 – Rules of Procedure (Docket No. 10-0101-0801)

IDAPA 10.01.02 – Rules of Professional Responsibility (Docket No. 10-0102-0801)

IDAPA 10.01.03 – Rules of Corner Perpetuation and Filing (Docket No. 10-0103-0801)

IDAPA 10.01.04 – Rules of Continuing Professional Development (Docket No. 10-0104-0801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by  
the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice  
to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis  
from Legislative Services. The final date to call a meeting on the enclosed rules is no later than  
10-7-08. If a meeting is called, the subcommittee must hold the meeting within forty-two (42)  
days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting  
on the enclosed rules is 11-4-08.

\_\_\_\_\_The germane joint subcommittee may request a statement of economic impact with  
respect to a proposed rule by notifying Research and Legislation. There is no time limit on  
requesting this statement, and it may be requested whether or not a meeting on the proposed rule  
is called or after a meeting has been held.

To notify Research and Legislation, call 334-2475, or send a written request to the  
address or FAX number indicated on the memorandum enclosed.

## MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce and Human Resources  
Committee the House Business Committee

FROM: Brooke Murdoch, Research Analyst

DATE: September 16, 2008

SUBJECT: Board of Professional Engineers and Professional Land Surveyors

IDAPA 10.01.01 – Rules of Procedure  
(Docket No. 10-0101-0801)

IDAPA 10.01.02 – Rules of Professional Responsibility  
(Docket No. 10-0102-0801)

IDAPA 10.01.03 – Rules of Corner Perpetuation and Filing  
(Docket No. 10-0103-0801)

IDAPA 10.01.04 – Rules of Continuing Professional Development  
(Docket No. 10-0104-0801)

### 1. IDAPA 10.01.01 – Rules of Procedure

The Board of Professional Engineers and Professional Land Surveyors submits notice of proposed rulemaking at IDAPA 10.01.01 – Rules of Procedure. The Board states that the proposed rule changes are required in order to comply with recent statutory changes made during the 2008 legislative session. In addition, the rule also reflects other revisions. According to the Board, negotiated rulemaking was conducted pursuant to section 67-5220(1), Idaho Code.

The Board states that the purpose of the amended rule is to implement changes stemming from House Bill No. 380 which was passed by the 2008 Legislature. House Bill No. 380 amends section 54-1201, Idaho Code, to provide that professional engineers and professional land surveyors must become licensed. The proposed rule updates terminology consistent with this amendment by replacing the terms “registration,” “registrant(s)” and “registered” with “licensure,” “licensee(s)” and “licensed,” respectively. Additionally, the rule replaces the term “engineer-in-training” with “engineer intern” and the term “land surveyor-in-training” with “land surveyor intern.” Finally, the rule implements the provision that an applicant who fails an examination a second, third or subsequent time must comply with the requirements contained in

section 54-1214, Idaho Code. These revisions appear to be consistent with the provisions of House Bill No. 380.

In addition to changes prompted by House Bill No. 380, the Board proposes two additional rule changes. First, the proposed rule recognizes a Doctor of Philosophy degree as an exemption from the requirement of an independent evaluation of the engineering education of an applicant who was educated outside the United States. The rule specifies that the doctorate degree must have been obtained from a U.S. institution accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology. Secondly, the rule specifies that the Board will not request another jurisdiction to proctor an examination for an Idaho applicant.

The Board's proposed rule appears to be authorized pursuant to Section 54-1208, Idaho Code.

## 2. IDAPA 10.01.02 – Rules of Professional Responsibility

The Board of Professional Engineers and Professional Land Surveyors submits notice of proposed rulemaking at IDAPA 10.01.02 – Rules of Professional Responsibility. According to the Board, the proposed rule updates terminology as incorporated in House Bill No. 380. [NOTE: This proposed rule revises terminology identical to that found in the first docket addressed in this memorandum.] In addition, the rule reflects the following:

- Clarifies an ambiguity relating to the sealing of documents by a licensee.
- Permits the Board to take disciplinary action if a license is surrendered in another jurisdiction for reasons which would constitute a violation of Idaho laws or rules.
- Provides Board discretion with regard to proceedings following the receipt of an affidavit for rule or statute violation(s).

We note only a minor suggestion. In Section 001.02 of the proposed rule, it appears there are two instances in which the word "Licensees" should read "Licensee" in the singular.

The Board's proposed rule appears to be authorized pursuant to Section 54-1208, Idaho Code.

## 3. IDAPA 10.01.03 – Rules of Corner Perpetuation and Filing

The Board of Professional Engineers and Professional Land Surveyors submits notice of proposed rulemaking at IDAPA 10.01.03 – Rules of Corner Perpetuation and Filing. The proposed rule is straightforward. The Board states that the rule updates terminology as incorporated in House Bill No. 380. [NOTE: This proposed rule revises terminology identical to that found in the first two dockets addressed in this memorandum.] Secondly, the rule updates the Board's physical address. Finally, the rule provides that a corner record must include a sketch or legible image of the marks found on the monument.

The Board's proposed rule appears to be authorized pursuant to Section 54-1208, Idaho Code.

#### 4. IDAPA 10.01.04 – Rules of Continuing Professional Development

The Board of Professional Engineers and Professional Land Surveyors submits notice of proposed rulemaking at IDAPA 10.01.04 – Rules of Continuing Professional Development. The Board states that the rule updates terminology as incorporated in House Bill No. 380. [NOTE: This proposed rule revises terminology identical to that found in the first three dockets addressed in this memorandum.] In addition, the proposed rule reflects the following:

- Includes professional engineers in the requirement of continuing professional development as a condition of license renewal.
- Clarifies that an individual licensed to practice both engineering and land surveying must comply with the requirement of continuing professional development in regard to each profession.
- Revises the term “self-study” to specify “documented self-study,” the term “licensee” to include a professional engineer, professional land surveyor, or both and the term “active participation” to include service at the national level in addition to the state and local levels.
- Allows a licensee to opt for a two (2) calendar year period of compliance rather than a renewal biennium.
- Revises the conversion of units of credit to Professional Development Hour units.
- Extends record retention from five (5) years to six (6) years.
- Provides an exemption for a licensee on active duty in the armed forces temporarily assigned to a location other than their normal home station.
- Provides that all professional engineers are exempt from complying with the proposed rules between the effective date of the rules and the due date of their first renewal period.

We note only one minor suggestion. In Section 009.05, after the addition “or four (4) calendar years,” the number 3 should be deleted.

The Board's proposed rule appears to be authorized pursuant to Section 54-1208, Idaho Code.

cc: Board of Professional Engineers and Professional Land Surveyors, David L. Curtis

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

**10.01.01 - RULES OF PROCEDURE**

**DOCKET NO. 10-0101-0801**

**NOTICE OF RULEMAKING - PROPOSED RULE**

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

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

1. The purpose of the proposed rules is to amend the Administrative Rules to;
2. Comply with updated terminology as incorporated in House Bill No. 380 passed by the 2008 session of the Idaho Legislature;
3. Include recognition of a Doctor of Philosophy degree as an exemption from the need to have an independent evaluation of engineering education obtained outside the United States;
4. Clarify that the Board will not ask another jurisdiction to proctor examinations; and
5. Clarify that an applicant who fails an examination a second or subsequent time must comply with the requirements contained in House Bill No. 380 passed by the 2008 session of the Idaho Legislature.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: There are no fees or charges 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 resulting from this rulemaking: There will not be any negative fiscal impact on the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2008 Idaho Administrative Bulletin, Volume 08-7, Page 28.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact David L. Curtis 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 October 22, 2008.

DATED this 18th day of August, 2008.

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  
E-mail: dave.curtis@ipels.idaho.gov

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0101-0801**

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

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited in full as the Idaho Board of ~~Registration~~ Licensure of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.01, "Rules of Procedure." (7-1-93)(\_\_\_\_)

**02. Scope.** These rules include procedures of the Board on matters relating to written interpretations, the office of the Board, filing of documents, rulemaking, contested cases, meetings, order of business, officers and committees, fees, reissuance of certificates, publications, seals, certificates, applications, examinations, reexaminations, ~~registrants~~ licensees or certificate holders of other states and boards, board quorum, right to publish disciplinary actions, requirements to be considered "exceptional" under Section 54-1223B(2), Idaho Code. Administrative appeals, public records act compliance, inclusive gender, and severability. (4-5-00)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**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 ~~registration~~ licensure or certification for essential data prior to consideration thereof by the Board; (7-1-93)(\_\_\_\_)
- 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 ~~registration~~ licensure and the roster

of ~~registrants~~ licensees and certificate holders; (7-1-93)( )

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: (4-5-00)( )

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

b. Be a ~~registered~~ licensed professional engineer or professional land surveyor in the state of Idaho and possess other qualifications required for members of the Board. (7-1-93)( )

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. (7-1-93)( )

**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. ~~Registration~~ Licensure as a professional engineer or professional land surveyor by examination. (7-1-93)( )

b. Certification as an engineer-~~in-training~~ intern or land surveyor-~~in-training~~ intern by examination. (7-1-93)( )

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-~~in-training~~ intern or land surveyor-~~in-training~~ intern. (7-1-93)( )

e. Renewals for professional engineers, professional land surveyors, engineers-~~in-training~~ interns, land surveyors-~~in-training~~ interns and business entities. (3-15-02)( )

f. ~~Registration~~ Licensure for professional engineers or professional land surveyors by comity ~~registration~~. (7-1-93)( )

**02. Late or Denied Renewals.** Failure on the part of any ~~registrant~~ licensee or business entity to renew

their fees 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.

(3-15-02)(\_\_\_\_)

**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, ~~engineers-in-training interns~~, and land surveyors ~~in-training interns~~.

(7-1-93)(\_\_\_\_)

**04. Schedule of Fees.** The schedule of fees as determined by the Board shall be furnished to applicants with application forms.

(7-1-93)

**012. REISSUANCE OF CERTIFICATES.**

A new certificate of ~~registration~~ licensure or authorization, to replace any certificate lost, destroyed or mutilated, may be issued upon written certification of the loss and payment of fee of ten dollars (\$10).

(7-1-93)(\_\_\_\_)

**013. PUBLICATIONS.**

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

(7-1-93)

**02. Roster.** A roster of professional engineers, professional land surveyors, ~~engineers-in-training interns~~, land surveyors ~~in-training interns~~, and engineering and land surveying business entities in good standing and ~~registrants~~ licensees and certificate holders in the retired status as provided in these rules shall be maintained in an electronic format available to the public.

(3-15-02)(\_\_\_\_)

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

(5-3-03)(\_\_\_\_)

**014. SEALS.**

**01. Official Seal of Board.** The official seal of this Board shall consist of the seal of the state of Idaho, surrounded with the words "Board of Professional Engineers and Professional Land Surveyors" and "State of Idaho."

(7-1-93)

**02. Standard Seals for Engineers and Land Surveyors.** The Board shall adopt standard seals for use by ~~registered~~ licensed professional engineers and professional land surveyors as prescribed by Section 54-1215, Idaho Code. Seals prepared and approved prior to July 1, 2008 are valid for continued use.

(7-1-93)(\_\_\_\_)

**03. Seal for Professional Engineer/Land Surveyor.** Engineers obtaining ~~registration~~ licensure as land surveyors under the changes to Section 54-1217, Idaho Code, by the 1978 Legislature shall use the seal showing ~~registration~~ licensure as a Professional Engineer and Land Surveyor as adopted by the Board. Seals prepared and approved prior to July 1, 2008 are valid for continued use.

(7-1-93)(\_\_\_\_)

**015. CERTIFICATES.**

Certificates of ~~registration~~ licensure or authorization issued by the Board shall be displayed in the place of business.

(7-1-93)(\_\_\_\_)

**016. APPLICATION FOR ~~REGISTRATION~~ LICENSURE OR CERTIFICATION.**

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

(3-15-02)(\_\_\_\_)



**02. Completion of Application.** Applications shall be made on such forms as may be prescribed by the Board. An application which is not fully completed by the applicant need not be considered or acted upon by the Board. The application by a business entity for a certificate of authorization to practice or offer to practice engineering or land surveying must set forth their address, and name and address of the individual, or individuals, duly ~~registered~~ licensed to practice engineering or land surveying in this state, who will be in responsible charge of engineering or land surveying services offered or rendered by the business entity in this state. ~~(3-15-02)( )~~

**03. Dates of Submittal.** Applications for the Spring and Fall examination, respectively, must be received by the Executive Director or postmarked by January 10 or August 1 of any year. In order for the Board to be able to verify experience, only experience up to the date of submittal of the application will be considered as valid. Experience anticipated between the date of the application submittal and the date of the examination or issuance of ~~registration license or certificate~~ will not be considered. For students, the application filing date for the Fundamentals of Engineering examination may be extended at the discretion of the Board. ~~Except for military personnel stationed in Idaho, only Idaho residents and students at Idaho universities will be assigned to examinations, unless otherwise approved by the Board.~~ ~~(3-30-01)( )~~

**04. Residency Requirement.** ~~Except for military personnel stationed in Idaho, only Idaho residents and students at Idaho universities will be assigned to examinations, unless otherwise approved by the Board.~~ ( )

**045. Confidentiality of References.** All information received from references named by the applicant shall be held in confidence by the Board except as provided by Section 9-342, Idaho Code. Neither members of the Board nor relatives of the applicant by blood or marriage shall be named or accepted as references. ~~(7-1-93)( )~~

**056. Minimum Standards -- References.** An applicant may not be admitted to the examination until satisfactory replies have been received from a minimum of five (5) of his references for professional engineers or land surveyors and three (3) references for ~~engineers-in-training~~ interns and land surveyors ~~in-training~~ interns. It shall be the responsibility of each applicant to furnish their references with the forms prescribed by the Board. ~~(3-30-01)( )~~

## **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-in-training intern and or land surveyor-in-training intern will be held annually or semi-annually, the exact time and place to be determined by the Board. Special oral or written examinations during the year may be given by the Board. ~~(7-1-93)( )~~

**02. Eligibility for Examinations, Educational Requirements.** The application for ~~registration for licensure as a professional engineer, professional land surveyor or certification of as an engineer-in-training intern or land surveyor-in-training 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 to any examination. ~~(7-1-93)( )~~

**a.** In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs which are accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET). Non-EAC/ABET accredited engineering programs and engineering technology programs will be considered by the Board on their specific merits, but are not considered equal to engineering programs accredited by EAC/ABET. The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee. (3-20-04)

**b.** An applicant who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed a minimum of fifteen (15) semester credits of Engineering Science at a Sophomore and Junior level, six (6) semester credits of Engineering Design related courses at a Senior level, twelve (12) semester credits of Advanced Mathematics including Calculus and Differential Equations, and twelve (12) semester credits of basic science courses including Chemistry, calculus-based Physics and other appropriate basic science courses before the Board will consider them to possess knowledge and skill

approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for assignment to the examination for certification as an Engineer-~~in Training~~ Intern or as required by Section 54-1212(1)(b), Idaho Code, for assignment to the examination for licensure as a professional engineer. ~~(3-20-04)~~(\_\_\_\_)

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

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

c. Beginning July 1, 2010, an applicant who has completed a four (4) year bachelor degree program in a related science must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(4)(b), Idaho Code, for assignment to the examination for certification as a Land Surveyor-~~in Training~~ Intern or as required by Section 54-1212(2)(b), Idaho Code, for assignment to the examination for licensure as a professional land surveyor: ~~(3-30-07)~~(\_\_\_\_)

- 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)

d. In addition to the minimum requirements set forth in Section 54-1212, Idaho Code, a person who desires to be qualified by examination in the field of structural engineering shall meet the following requirements: (4-22-94)

- i. Be a ~~registered~~ licensed professional engineer in Idaho. ~~(7-1-93)~~(\_\_\_\_)
- ii. Have two (2) years of work experience in the field of structural engineering after being ~~registered~~ 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 examination shall be sixteen (16) hours. ~~(7-1-93)~~(\_\_\_\_)

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

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 take action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (4-5-00)( )

**03. Notification to Applicant by Board.** Notification of assignment or non-assignment to the examination will be furnished to the applicant at least thirty (30) days prior to the date of the examination. (4-5-00)

**04. Notification to Board by Applicant.** The applicant shall, at least fifteen (15) days before an examination, notify the Executive Director of the Board whether or not he will appear for the examination. Examinations will be given only to those who have so notified the Board. (4-5-00)

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

**06. Two Examinations for Engineering ~~Registration~~ Licensure.** The complete examining procedure for ~~registration~~ licensure as a professional engineer consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer-~~in-training~~ intern certification, and the second is the Principles and Practice of Engineering for professional engineer ~~registration~~ licensure. Each examination shall be eight (8) hours in length. Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering ~~curriculum program~~. A certificate as an Engineer-~~in-Training~~ 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. (4-22-94)( )

**07. Fundamentals of Engineering.** The Fundamentals of Engineering examination will cover such subjects as are ordinarily given in engineering college curricula and which are common to all fields of practice. The examination may also cover subject matters that are specific to the engineering discipline of the applicants' education. (4-5-00)( )

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

**09. Two Examinations for Land Surveying ~~Registration~~ Licensure.** The complete examining procedure for ~~registration~~ licensure as a professional land surveyor consists of two (2) separate written examinations. The first is the Fundamentals of ~~Land~~ Surveying examination for land surveyors-~~in-training~~ intern certification, and the second is the Principles and Practice of ~~Land~~ Surveying ~~registration~~ for professional land surveyor licensure. Each examination will be a total of eight (8) hours in length. Having passed the Fundamentals of ~~Land~~ Surveying examination, applicants will be required to take the Principles and Practice of ~~Land~~ Surveying examination at a later date when qualified by experience. The examination shall cover the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of ~~Land~~ Surveying examination may consist of separate modules, each of which must be passed. (4-5-00)( )

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

**11. Special Examinations.** A special examination, written or oral or both, may be required in certain instances where the applicant is seeking ~~registration 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 ~~registration 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. (7-1-93)(\_\_\_\_)

**12. Grading.** Each land surveyor ~~in-training intern~~, engineer ~~in-training intern~~ and professional engineer applicant must normally attain a scaled score of seventy (70) or above on the entire eight (8) hour examination before being awarded certification or ~~registration 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 of the examination. (4-5-00)(\_\_\_\_)

**13. Use of NCEES Examinations.** Examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) for professional engineer, engineers ~~in-training intern~~, professional land surveyors, and land surveyors ~~in-training 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. (7-1-93)(\_\_\_\_)

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

**15. Disposal of Used Examination Pamphlets and Answer Sheets.** The Executive Director of the Board is authorized by the Board to dispose of used examination solution pamphlets and answer sheets after the first anniversary date after the examination was given. (3-30-01)

**16. Proctoring of Examinations.** Unless otherwise approved, the Board will not proctor an examination for another jurisdiction except State-Specific examinations nor will they request another jurisdiction to proctor an examination for an Idaho applicant. (4-11-06)(\_\_\_\_)

**018. REEXAMINATIONS.**

**01. Allowing Reexamination upon Failure.** An applicant failing any portion of the Principles and Practice of ~~Land~~ Surveying 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. (7-1-93)(\_\_\_\_)

**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 ~~appear before the Board or a member of the Board before being admitted to examination, and must present evidence satisfactory to the Board to warrant an additional examination as~~ present evidence of having met the requirements set forth in Section 54-1214, Idaho Code in order to be reassigned to an examination. (4-5-00)(\_\_\_\_)

**019. ~~REGISTRANTS~~ LICENSEES OR CERTIFICATE HOLDERS OF OTHER STATES AND BOARDS.**

**01. Interstate ~~Registration~~ 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. ~~(3-20-04)~~(\_\_\_\_)

**a.** The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has been licensed in another jurisdiction of the United States for a minimum of ten (10) years and has not had any disciplinary action against them and there is ~~not~~ 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 take action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. ~~(4-5-00)~~(\_\_\_\_)

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

**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 ~~registrant~~ 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. ~~(7-1-93)~~(\_\_\_\_)

**03. Business Entity Requirements.** No application for a certificate of authorization to practice or offer to practice professional engineering or professional land surveying, or both, in Idaho by a business entity authorized to practice professional engineering or professional land surveying or both in one (1) or more states, territories or

foreign countries shall be considered by the Board unless such application includes the name and address of the individual or individuals, duly ~~registered~~ 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. (3-15-02)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**022. REQUIREMENTS TO BE CONSIDERED “EXCEPTIONAL” UNDER SECTION 54-1223B(2), IDAHO CODE.**

**01. Waiver of the Fundamentals of Engineering Examination.** In order to be considered “exceptional” under Section 54-1223B(2), Idaho Code, an applicant for ~~registration~~ licensure as a professional engineer, either by examination or by comity, who seeks waiver of the fundamentals of engineering examination, must have a record of service and contributions beyond the ordinary in two (2) of the following three (3) areas: (4-5-00)(\_\_\_\_)

- a. Professional or technical; (4-5-00)
- b. Business or industry; and (4-5-00)
- c. Community or cultural. (4-5-00)

**02. Activities Which the Board Believes are Exceptional.** Examples of activities which the Board believes are exceptional are: (4-5-00)

- a. Serving as an officer or committee chair; (4-5-00)
- b. Originating projects or initiatives; (4-5-00)
- c. Investing time or energy into the community; (4-5-00)
- d. Authoring significant publications; and (4-5-00)
- e. Receiving significant awards. (4-5-00)

**03. Activities Which the Board Believes Are Ordinary.** Examples of activities which the Board believes are only ordinary are: (4-5-00)

- a. Completing routine job assignments; (4-5-00)
- b. Holding membership in professional and technical societies; (4-5-00)
- c. Contributing money to causes; (4-5-00)
- d. Attending community events; and (4-5-00)
- e. Owning a business. (4-5-00)

**04. Written Request for Exceptional Designation.** An applicant who seeks waiver of the fundamentals of engineering examination shall submit a written request for the exceptional designation accompanied by two (2) written references supporting and explaining the applicants contributions that are beyond the ordinary. (4-5-00)

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

**10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY**

**DOCKET NO. 10-0102-0801**

**NOTICE OF RULEMAKING - PROPOSED RULE**

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

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

1. The purpose of the proposed rules is to amend the Administrative Rules to:
2. Comply with updated terminology as incorporated in House Bill No. 380 passed by the 2008 session of the Idaho Legislature;
3. Remove an ambiguity relating to sealing of documents; and
4. Allow the Board to take disciplinary action if a licensee surrenders their license in another jurisdiction for reasons or causes which would constitute a violation of Idaho laws or rules.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: There are no fees or charges 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 resulting from this rulemaking: There will not be any negative fiscal impact on the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2008 Idaho Administrative Bulletin, Volume 08-7, Page 29.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact David L. Curtis 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 October 22, 2008.

DATED this 18th day of August, 2008.

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

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**THE FOLLOWING IS THE TEXT OF DOCKT NO. 10-0102-0801**

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited in full as Idaho Board of Registration Licensure of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.02, "Rules of Professional Responsibility."~~(7-1-93)~~( )

**02. Scope.** In order to establish and maintain a high standard of integrity, skills and practice in the professions of engineering and land surveying, and to safeguard the life, health, property and welfare of the public, the following Rules of Professional Responsibility, hereinafter referred to as Rules, have been promulgated in accordance with Section 54-1208, Idaho Code, and shall be binding in the state of Idaho upon every person holding a certificate of registration license as a Professional Engineer or Professional Land Surveyor, on all entities authorized to offer or perform engineering or land surveying services through a business entity or other legal entity and on every person holding a certificate as an engineer-in-training intern or a certificate as a land surveyor-in-training intern. Each Registrant Licensees and Certificate Holder under the laws of the state of Idaho is charged with being familiar with these Rules and knowledgeable in their application to the practice of engineering and land surveying. Such application shall include the recognition that the practice of engineering or the practice of land surveying is a privilege and the Registrant Licensees or Certificate Holder shall be forthright and candid in statements or written responses to the Board, or its representatives, on matters pertaining to these Rules. All Registrants Licensees or Certificate Holders in their original application, and for renewals thereof, shall certify that they have read and agree to abide by the Rules which are in force at the time of application or renewal. These Rules shall not be a basis for action involving civil liability, however, failure to obey these Rules may subject a Registrant Licensee or Certificate Holder to Board action pursuant to Chapter 12, Title 54, Idaho Code. ~~(3-15-02)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. DEFINITIONS.**

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

**01. Board.** The Board of Registration Licensure of Professional Engineers and Professional Land Surveyors. ~~(7-1-93)~~( )

**02. Certificate Holder.** Any person holding a current certificate as an Engineer-in-Training Intern or a Land Surveyor-in-Training 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. ~~(3-15-02)~~( )

**03. Registrant Licensee.** Any person holding a current certificate of registration license as a Professional Engineer, a Professional Land Surveyor, or a combination thereof, which has been duly issued by the Board. ~~(7-1-98)~~( )

**04. 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 registrant's licensee's or certificate holder's honesty, trustworthiness or fitness as a registrant licensee or certificate holder in other respects; engage in conduct involving dishonesty, fraud, deceit or misrepresentation; state or imply an ability to influence improperly a government agency or official. ~~(7-1-98)~~( )

**005. RESPONSIBILITY TO THE PUBLIC.**

**01. Primary Obligation.** All Registrants 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. ~~(7-1-93)~~( )

**02. Standard of Care.** Each Registrant 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. (7-1-93)(\_\_\_\_)

**03. Professional Judgement.** If any *Registrant's Licensee's* or Certificate Holder's professional judgement is overruled under circumstances where the safety, health and welfare of the public are endangered, the *Registrant 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. (7-1-93)(\_\_\_\_)

**04. Obligation to Communicate Discovery of Discrepancy.** If a *Registrant Licensee* or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another *Registrant 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 *Registrant 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 *Registrant 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 *Registrant Licensee* or Certificate Holder. Failure to respond on the part of the *Registrant Licensee* or Certificate Holder whose work is believed to contain the discrepancy shall be considered a violation of these rules and may subject the *Registrant 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. (3-30-01)(\_\_\_\_)

**05. Obligation to Comply with Rules of Continuing Professional Development.** All *Registrants licensed to practice professional land surveying Licensees* shall comply with the requirements contained in IDAPA 10.01.04, "Rules of Continuing Professional Development." (7-1-99)(\_\_\_\_)

**06. Obligation to Communicate with Clients.** A *Registrant Licensee* shall be complete, objective and truthful in all communications with clients. (4-6-05)(\_\_\_\_)

**006. COMPETENCY FOR ASSIGNMENTS.**

**01. Assignments in Field of Competence.** A *Registrant Licensee* shall undertake to perform assignments only when qualified by education or experience in the specific technical field involved, however, a *Registrant Licensee*, as the prime professional, may accept an assignment requiring education or experience outside of his own field of competence, but his services are restricted to those phases of the project in which the *Registrant Licensee* is qualified. All other phases of such project shall be performed by qualified associates, consultants or employees. For projects encompassing one (1) or more disciplines beyond the *Registrant's Licensee's* competence, a *Registrant Licensee* may sign and seal ~~all documents~~ the cover sheet for the total project only when the *Registrant Licensee* has first determined that all elements of the project have been ~~performed prepared~~, signed and sealed by others ~~associates, consultants or employees~~ who are competent, licensed and qualified to perform such services ~~in other disciplines, and are registered or licensed.~~ (7-1-93)(\_\_\_\_)

**02. Aiding and Abetting an Unregistered Unlicensed Person.** A *Registrant Licensee* or Certificate Holder shall avoid actions and procedures which, in effect, amount to aiding and abetting an ~~unregistered unlicensed~~ person to practice engineering or land surveying. (7-1-93)(\_\_\_\_)

**03. Use of Seal on Documents.** A *Registrant Licensee* shall affix his signature and seal only to plans or documents prepared under his responsible charge. (7-1-93)(\_\_\_\_)

**007. PUBLIC STATEMENTS.**

**01. Complete, Objective and Truthful Reports, Statements or Testimony.** A *Registrant Licensee* shall be complete, objective and truthful 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. (7-1-93)(\_\_\_\_)

**02. Opinions Based on Adequate Knowledge.** A *Registrant 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. (7-1-93)(\_\_\_\_)

**03. Statements Regarding Public Policy.** On matters connected with establishing public policy a Registrant 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. (7-1-93)(\_\_\_\_)

**04. Actions in Regard to Other Registrants or Certificate Holders.** A Registrant Licensee or Certificate Holder shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another Registrant Licensee or Certificate Holder, nor shall he indiscriminately criticize another Registrant's Licensee's or Certificate Holder's work in public. If he believes that another Registrant 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. (7-1-93)(\_\_\_\_)

**008. CONFLICT OF INTEREST.**

**01. Conflict of Interest to Be Avoided.** Each Registrant Licensee or Certificate Holder shall conscientiously avoid conflict of interest with an employer or client, and, when unavoidable, shall forthwith disclose the circumstances in writing to the employer or client. In addition, the Registrant Licensee or Certificate Holder shall promptly inform the employer or client in writing of any business association, interests, or circumstances which could influence a Registrant's Licensee's or Certificate Holder's judgement or quality of service, or jeopardize the clients' interests. (7-1-98)(\_\_\_\_)

**02. Compensations From Multiple Parties on the Same Project.** A Registrant Licensee or Certificate Holder may accept compensation, financial or otherwise, from more than one (1) party for services on the same project, or for services pertaining to the same project, provided the circumstances are fully disclosed, in writing, in advance and agreed to by all interested parties. (7-1-93)(\_\_\_\_)

**03. Solicitation From Material or Equipment Suppliers.** A Registrant Licensee or Certificate Holder shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying or recommending the products of said suppliers, except with full disclosure as outlined in Subsection 008.02. (7-1-93)(\_\_\_\_)

**04. Gratuities.** A Registrant Licensee or Certificate Holder shall not solicit or accept gratuities, gifts, travel, lodging, loans, entertainment or other favors directly or indirectly, from contractors, their agents or other third parties dealing with a client or employer in connection with work for which the Registrant Licensee or Certificate Holder is responsible, which can be construed to be an effort to improperly influence the Registrant's Licensee's or Certificate Holder's professional judgement. Minor expenditures such as advertising trinkets, novelties and meals are excluded. Neither shall a Registrant Licensee or Certificate Holder make any such improper offer. (7-1-93)(\_\_\_\_)

**05. Solicitation From Agencies.** A Registrant Licensee, a Certificate Holder or a representative thereof shall not solicit or accept a contract from a governmental authority on which an existing principal or officer of his organization serves as a member of the elected policy and governing body of such governmental authority or serves as a member of an entity of such governmental authority having the right to contract for the services of a Registrant Licensee or a Certificate Holder. (7-1-93)(\_\_\_\_)

**06. Professional Services Decisions of Agencies.** A Registrant Licensee, Certificate Holder or representative thereof serving as a member, advisor or consultant to a governmental board, commission or department shall not participate in decisions with respect to professional services to be offered, that have been offered or may have been performed by that person's associates, firm or employer for the concerned governmental body upon which that person serves, whether such professional services are commissioned by an entity of the said governmental body or by another person or entity. (7-1-93)(\_\_\_\_)

**07. Unfair Advantage of Position and Work Outside Regular Employment.** When a Registrant Licensee or an individual Certificate Holder is employed in a full time position, the person shall not use the advantages of the position to compete unfairly with other professionals and shall not accept professional employment

outside of that person's regular work or interest without the knowledge of and written permission or authorization from that person's employer. (7-1-98)(\_\_\_\_)

**009. SOLICITATION OF WORK.**

**01. Commissions.** A Registrant Licensee or Certificate Holder shall not pay or offer to pay, either directly or indirectly, any commission, gift or other valuable consideration in an effort to secure work, except to bona fide employees or bona fide established business enterprises retained by a Registrant Licensee or Certificate Holder for the purpose of securing business or employment. (7-1-93)(\_\_\_\_)

**02. Representation of Qualifications.** A Registrant Licensee or Certificate Holder shall not falsify or permit misrepresentation of his or his associates' academic or professional qualifications, and shall not misrepresent or exaggerate the degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint-venturers or his or their past accomplishments with the intent and purpose of enhancing qualifications for the work. The Registrant Licensee or Certificate Holder shall not indulge in publicity that is misleading. (7-1-93)(\_\_\_\_)

**03. Assignment on Which Others Are Employed.** A Registrant Licensee or Certificate Holder shall not knowingly seek or accept employment for professional services for an assignment which another Registrant Licensee or Certificate Holder is employed, or contracted to perform without the currently employed or contracted entity being informed in writing. (7-1-98)(\_\_\_\_)

**04. Contingency Fee Contracts.** A Registrant Licensee or Certificate Holder shall not accept an agreement, contract, or commission for professional services on a "contingency basis" which may compromise his professional judgement and shall not accept an agreement, contract or commission for professional services which includes provisions wherein the payment of fee involved is contingent on a "favorable" conclusion, recommendation or judgement. (7-1-98)(\_\_\_\_)

**05. Selection on the Basis of Qualifications.** A Registrant Licensee or Certificate Holder should seek professional employment or professional service work on the basis of qualifications and competence for proper accomplishment of the work assignment. (7-1-93)(\_\_\_\_)

**010. IMPROPER CONDUCT.**

**01. Fraudulent or Dishonest Enterprises.** A Registrant Licensee or Certificate Holder shall not knowingly associate with, or permit the use of his name or the firm name in a business venture by any person or firm which it is known, or there is reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature. (7-1-93)(\_\_\_\_)

**02. Confidentiality.** Registrants Licensees or Certificate Holders shall not reveal confidential facts, data or information obtained in a professional capacity without prior written consent of the client or employer except as authorized or required by law. (7-1-98)(\_\_\_\_)

**03. Actions by Other Jurisdictions.** The surrender, revocation, suspension or denial of a license to practice Professional Engineering or Professional Land Surveying, as an individual or through a business entity, in another jurisdiction, for reasons or causes which the Board finds would constitute a violation of the Idaho laws regulating the practice of Engineering and Land Surveying, or any code or rules promulgated by the Board, shall be sufficient cause after a hearing for ~~the denial, suspension or revocation of a certificate of registration or certificate of authorization to practice engineering or land surveying in this state~~ disciplinary action as provided in Title 54 Chapter 12, Idaho Code. (3-15-02)(\_\_\_\_)

**011. RULE AND STATUTE VIOLATIONS.**

**01. Affidavits for Rule and Statute Violations.** Any person who believes that a Registrant Licensee or Certificate Holder by his actions, or failure to properly act, is guilty of fraud, deceit, negligence, incompetency, 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 ~~Registrant~~ 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 ~~shall~~ may investigate, hold hearings and adjudicate the charges. Proceedings shall be exempt from all statutes of limitations. (5-3-03)( )

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

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

**10.01.03 - RULES OF CORNER PERPETUATION AND FILING**

**DOCKET NO. 10-0103-0801**

**NOTICE OF RULEMAKING - PROPOSED RULE**

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

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of the intended negotiated rulemaking is to amend the Administrative Rules to:

1. Comply with updated terminology as incorporated in House Bill No. 380 passed by the 2008 session of the Idaho Legislature;
2. Correct the address of the Board office; and
3. Clarify that the corner record must include a sketch of the marks on a found monument.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: There are no fees or charges 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 resulting from this rulemaking: There will not be any negative fiscal impact on the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2008 Idaho Administrative Bulletin, Volume 08-7, Page 30.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact David L. Curtis 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 October 22, 2008.

DATED this 18th day of August, 2008.

David L. Curtis, P.E., Executive Director  
Board of Professional Engineers and Professional Land Surveyor  
5535 W. Overland Road, Boise, Idaho 83705  
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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0103-0801**

**000. LEGAL AUTHORITY.**

As required in Section 55-1606, Idaho Code, the Board of ~~Registration~~ Licensure of Professional Engineers and Professional Land Surveyors hereby establishes these rules for land survey corner perpetuation and filing.

(7-1-93)( )

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited in full as Idaho Board of Registration Licensure of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.03, "Rules for Corner Perpetuation and Filing."  
(7-1-93)( )

**02. Scope.** These rules include criteria for properly completing corner perpetuation and filing forms as required in Section 55-1604, Idaho Code.  
(7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**005. FORM.**

The form to be used in filing corner perpetuations in the state of Idaho shall be substantially the same as that form available from the Idaho Board of Registration Licensure of Professional Engineers and Professional Land Surveyors, ~~600 S. Orchard, Suite A, Boise, Idaho 83705-1242~~ 5535 W. Overland Road, Boise, Idaho 83705-2728. Clear spaces on the form may be provided as requested and required by County Recorders in order to place recording information in an unobstructed area. The form is not available in quantity from the Board, but one (1) copy will be furnished, upon request, and it may be duplicated or reproduced.  
(3-30-01)( )

**006. COMPLETION OF FORM.**

Prior to filing of the form, the professional land surveyor performing the work shall complete the form in compliance with the requirements set forth in these rules. Additional information, for example latitude and longitude, with datum used, may be included.  
(7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**009. DESCRIPTION OF MONUMENT AND ACCESSORIES FOUND OR ESTABLISHED TO PERPETUATE THE LOCATION OF THIS CORNER.**

Information provided in this section shall include a description of the monument and accessories found or placed in the current survey as well as the date the work was performed and the true or assumed magnetic declination at the time of the survey of magnetic bearings are used. If magnetic bearings are not used, the professional land surveyor shall indicate the basis of bearing to accessories.  
(7-1-93)( )

**010. SURVEYOR'S CERTIFICATE.**

The surveyor shall print his name, the license number issued by the Board of Registration Licensure of Professional Engineers and Professional Land Surveyors, and the name of the employer for whom the surveyor is working.  
(7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**012. MARKS ON MONUMENT FOUND OR SET.**

The surveyor shall provide a sketch or legible image of the marks placed or found on the monument, if applicable.  
(7-1-93)( )

**013. DIAGRAM.**

The surveyor shall clearly mark on the section diagram the location of the monument found or being established or reestablished in the survey.  
(7-1-93)( )

**014. LOCATION.**

The surveyor shall state the county, section, township, range and the monument location being established or reestablished or found in the survey.  
(7-1-93)( )

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

**10.01.04 - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT**

**DOCKET NO. 10-0104-0801**

**NOTICE OF RULEMAKING - PROPOSED RULE**

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

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of the intended negotiated rulemaking is to amend the Administrative Rules to:

1. Comply with updated terminology as incorporated in House Bill No. 380 passed by the 2008 session of the Idaho Legislature;
2. Include professional engineers in the requirement of continuing professional development as a condition of license renewal;
3. Revise "self-study," "membership," and "active participation" as qualifying activities for continuing professional development;
4. Allow a licensee to opt for a two (2) calendar year period of compliance rather than a renewal biennium;
5. Provide for an exemption for a licensee on active duty temporarily assigned to a location other than their normal home station; and
6. Provide for an exemption for professional engineers during their first renewal period or the two (2) calendar year period closest to the renewal biennium following adoption of these rules as they are amended to include professional engineers.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: There are no fees or charges 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 resulting from this rulemaking: There will not be any negative fiscal impact on the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2008 Idaho Administrative Bulletin, Volume 08-7, Page 31.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact David L. Curtis 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 October 22, 2008.

DATED this 18th day of August, 2008.

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E-mail: dave.curtis@ipels.idaho.gov

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0104-0801**

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited in full as Idaho Board of ~~Registration~~ Licensure of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.04, "Rules of Continuing Professional Development." (7-1-99)(\_\_\_\_)

**02. Scope.** In order to establish and maintain a high standard of integrity, skills and practice in the professions of engineering and land surveying, and to safeguard the life, health, property and welfare of the public, the following Rules of Continuing Professional Development, hereinafter referred to as Rules, have been promulgated in accordance with Section 54-1208, Idaho Code, and shall be binding in the state of Idaho upon every person holding a license to practice as a Professional Engineer or a Professional Land Surveyor, or both. Each Licensee under the laws of the state of Idaho is charged with being familiar with these rules and knowledgeable in their application to the practice of engineering or land surveying or both. Every Licensee shall meet the continuing professional development requirements of these rules as one of the conditions for license renewal. If an individual is licensed to practice both engineering and land surveying the individual must comply with the requirements of these rules in regard to each profession. Some activities as defined herein may qualify as continuing professional development for both professions and may be included in the log for each profession. These rules shall not be a basis for action involving civil liability, however, failure to obey these Rules may subject a Licensee to Board action pursuant to Chapter 12, Title 54, Idaho Code. (7-1-99)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. DEFINITIONS.**

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

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

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

**03. Professional Development Hour (PDH).** A contact hour (minimum of fifty (50) minutes) of instruction or presentation. The common denominator for other units of credit. (7-1-99)

**04. Activity.** Any qualifying action with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice or practices. (7-1-99)(\_\_\_\_)

**05. Licensee.** A person who is licensed to practice as a professional engineer or professional land surveyor or both. (7-1-99)(\_\_\_\_)

**06. Board.** The Idaho Board of ~~Registration~~ Licensure of Professional Engineers and Professional Land Surveyors. (7-1-99)(\_\_\_\_)

**07. Documented Self-Study.** Documented study of professional/technical journals, published papers, articles, books, software or other areas of training which increase knowledge of the technology above and beyond routine job assignments. (7-1-99)(\_\_\_\_)

**08. Active Participation.** Serving as an officer or committee chair at either the national, state or local (section or chapter) level. (7-1-99)(\_\_\_\_)



**005. REQUIREMENTS.**

Every Licensee is required to obtain thirty (30) PDH units during the renewal period biennium (beginning on the first day of the month following the month in which the Licensee was born). Alternatively, the licensee may choose to obtain thirty (30) PDH units cumulative during the two (2) calendar years which are closest to the renewal period biennium. If a Licensee exceeds the biennial requirement in any renewal period or earns PDH's during a period in which he is exempt, a maximum of thirty (30) PDH units may be carried forward into the subsequent renewal period. If the licensee chooses to use the calendar year basis, PDH's in excess of thirty (30) cumulative in two (2) years, or PDH's earned during a period in which he is exempt, can be carried forward to the next two (2) year calendar period, not to exceed thirty (30) PDH's carried forward to the next two (2) year calendar period. PDH units may be earned in the following activities, however, PDH units must come from two (2) or more activities. ~~(3-30-01)~~(\_\_\_\_)

- 01. Successful Completion of College Credits.** (7-1-99)
- 02. Successful Completion of Continuing Education Units.** (7-1-99)
- 03. Successful Completion of Other Courses.** Correspondence, televised, videotaped, and other short courses/tutorials for which college credits or CEU's are awarded. (7-1-99)
- 04. Attending Qualifying Seminars.** Attending qualifying seminars, in-house courses, workshops, or technical or professional presentations made at meetings, conventions, or conferences. (7-1-99)
- 05. Teaching or Instructing.** Teaching or instructing in Subsections 005.01 through 005.04 above, above and beyond routine job assignments. (7-1-99)
- 06. Authoring Published Papers, Articles, or Books.** (7-1-99)
- 07. Membership in Technical or Professional Organizations.** (7-1-99)
- 08. Active Participation in Technical or Professional Organizations.** (7-1-99)
- 09. Patents.** (7-1-99)
- 10. Presentations to Technical, Professional or Civic Organizations.** (7-1-99)
- 11. Documented Self Study.** ~~(7-1-99)~~(\_\_\_\_)

**006. UNITS.**

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

1 College semester credit hour equals	45 PDH
1 College quarter credit hour equals	30 PDH
1 Continuing Education Unit equals	10 PDH
1 Hour of attendance in course work, seminars, or technical or professional presentations made at meetings, conventions, or conferences equals	1 PDH
Teaching <del>1 through 4</del> <u>the</u> above, above and beyond normal job assignments, apply multiple of 2 <u>for teaching the first time only</u>	
Each published <u>technical or professional</u> paper, article or book not to exceed <u>a total of 10</u> PDH's per year, above and beyond normal job assignments	5 PDH <u>per paper, article or book</u>
<u>Membership in</u> <del>Technical or professional organizations</del> <u>membership</u> ( <u>Each Maximum of two organizations</u> ) equals	<del>3</del> <u>1</u> PDH <u>per year per organization</u>
Active participation in technical <del>and</del> <u>or</u> professional organizations ( <u>Each Maximum of two organizations</u> ) equals	<del>3</del> <u>1</u> PDH <u>per year per organization</u>

Each patent not to exceed <u>per year</u>	5 PDH
Presentations to technical, professional or civic organizations, <u>first presentation only</u> , equals	2 PDH per hour of presentation
Documented self-study not to exceed	<del>5</del> <u>3</u> PDH per year at the rate of <u>½ PDH per hour of self-study</u>

(7-1-99)( )

**007. DETERMINATION OF CREDIT.**

The Board will not pre-approve activities as qualifying for continuing professional development, but has final authority to judge the PDH value for all activities submitted to fulfill ~~CPD~~ continuing professional development requirements. (3-30-01)( )

**008. RECORD KEEPING.**

Maintenance of records to support credits claimed is the responsibility of the Licensee. Records required include, but are not limited to: (7-1-99)

**01. Log.** A log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned; (7-1-99)

**02. Attendance Verification.** Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; or (7-1-99)

**03. Records.** Records as may be maintained by the Professional Development Registry for Engineers and Surveyors (PDRES) or other similar repositories a repository for same. These records must be maintained for a period of five (5) years and copies may be requested by the Board for audit verification purposes. (7-1-99)( )

**04. Documented Self-Study.** In order to qualify in this category, the licensee must prepare and retain an abstract of the material studied, the date the activity occurred and the number of PDH's claimed, and a bibliographic reference of the material studied. ( )

**05. Record Retention.** All continuing professional development records must be maintained for a period of six (6) years and copies must be provided to the Board upon request for audit purposes. ( )

**009. EXEMPTIONS.**

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

**01. First Renewal Period.** New Licensees by way of examination or comity shall be exempt ~~for their first renewal period~~ from compliance with these rules during the time between issuance of the license and the due date of their first renewal following the issuance of the license. (7-1-99)( )

**02. Active Duty in the Armed Forces.** A Licensee serving on ~~temporary~~ active duty in the armed forces of the United States and temporarily assigned duty at a location other than their normal home station for a period of time exceeding one hundred twenty (120) consecutive days in a renewal period or the two (2) calendar year period closest to the renewal biennium shall be exempt from obtaining the professional development hours required during that renewal period or the two (2) calendar year period closest to the renewal biennium. (3-30-01)( )

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

**04. Retired and Receiving No Remuneration.** A Licensee who has chosen and qualified for the "Retired" status and who further certifies that they are no longer receiving any remuneration from providing professional engineering or professional land surveying services shall be exempt from the professional development

hours required. In the event such a person elects to return to active practice of professional engineering or professional land surveying, professional development hours must be earned before returning to active practice for each biennium or the two (2) calendar year period closest to the renewal biennium exempted not to exceed the requirement for two (2) bienniums or four (4) calendar years. (~~3-30-01~~)( )

**05. Expired License.** A Licensee who has chosen to allow his license to expire shall be exempt from the professional development hours required. In the event such a person elects to reactivate the license, professional development hours must be earned and documented before reinstating the license ~~or certificate~~ for each biennium or two (2) calendar years exempted not to exceed the requirement for two (2) bienniums or four (4) calendar years.<sup>3</sup> (~~3-30-01~~)( )

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