Dear Senators ANDREASON, Coiner & Malepeai, and Representatives SCHAEFER, Marriott & Ringo:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Industrial Commission:

IDAPA 17.02.03 – Security For Compensation – Docket No. 17-0203-0901

IDAPA 17.02.08 – Miscellaneous Provisions – Docket No. 17-0208-0902

IDAPA 17.02.08 – Miscellaneous Provisions – Docket No. 17-0208-0903

IDAPA 17.06.01 – Boiler and Pressure Vessel Safety Rules - General – Docket No. 17-0601-0901

IDAPA 17.06.02 – Boiler and Pressure Vessel Safety Rules – Administration – Docket No. 17-0602-0901

IDAPA 17.06.03 - Boiler and Pressure Vessel Safety Rules – Inspections – Docket No. 17-0603-0901

IDAPA 17.06.04 - Boiler and Pressure Vessel Safety Rules – Repairs and Alterations – Docket No. 17-0604-0901

IDAPA 17.06.05 - Boiler and Pressure Vessel Safety Rules – Boiler Attendants – Docket No. 17-0605-0901

IDAPA 17.08.01 – Idaho Minimum Safety Standards and Practices for Logging – General Provisions – Docket No. 17-0801-0901

IDAPA 17.08.02 – Idaho Minimum Safety Standards and Practices for Logging – Health, Safety, and Sanitation – Docket No. 17-0802-0901

IDAPA 17.08.03 – Idaho Minimum Safety Standards and Practices for Logging – Explosives and Blasting – Docket No. 17-0803-0901

IDAPA 17.08.16 – Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program – Docket No. 17-0816-0901.

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 10-26-09. 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 11-24-09.

_____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 & Human Resources

Committee and the House Commerce & Human Resources Committee

FROM: Katharine Gerrity, Principal Legislative Research Analyst

DATE: October 6, 2009

SUBJECT: Industrial Commission

1. IDAPA 17.02.03 – Security For Compensation – Docket No. 17-0203-0901

- 2. IDAPA 17.02.08 Miscellaneous Provisions Docket No. 17-0208-0902
- 3. IDAPA 17.02.08 Miscellaneous Provisions Docket No. 17-0208-0903
- 4. IDAPA 17.06.01 Boiler and Pressure Vessel Safety Rules General Docket No. 17-0601-0901
- 5. IDAPA 17.06.02 Boiler and Pressure Vessel Safety Rules Administration Docket No. 17-0602-0901
- 6. IDAPA 17.06.03 Boiler and Pressure Vessel Safety Rules Inspections Docket No. 17-0603-0901
- 7. IDAPA 17.06.04 Boiler and Pressure Vessel Safety Rules Repairs and Alterations Docket No. 17-0604-0901
- 8. IDAPA 17.06.05 Boiler and Pressure Vessel Safety Rules Boiler Attendants Docket No. 17-0605-0901
- 9. IDAPA 17.08.01 Idaho Minimum Safety Standards and Practices for Logging General Provisions Docket No. 17-0801-0901
- 10. IDAPA 17.08.02 Idaho Minimum Safety Standards and Practices for Logging Health, Safety, and Sanitation Docket No. 17-0802-0901

- 11. IDAPA 17.08.03 Idaho Minimum Safety Standards and Practices for Logging Explosives and Blasting Docket No. 17-0803-0901
- 12. IDAPA 17.08.16 Idaho Minimum Safety Standards and Practices for Logging Recommended Safety Program Docket No. 17-0816-0901

1. IDAPA 17.02.03 – Security For Compensation

The Industrial Commission submits notice of proposed rule at IDAPA 17.02.03 – Security For Compensation. The Commission states that the proposed rule will require self-insured employers to maintain a licensed resident claims adjuster, located within Idaho, to alleviate employees with no expertise or licensure to service claims. The Commission notes that documents are often mailed out-of-state for scanning which increases the time it takes for the information to reach the in-state adjuster. The rule change will require documents to be date-stamped with the name of the receiving office and by each receiving agent or vendor acting on behalf of the claims office. According to the Commission, this will assist in the determination of where delays in claims processing are occurring.

The Commission states that the rule would also require prompt and accurate reporting of each adjuster for each policyholder of the surety. The intent of this change is to avoid confusion for the claimant and the Commission in identification of the proper adjuster. The Commission states that sureties often change adjusters for policyholders without notifying the Commission. In addition, the Commission states that it is deleting an obsolete rule, updating language and revising reporting and assessment dates to coincide with the statute.

Negotiated rulemaking was not conducted. The rule appears to be authorized pursuant to Sections 72-508 and 72-803, Idaho Code.

2. IDAPA 17.02.08 – Miscellaneous Provisions

The Industrial Commission submits notice of proposed rule at IDAPA 17.02.08 – Miscellaneous Provisions. The Commission states that the existence and status of any outstanding medical bills remaining due after approval of a lump sum settlement remains problematic because some claimants are not aware of their liability to pay outstanding medical bills or medical obligations to third-party payors. The proposed change will require attorneys, in their Attorney Fee Memorandum required with every lump sum settlement, to include their itemization of medical bills for which claim was made in the underlying action which remain unpaid by the employer/surety at the time of the lump sum settlement, along with their explanation of the treatment to be given such bills or claims following approval of the settlement.

The Commission states that negotiated rulemaking was not conducted. The rule appears to be authorized pursuant to Sections 72-508 and 72-803, Idaho Code.

3. IDAPA 17.02.08 – Miscellaneous Provisions

The Industrial Commission submits notice of proposed rule at IDAPA 17.02.08 – Miscellaneous Provisions. This rule change pertains to physician fees. According to the Commission, there is presently a temporary rule in effect containing physician fee updates. That rule was effective July 1, 2009. In the context of that temporary rulemaking, the Commission noted that it would be submitting this proposed rule for consideration by the Legislature in 2010. The Commission notes that this proposed rule will provide the same fee schedule updates as the previous temporary rule but allows the Legislature to approve conversion factors going forward that have been updated in accordance with the statute.

Negotiated rulemaking was not conducted. The rule appears to be authorized pursuant to Sections 72-508 and 72-803, Idaho Code.

4. IDAPA 17.06.01 – Boiler and Pressure Vessel Safety Rules - General

The Industrial Commission submits notice of proposed rule at IDAPA 17.06.01 – Boiler and Pressure Vessel Safety Rules – General. This is a chapter repeal. According to the Commission, the current boiler regulatory program is not self-funded and does not have an effective means of enforcement. The Commission states that inspections are being conducted by the boiler insurance companies as required by policies. The Commission notes that by repealing the chapter, expenditures will be eliminated (per the Commission, annual expenditure of a minimum of \$15,000 as well as the expenditure of Code Adoption every three years at an additional \$15,000) but the statute requiring equipment safety (Section 72-720, Idaho Code) will still be in effect so that unsafe conditions can be addressed.

We contacted the Division of Building Safety to inquire about the noted savings. The Division indicates that \$15,000 is budgeted by the Commission for them to conduct largely investigations relating to their administrative duties in regard to boiler and pressure vessel safety as well as certification for one of their inspectors. In addition, there will be another approximately \$15,000 saved every three years which represents the cost of the National Boiler and Pressure Vessel Code.

The Commission notes that negotiated rulemaking was not conducted but that an open meeting was held for interest groups and no negative comments were received. The rule appears to be authorized by Section 72-508, Idaho Code.

5. IDAPA 17.06.02 – Boiler and Pressure Vessel Safety Rules – Administration

The Industrial Commission submits notice of proposed rule at IDAPA 17.06.02 – Boiler and Pressure Vessel Safety Rules – Administration. This is a chapter repeal. Please see the analysis in section 4. noted above. The same analysis applies to this proposed rule.

6. IDAPA 17.06.03 - Boiler and Pressure Vessel Safety Rules – Inspections

The Industrial Commission submits notice of proposed rule at IDAPA 17.06.03 - Boiler and Pressure Vessel Safety Rules – Inspections. This is a chapter repeal. Please see the analysis in section 4. noted above. The same analysis applies to this proposed rule.

7. IDAPA 17.06.04 - Boiler and Pressure Vessel Safety Rules - Repairs and Alterations

The Industrial Commission submits notice of proposed rule at IDAPA 17.06.04 - Boiler and Pressure Vessel Safety Rules – Repairs and Alterations. This is a chapter repeal. Please see the analysis in section 4. noted above. The same analysis applies to this proposed rule. The Notice, however, should be modified to reflect the correct docket number.

8. IDAPA 17.06.05 - Boiler and Pressure Vessel Safety Rules – Boiler Attendants

The Industrial Commission submits notice of proposed rule at IDAPA 17.06.05 - Boiler and Pressure Vessel Safety Rules – Boiler Attendants. This is a chapter repeal. Please see the analysis in section 4. noted above. The same analysis applies to this proposed rule.

9. IDAPA 17.08.01 – Idaho Minimum Safety Standards and Practices for Logging – General Provisions

The Industrial Commission submits notice of proposed rule at Idaho Minimum Safety Standards and Practices for Logging – General Provisions. According to the Commission, the rule is being proposed to update the Logging Safety Standards to meet OSHA's current requirements regarding logging signs and to make technical corrections.

We contacted the Division of Building Safety to make several inquiries regarding the series of rules relating to logging. There was a misprint on the notices and the correct contact for the series of rules should be Steve Keys, Division of Building Safety, 332-8986.

Negotiated rulemaking was not conducted. The rule appears to be authorized pursuant to Section 72-508 and Chapter 7, Title 72, Idaho Code.

<u>10. IDAPA 17.08.02 – Idaho Minimum Safety Standards and Practices for Logging – Health, Safety, and Sanitation</u>

The Industrial Commission submits notice of proposed rule at IDAPA 17.08.02 – Idaho Minimum Safety Standards and Practices for Logging – Health, Safety, and Sanitation. The Commission states that the rule change is proposed and is necessary to update the Logging Safety Standards to meet OSHA's current requirements relating to those required to complete first aid training, first aid supplies, life jacket requirements, first aid transportation and also provides a clarification regarding safety shoes. The rule also makes technical corrections.

We contacted the Division of Building Safety to make several inquiries regarding the series of rules relating to logging. There was a misprint on the notices and the correct contact for the series of rules should be Steve Keys, Division of Building Safety, 332-8986.

Negotiated rulemaking was not conducted. The rule appears to be authorized pursuant to Section 72-508 and Chapter 7, Title 72, Idaho Code.

11. IDAPA 17.08.03 – Idaho Minimum Safety Standards and Practices for Logging – Explosives and Blasting

The Industrial Commission submits notice of proposed rule at IDAPA 17.08.03 – Idaho Minimum Safety Standards and Practices for Logging – Explosives and Blasting. According to the Commission, the rule change is being proposed and is necessary to update the Logging Safety Standards to meet OSHA's current requirements relating to crimping of fused detonator caps.

We contacted the Division of Building Safety to make several inquiries regarding the series of rules relating to logging. There was a misprint on the notices and the correct contact for the series of rules should be Steve Keys, Division of Building Safety, 332-8986.

Negotiated rulemaking was not conducted. The rule appears to be authorized pursuant to Section 72-508 and Chapter 7, Title 72, Idaho Code.

12. IDAPA 17.08.16 – Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program

The Industrial Commission submits notice of proposed rule at Idaho Minimum Safety Standards and Practices for Logging – Recommended Safety Program. The Commission states that the rule changes are proposed and are necessary to update the Logging Safety Standards to meet OSHA's current requirements relating to first aid training and to clarify reporting of injuries and fatalities, management responsibilities, record keeping and establishment of a safety committee.

We contacted the Division of Building Safety to make several inquiries regarding the series of rules relating to logging. There was a misprint on the Notices and the correct contact for the series of rules should be Steve Keys, Division of Building Safety, 332-8986.

Negotiated rulemaking was not conducted. The rule appears to be authorized pursuant to Section 72-508 and Chapter 7, Title 72, Idaho Code.

cc: Industrial Commission

Mindy Montgomery, Director Scott McDougall Patti Vaughn Alvin Caine Steve Keys

17.02.03 - SECURITY FOR COMPENSATION

DOCKET NO. 17-0203-0901

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(s) 72-508, 72-720, 72-721, 72-722, 72-723, and 72, 803, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be 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:

- 1. Requires self-insured employers to maintain a licensed resident claims adjuster located within Idaho to alleviate employees with no expertise or licensure to service claims.
- 2. Medical reports are often mailed out of state for scanning which increases the length of time for the information to reach the in-state adjuster which runs counter to the requirement for "prompt" claims adjusting. This change would require documents to be date-stamped with the name of the receiving office and by each receiving agent or vendor acting on behalf of the claims office to determine where delays in claims processing may be occurring.
- 3. Sureties, upon approval, designate one in-state adjuster to service their claims. Sureties usually have more than one adjuster or later assign additional adjusters and often change adjusters for certain employers without the changes being reported to the Commission. This creates a problem of identification of the correct adjuster for the claimant and Commission. This change would require prompt and accurate reporting of each adjuster for each policyholder of the surety.
- 4. Deletion of an order adopted as a rule in 1969 in regards to a petition by an insurance carrier that is no longer an Idaho insurer to establish rules for banks that hold security deposits required by the Industrial Commission.
- 5. Reporting and assessment dates changed to coincide with 72-327, Idaho Code.
- 6. Updating language or "housekeeping" to keep terminology uniform throughout the rules.

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: There is no fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes are not considered to be controversial. However, the rule does have the approval of the Industrial Commission's Advisory Committee.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Scott McDougall, (208)334-6063.

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

DATED this 27th day of August, 2009.

Mindy Montgomery, Director Industrial Commission 700 South Clearwater Lane PO Box 83720, Boise, ID 83720-0041 Phone (208) 334-6000 Fax (208) 334-2321

THE E α	11	OWING I	THE PR	OPOSED	TEXT	OF DOCKET NO.	17-0203-	በባበ1
Incr	JLL	OMING) INC FR	OFOSED	ILAI	OF DUCKET NO.	1/-0203-	ひろひエ

011. RULE GOVERNING QUALIFICATION OF INSURANCE CARRIER TO UNDERWRITE WORKMEN'S WORKERS' COMPENSATION LIABILITY.

- **02. Application**. Before the Commission shall approve any insurance <u>company</u> <u>carrier</u> to do business under the <u>Workmen's Workers'</u> Compensation Law, said <u>company</u> <u>carrier</u> shall apply to the Industrial Commission for permission to write compensation insurance and said application shall include the following: (5-26-72)(_____)
- **a.** A statement from the <u>Director of the Idaho Department of</u> insurance *commissioner* that the insurance *company* carrier has been granted authority under the insurance laws of the state of Idaho to write surety business;

 (5 26 72)(
 - **b.** The latest financial statement of said *company* carrier;

(5-26-72)()

c. The name of the attorney-in-fact and attorney for service of process in Idaho;

(5-26-72)

- d. That an Idaho licensed adjuster or adjusters have been appointed, resident in Idaho, to whom have been given authority to make compensation payments and adjustments of claims arising under the Act and the name of said adjuster or adjusters and residence thereof. If more than one (1) adjuster is utilized in Idaho, a list of every such adjuster and all corresponding policyholders shall be provided.

 (5 26 72)(_____)
- e. Satisfactory assurance that it will cause to have printed such blank forms as are, or may be, prescribed by the Commission and distributed to such employers as it may insure.
- f. That it will cause to have printed uniform surety bonds in form approved by the Commission and cause all surety bonds covering the payment of compensation to be filed with the Industrial Commission in compliance with the law for all employers insured. Effective January 1, 1973, the Commission requires all sureties to use a continuous bond form, which is attached hereto. (5-26-72)

SURETY BOND

KNOW ALL MEN BY THESE PRESENTS:

	COMMISSION Compensation	Docket No. 17-0203-0901 Proposed Rulemaking
said Principal i	, as Surety, are held and firmly riaries of awards rendered under the Workers' Compensation Law of s liable for by reason of workers' compensation policies issued to employers' liability under Title 72, Idaho Code, the Workers' Compens	mployers in the State of Idaho,
Under the authorized an amou	ority of Chapter 3, Title 72, Idaho Code, the liability of the Surety ant equal to the total amount of all outstanding and unpaid compensation	on this bond shall in no event on awards against the Principal.
because a recei awards, the Stat	default by the Principal or in the event said Principal shall fail to pover has been appointed therefor, or by reason of refusal, neglect or of the tensor of the tensor of the Workers' Compensation Lad Surety immediately upon default by said Principal.	lelay to pay any final award or
cancelled by th Commission of	sued for an indefinite term to begin on the day of day of l force and effect until terminated in either of the following two (2 surety by filing sixty (60) days' written cancellation notice by reg the State of Idaho. This bond may be cancelled by the Industrial Comp of the Surety hereon, which notice shall specify the date of termination	istered mail with the Industrial mission of the State of Idaho by
IN WITNESS V the respective p	WHEREOF, the parties hereto have caused their names to be signed and parties thereto this day of, 20	d this instrument to be sealed by (7-15-88)
g. immediately, if	That renewal certificates on said bonds will be issued and filed v said bonds are to be renewed.	with the Industrial Commission (5-26-72)
h. cancelled;	That the cancellation of surety contacts will be made as set forth	in the law, if said contracts are (5-26-72)
	That said <i>company</i> <u>carrier</u> will deposit, in addition to the security reactives? Compensation coverage by <i>Section 41-317</i> , <i>Idaho Code</i> , <i>and</i> the aid outstanding awards of compensation;	
j. Commission to	That it will <i>company</i> <u>comply</u> with the statutes of the state of Ida the end that payments of compensation shall be sure and certain and n	
	That is said carrier will make such reports to the Commission as the Workmen's Workers' Compensation Law. IC Form 356, Report or uarterly with the Commission.	
An insurance eec compensation is	CS GOVERNING INSURANCE COMPANIES CARRIERS. Company carrier must apply for and receive the approval of the Industria insurance pursuant to Section 72-301, Idaho Code. After receiving a shall comply with the following:	l Commission to write workers' g such approval, an insurance (3-23-98)()
01.	Maintain Statutory Security Deposits with the State Treasurer.	(3-23-98)
a.	Each insurance <i>company</i> <u>carrier</u> shall maintain with the Idaho State	Treasurer a security deposit in

b. In addition to the security required in Subsection 012.01.a., above, each insurance <u>company carrier</u> shall deposit an amount equal to the total unpaid outstanding awards of said insurance <u>company carrier</u>. Such deposit shall be in the form of cash, U. S. obligations, Idaho municipal bonds, or a surety bond in the form set forth in

Code, that amount shall be deemed contributory to the total required security.

the amount of twenty-five thousand dollars (\$25,000) if approved by the commission prior to July 15, 1988, or two hundred and fifty thousand dollars (\$250,000) if approved subsequent to that date. *If the insurance company has made a qualifying deposit of twenty-five thousand dollars* (\$25,000) *under the provisions of Section 41-317, Idaho*

(3 23 98)(_

Subsectoin 011.02.f. of these rules. If a surety bond is deposited, the surety company shall be completely independent of the principal and authorized to transact such business in the state of Idaho.

(3-23-98)(____)

- c. Securities which are maintained to satisfy the requirements of this rule may be held in the federal reserve book-entry system, as defined in Section 41-2870(4), Idaho Code, and interests in such securities may be transferred by bookkeeping entry in the federal reserve book-entry system without physical delivery of certificates representing such securities. (3-23-98)
- **O2. Appoint Agent for Service of Process**. Each insurance <u>company</u> <u>carrier</u> shall appoint the Director of the Department of Insurance as its attorney to receive service of legal process. (3-23-98)(____)
- **03. Maintain Resident Idaho Office**. Each insurance <u>company</u> <u>carrier</u> shall maintain an Idaho licensed <u>resident</u> adjuster or adjusters, <u>or its own adjusting offices or officers</u> resident in Idaho who have been appointed and have been given authority as to claims arising under the Act.
- <u>a.</u> Each <u>authorized</u> insurance <u>company</u> <u>carrier</u> shall notify the Commission <u>Secretary</u> in writing of any change <u>of the</u> designated resident adjuster(s) <u>for every insured Idaho employer</u> within fifteen (15) days of such change.

 (3-23-98)(____)
- **b.** Each authorized insurance carrier will ensure that every in-state adjuster can classify and identify all claims adjusted on behalf of said insurance carrier, and that the in-state adjuster will provide such information to the Industrial Commission upon request.
- **O4. Supply Forms**. Each insurance <u>company</u> <u>carrier</u> shall supply such forms as are or may be prescribed by the Commission pursuant to the Workers' Compensation Law and distribute them to all employers it insures. A list of required forms is available from the public information section of the Industrial Commission, P. O. Box 83720, Boise, Idaho 83720<u>-0041</u>, telephone (208)334-6000.

 (3-23-98)(_____)
- o5. Comply with Industrial Commission Reporting Requirements. Each insurance company carrier shall file such reports as the Industrial Commission may require concerning matters under the Workers' Compensation Law.

06. Report Proof of Coverage.

(3-23-98)

- **a.** Each insurance <u>company</u> <u>carrier</u> shall report proof of coverage information to a third party designated by the Industrial Commission as its agent to receive, process, and forward the proof of coverage information required by these rules to the Commission. The name and address of the Commission's designated agent(s) is available upon request from the Employer Compliance Section of the Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041; telephone (208)334-6000.

 (3-23-98)(_____)
- **b.** As an alternative to Subsection 012.06.a., an insurance <u>company carrier</u> may be allowed to report proof of coverage information directly to the Industrial Commission in an electronic format prescribed by the Commission by first making a written request to the Commission and obtaining the Commission's permission. A formal written agreement with the Commission is required prior to the electronic transmission of proof of coverage data to the Commission.

 (3-23-98)(_____)
- **c.** The Industrial Commission hereby adopts the International Association of Industrial Accident Boards and Commissions' (IAIABC) electronic proof of coverage record layout and transaction standards as the required reporting mechanism for new policies, renewal policies, endorsements, cancellations, and non-renewals of policies. A copy of the record layout and transaction standards is available upon request from the Employer Compliance Section, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041; telephone (208)334-6000.
- **d.** The most recent proof of coverage information contained in the Industrial Commission's database shall be presumed to be correct for the purpose of determining the insurance *company* <u>carrier</u> providing coverage.

(3 23 98)(____

- **O7. Report New Policy, Renewal Policy, and Endorsement Information Within Thirty Days.** Each insurance *company* <u>carrier</u> shall report the issuance of any new workers' compensation policy, renewal policy, or endorsement to the Industrial Commission or its designated agent within thirty (30) days of the effective date of the transaction.
- **08. Report Cancellation and Non-Renewal of Policy Within Time Prescribed by Statute**. Each insurance <u>company carrier</u> shall report the cancellation and/or nonrenewal of any workers' compensation insurance policy to the Industrial Commission or its designated agent within the time frames prescribed by Section 72-311, Idaho Code.

 (3-23-98)(
- **8. Report Election of Coverage on Form IC52 or Similar Format.** Each insurance *company* carrier shall report election of coverage or revocation of election of coverage on or in a format substantially the same as Form IC52, "Election of Coverage," which follows this chapter as Appendix A. This report shall be submitted to the Industrial Commission in writing on eight and one-half by eleven inch (8 1/2 x 11) paper.

 (3-23-98)(____)
- 10. Report Outstanding Awards. Each insurance <u>company</u> <u>carrier</u> shall report to the Industrial Commission at the end of each calendar quarter, or more often as required by the Commission, any outstanding award on fatal, permanent partial impairment, and permanent total disability workers' compensation claims.

(3-23-98)(

- **a.** The report of outstanding awards shall be filed with the Industrial Commission by the tenth (10th) day of the month following the end of each calendar quarter. (3-23-98)
- **b.** The report shall be filed even if there are no outstanding awards and shall indicate the fact that there are no outstanding awards to be reported. (3-23-98)
- c. The report shall be submitted on or in a format that is substantially the same as Form IC36, "Report of Outstanding Awards for Fatal, Permanent Partial Impairment, and Permanent Total Disability Claims," which follows this chapter as Appendix B. The report may be produced as a computerized spreadsheet or database printout and shall be submitted to the Commission in writing on paper no larger than eight and one-half inches by fourteen inches (8 1/2 x 14) in size.
- d. The report shall be signed by a corporate officer. If an insurance <u>company</u> <u>carrier</u> has designated more than one adjuster for workers' compensation claims in Idaho, a corporate officer of the insurance <u>company</u> <u>carrier</u> shall prepare and file a consolidated report of outstanding awards.

 (3-23-98)(_____)
- **e.** The report shall list every outstanding fatal, permanent partial impairment, and total permanent disability claim, commencing with the calendar quarter during which the award is made or benefits are first paid, whichever occurs earlier. (3-23-98)
- **f.** The report shall continue to list every outstanding award successively until the outstanding award is paid in full or is otherwise disposed of. (3-23-98)
- **g.** The report shall designate the type of claim in Column 3 using the abbreviations "F" for fatal, "PPI" for permanent partial impairment, or "PT" for permanent total disability. (3-23-98)
 - **h.** The report shall specify the indemnity award for dependents on all fatal ("F") claims. (3-23-98)
- i. The report shall identify the permanent impairment award on all permanent partial impairment ("PPI") claims. (3-23-98)
- **j.** The report shall identify separately the medical payments and the indemnity payments on permanent total disability ("PT") claims. (3-23-98)
- **k.** The report shall indicate in Column 5 the amount of any compensation paid during the reporting period. (3-23-98)

- **I.** The report shall indicate in Column 6 the total amount of compensation paid to date. (3-23-98)
- **m.** The report shall indicate in Column 7 adjustments due to clerical error or status changes such as remarriage or death. (3-23-98)
 - **n.** The report shall indicate in Column 8 the unpaid balance in each claim. (3-23-98)
- 11. Comply with Law and Rules. Each insurance <u>company</u> <u>carrier</u> shall comply with the statutes of the state of Idaho and the rules of the Industrial Commission to ensure that payments of compensation shall be sure and certain and not unnecessarily delayed.

013. RULES PROVIDING FOR THE CUSTODY BY BANKS OF CERTAIN SECURITIES.

A petition having been duly presented by Argonaut Insurance Company, a corporation, and Argonaut Northwest Insurance Company, a corporation, and filed with the Industrial Accident Board of the State of Idaho on April 25, 1969, and it appearing that notice has been given to all interested persons known to the Board on or before said date; and it further appearing from the petition of the above named applicants that there exists reasonable need for the adoption of rules providing for the safekeeping, maintenance and custody of certain securities required under Section 72-801, Idaho Code, by authorized and approved banks as requested in said petition; and it further appearing that the Industrial Accident Board of Idaho does have the duty and authorization to adopt rules pertaining to said securities as provided under the provisions of Section 72-801, Idaho Code.

(5-27-69)

- Order Allowing Deposit of Securities in Bank. IT IS HEREBY ORDERED, and this does order, that upon request by any self insured employer, the State Fund of Idaho, or surety companies, and upon approval of the state of Idaho in each instance, said requests by said self-insured employers, State Fund, or surety companies shall allow and permit certain securities required under Section 72-801, Idaho Code, to be placed in the Trust Department of a bank approved by the Industrial Commission and the State Treasurer for safekeeping and custody; however, further provided that said deposits shall be made with and held by the Trust Department of said approved established bank located in Boise, Idaho, and further approved by the Industrial Commission and the State Treasurer, and said security is to be further held by the Trust Department of said bank under custodial arrangements likewise approved by the Industrial Commission and the State Treasurer. It is further provided, in each instance, that the cost of any such custodial arrangement shall be born by the self-insured employer, State Insurance Fund, or surety company making said request. Further, neither the state of Idaho, nor any of its departments or agencies, shall have responsibility for the safekeeping of said deposited securities in the Trust Department of said designated and approved, established bank.
- 02. Order Requiring Banks to Make Information Available Regarding Securities. IT IS FURTHER ORDERED that in each of said instances of deposit or safekeeping and custody, said Trust Department of said established and selected bank shall at any time make available to the State Treasurer and the Industrial Commission, all information pertaining to said securities being held pursuant to Section 72-801, Idaho Code, and this rule.

 (5-27-69)
- 03. Order Allowing for Inspection by Authorized State Personnel. IT IS FURTHER ORDERED that under such custodial arrangement, authorized personnel of the Office of the State Treasurer and the Industrial Commission may, in the presence of authorized personnel of said self insured employer, State Insurance Fund or surety company, as the case may be, make periodic physical inspection of said securities. (5-27-69)
- 04. Order Allowing Authorized Personnel to Clip Coupons from Securities. IT IS FURTHER ORDERED that a duly authorized representative of said self-insured employer, State Insurance Fund or surety company, as the case may be, may, in the presence of duly authorized personnel of said Trust Department of said banking institution, clip coupons from said securities to effect the collection of the interest, dividends or profits of said securities as is required by the nature of said securities on deposit.

 (5-27-69)
- 05. Provisions for Release, Exchange or Substitution of Securities. IT IS FURTHER PROVIDED AND ORDERED under this rule that in no event are any of the securities so deposited with the Trust Department of said banking institution to be released to any individual, business, firm or institution, except upon order of a court of competent jurisdiction or upon proper certified order of the Industrial Commission, either for purposes of release of said securities or for substitution or exchange thereof, and in this regard, in all instances said securities so deposited

for custody and safekeeping with Trust Department of said established banks are to be kept with the Trust Department of said designated banking institutions.

(5-27-69)

96. Adoption of This Order as a Rule. This order is to be regarded as a rule within the meaning of Section 72 801, Idaho Code, and Section 67 5203, 63 6, Idaho Code. Notice pursuant to Section 67 5203, Idaho Code, shall be given in accordance with the law to all interested persons for adoption of this rule, all in accordance with the sections above referred to of the Idaho Code.

(5-27-69)

0143. RULES GOVERNING SELF-INSURED EMPLOYERS.

Upon receiving the approval of the Industrial Commission to be a self-insured employer under Section 72-301, Idaho Code, to continue such approval a self-insured employer shall: (4-1-90)

- **Payroll Requirements**. Maintain an average annual Idaho payroll over the preceding three (3) years of at least four million dollars (\$4,000,000), if such employer was originally approved by the Commission subsequent to April 30, 1984, and two million dollars (\$2,000,000) if such employer was originally approved by the Commission prior to May 1, 1984; provided, however, that any employer who was an approved self-insured employer on July 1, 1974 need not comply with the provisions of this section. (4-1-90)
- **O2. Deposit with Treasurer**. Maintain a deposit with the Idaho State Treasurer in the form of cash, U.S. obligations, Idaho municipal bonds, or a self-insurer's bond in substantially the form set forth below, in the amount of fifty thousand dollars (\$50,000), plus five percent (5%) of the employer's average annual payroll in the state of Idaho for the three (3) preceding years, not in excess of ten million dollars (\$10,000,000) if such employer was originally approved by the Commission subsequent to April 30, 1984; and five million dollars (\$5,000,000) if such employer was originally approved by the Commission prior to May 1, 1984. In addition thereto, the self-insured employer shall deposit additional security in an amount equal to all outstanding and unpaid awards of compensation under the Workers' Compensation Law. All security deposited by the self-insured employer shall be maintained as a trust fund exclusively for the purpose of securing payments by the employer of the compensation required by the Workers' Compensation Law. Any withdrawal of security deposited hereunder must be approved by the Commission.

 (4-1-90)

SELF-INSURER'S COMPENSATION BOND

KNOW ALL MEN BY THESE PRESENTS, THAT	, a corporation of the
State of, hereinafter called the Principal, as Principal, and the	, a
surety corporation authorized to transact a surety business in the State of Idaho, as Surety, are	held and firmly bound
unto the State of Idaho, for the use and benefit of all those employees of the Principal to whom	or to the dependents of
whom the Principal may, during the life of this bond, become liable for benefits under	r the Idaho Workers'
Compensation Law, as hereinafter more fully referred to, in the sum equal to and limited by the	sum or sums that may
become due and/or payable by said Principal to said employees under the terms, provisions	and limitations of said
Workers' Compensation Law, and in accordance with the terms, agreements, conditions a	and limitations of this
obligation not exceeding, however, the sum of dollars, for the payment of	which, well and truly
made, the Principal well and truly binds itself, its successors and assigns, and the Surety bind	ds itself, its successors
and assigns, jointly and severally, well and truly by these presents.	

WHEREAS, in accordance with the provisions of Idaho Code, Title 72, Chapters 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto, and Principal has elected to secure compensation to its employees by depositing and maintaining with the Industrial Commission of Idaho a surety bond issued and executed by the surety herein named, which surety is duly qualified to transact such business in the state of Idaho subject to the approval of the Industrial Commission of the State of Idaho.

NOW, THEREFORE, the condition of this obligation is such that if the said Principal shall pay compensation according to the terms, provisions, and limitations of Idaho Code, Title 72, Chapter 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto, to its injured employees or the dependents of its killed employees contemplated by the terms of and covered under the said law, and shall furnish medical, surgical, nursing and the hospital services and attention and funeral expenses as provided for in said law (all of which shall be understood to be included in the term "compensation" as hereinafter used), then this obligation shall be null and void, otherwise to remain in full force and effect, subject, however to the following express conditions and agreements:

1. That any employee or the dependent of any employee of the Principal entitled to compensation under said Workers' Compensation Law, shall have the right to enforce in his own name the liability of the Surety hereunder, in whole or in part, for such compensation, either by at any time filing a separate claim against the Surety or by at any time making the Surety a part of the original claim against the employer; provided, however, that payment in whole or in part of such compensation by either the Principal or the Surety shall, to the extent thereof, be a bar to the recovery against the other of the amount so paid.

That as between the employee and the Surety, notice to or knowledge of the occurrence of injury on the part of the employer shall be deemed notice to or knowledge, as the case may be, on the part of the Surety; that the obligation of the Surety, and the Surety, shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the Principal for the payment of compensation under the provisions of the Workers' Compensation Law aforesaid, and that the insolvency or bankruptcy of the Principal and its discharge therein, shall not relieve the Surety from the payment of compensation for injuries, including death resulting therefrom, sustained during the life of this bond by an employee of the Principal covered under the Workers' Compensation Law.

That upon request of the Industrial Commission of Idaho, it will make such changes in this form of bond by endorsement to be attached hereto or by the execution of a surety bond replacing this one, as the said Commission may deem requisite, to bring this bond into conformity with its rulings as to the form of surety bond required of employers under Idaho Code, Title 72, Chapters 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto.

This bond is issued for an indefinite term to begin on the day of	
continue in full force and effect until terminated in either of the following two manners: This bon	
by the Surety by filing sixty (60) days written cancellation notice by registered mail with the Indu	
of the State of Idaho. This bond may be cancelled by the Industrial Commission of the State of	of Idaho by written
notice to the Surety hereon, which notice shall specify the date of termination of the bond.	
IN TESTIMONY WHEREOF, the said Principal and said Surety have caused these pres in due form this day of, 20	ents to be executed
Countersigned	
By	

Resident Agent Principal

SEAL

By

By

Samples of this form are available from the Fiscal Section of the Industrial Commission, 317 Main Street, P. O. Box 83720, Boise, Idaho 83720-0041, Telephone (208) 334-6000. (4-1-90)

- **Maintain a <u>Licensed</u> Resident Adjuster**. Maintain a resident <u>licensed</u> claims adjuster located within the state of Idaho who shall have full authority to service said claims on behalf of the employer including, but not limited to, the following:

 (4-1-90)(____)
 - **a.** Investigate and adjust all claims for compensation;

Pay all compensation benefits due; (4-1-90)

c. Accept service of claims, applications for hearings, orders of the Commission, and all process which may be issued under the Workers' Compensation Law; (4-1-90)

b.

(4-1-90)

- **d.** Enter into compensation agreements and lump sum settlements with Claimants; (4-1-90)
- **e.** Provide at the employer's expense necessary forms to any employee who wishes to file a claim under the Workers' Compensation Law. (4-1-90)
- **04. File Reports**. File IC Form 36, which form is set forth in Subsection 012.04 above, once every three (3) months or more often as may be directed by the Commission. Make such reports to the Commission as it may require in reference to matters under the Workers' Compensation Law. (4-1-90)
- **O5. Submit to Audits by Industrial Commission**. Submit to audit by the Commission or its designee at any time and as often as it requires to verify the amount of premium such self-insured employer would be required to pay as premium to the State Insurance Fund, and to inspect or cause to be inspected the records of such self-insured employer for purposes of verifying premium taxes remitted. (4-1-90)
- **06. Comply with Law and Rules.** Comply with the statutes of the state of Idaho and the rules of the Industrial Commission to the end that payment of compensation shall be sure and certain and not unnecessarily delayed. The Commission may withdraw its approval of any employer to operate as a self-insurer if it shall appear to the Commission that workers secured by said self-insured employer are not adequately protected and served, or the employer is failing to comply with the provisions of the Workers' Compensation Law. (4-1-90)

01<u>54</u>. -- 050. (RESERVED).

051. REQUIREMENTS FOR MAINTAINING IDAHO WORKERS' COMPENSATION CLAIMS FILES.

All sureties, self-insured employers, and licensed adjustors servicing Idaho workers' compensation claims shall comply with the following requirements: (5-5-93)

- **01. Idaho Office**. All sureties, self-insured employers, and licensed adjusters servicing Idaho workers' compensation claims shall maintain an office within the state of Idaho. The offices shall be staffed by adequate personnel to conduct business. The surety or self-insured employer shall authorize a member of its staff or a licensed adjuster, and the self-insured employer shall designate a licensed adjuster to make decisions regarding claims pursuant to Idaho Code, Section 72-305. As staffing changes occur and, at least annually, the surety, self-insured employer or licensed adjuster shall submit to the Industrial Commission Secretary the names of those authorized to make decisions regarding claims pursuant to Idaho Code, Section 72-305. Answering machines, answering services, or toll free numbers outside of the state will not suffice.
- **O2.** Claim Files. All Idaho workers' compensation claim files shall be maintained within the state of Idaho, or if maintained on an out-of-state computer, data must be entered from within the State. Hard copies of data entry shall be maintained within the State. Claim files shall include, but are not limited to: (5-5-93)
 - **a.** Notice of Injury and Claim for Benefits; (5-5-93)
 - **b.** Copies of bills for medical care; (5-5-93)
 - c. Copy of lost-time computations, if applicable; (5-5-93)
- **d.** Correspondence reflecting reasons for any delays in payments (i.e., awaiting medical reports, clarification, questionable items on bills, etc.); (5-5-93)
 - e. Employer's Supplemental Report; and (5-5-93)
 - **f.** Medical reports. (5-5-93)
- **03. Correspondence.** All original correspondence regarding Idaho workers' compensation claims shall be mailed from and maintained at in-state offices. (5-5-93)

- **O4.** Date Stamp. Each of the above shall be date-stamped with the name of the receiving office on the day received, by and by each receiving agent or vendor acting on behalf of the claims office. (5 5 93)()
- **05. Notice and Claim.** All Notices of Injury and Claims for Benefits, occupational illnesses and fatalities shall be sent directly to the in-state adjuster, surety, or self-insured employer. The original copy of the Notice of Injury and Claim for Benefits, occupational illness and fatality shall be sent directly to the Industrial Commission. (5-5-93)
- **06. Compensation**. "Compensation" is used collectively and means any or all of the income benefits the medical and related benefits and medical services made under the provision of the Workers' Compensation Act. All compensation must be issued from the in-state office. (5-5-93)
- **07. Checks and Drafts**. Checks must be signed and issued within the state of Idaho; drafts are prohibited. (5-5-93)
- **a.** However, the Commission may, upon receipt of a written Application for Waiver, grant a waiver from the provisions of Subsections 051.06 and 051.07 of this rule to permit a surety or self-insured employer to sign and issue checks outside the state of Idaho. (5-5-93)
- **b.** An Application for Waiver must be accompanied by an affidavit signed by an officer or principal of the surety or self-insured employer, attesting to the fact that the surety or self-insured employer is prepared to comply with all statutes and rules pertaining to prompt payments of compensation. (5-5-93)
- c. All waivers shall be effective from the date the Commission issues the order granting the waiver. A waiver shall remain in effect until revoked by the Industrial Commission. At least annually, staff of the Industrial Commission may review the performance of any surety or self-insured employer for which a waiver under this rule has been granted to assure that the surety or self-insured employer is complying with all statutes and rules pertaining to prompt payments of compensation. (5-5-93)
- **d.** If at any time after the Commission has granted a waiver, the Commission receives information permitting the inference that the surety or self-insured employer has failed to provide timely benefits to any claimant, the Commission may issue an order to show cause why the Commission should not revoke the waiver; and, after affording the surety or self-insured employer an opportunity to be heard, may revoke the waiver and order the surety or self-insured employer to comply with the requirements of Subsection 051.07 of this rule. (5-5-93)
- **08. Copies of Checks**. Copies of checks and/or electronically reproducible copies of the information contained on the checks must be maintained in the in-state files for Industrial Commission audit purposes. A copy of the first check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance.

 (5-5-93)
 - **O9. Prompt Claim Servicing.** Prompt claim servicing is defined as:

(5-5-93)

- - **b.** Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. (5-5-93)
- **10. Audits**. The Industrial Commission will perform periodic audits to ensure compliance with the above requirements. (5-5-93)

(BREAK IN CONTINUITY OF SECTIONS)

271. RULE GOVERNING REPORTING INDEMNITY PAYMENTS AND MAKING PAYMENT OF INDUSTRIAL SPECIAL INDEMNITY FUND ASSESSMENT.

Pursuant to Section 72-327, Idaho Code, the state insurance fund, every authorized self-insurer, and every surety authorized to transact workers' compensation insurance in Idaho shall report *semi*-annually to the Industrial Commission the total gross amount of indemnity benefits paid on Idaho workers' compensation claims during the applicable reporting period.

(3-23-98)(_____)

- **02. Form**. The report of indemnity payments shall be submitted in writing on, or in a format substantially the same as Form IC327, "Report of Indemnity Payments," contained in Appendix C at the end of this chapter. (3-23-98)
- **03. Report Required When No Indemnity Paid.** If an entity required to report under this rule has no claims against which indemnity payments have been made during the reporting period, a report shall be filed so indicating. (3-23-98)
- **04. Penalty for Late Filing**. A penalty shall be assessed by the Commission for filing the report of indemnity payments later than March 3 *and July 31* each year. (3-23-98)(____)
 - a. A penalty of two hundred dollars (\$200) shall be assessed for late filing of seven (7) days or less. (3-23-98)
- **b.** A penalty of one hundred dollars (\$100) per day shall be assessed for late filing of more than seven (7) days. (3-23-98)
- c. A penalty assessed by the Commission shall be payable to the Industrial Commission and shall be submitted with the April 1 *or September 1* payment of the industrial special indemnity fund assessment, following notice by the Commission of the penalty assessment.

 (3-23-98)(_____)
- **O5. Estimating Indemnity Payments for Entities That Fail to Report Timely.** If an entity required to report indemnity payments under these rules fails to report within the time allowed in these rules, the Commission will estimate the indemnity payments for that entity by using the indemnity amount reported for the preceding reporting period and adding twenty percent (20%). (3-23-98)
- **06.** Adjustment for Overpayments or Underpayments. Overpayments or underpayments, including those resulting from estimating the indemnity payments of entities that fail to report timely, will be adjusted on the billing for the subsequent period. (3-23-98)

17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-0902

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(s) 72-508, 72-720, 72-721, 72-722, 72-723, and 72, 803, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be 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 existence and status of any outstanding medical bills remaining due after approval of a lump sum settlement remains problematic. Some claimants are not aware of their liability to pay outstanding medical bills or medical obligations to third party payors creating a hardship for claimants and providers. The change would require attorneys to provide an itemization of the amount and disposition of any and all medical bills or medical obligations to third-party payors remaining due after approval of a lump sum settlement. The information would be required in the Attorney Fee Memorandum that is currently submitted with every lump sum settlement.

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

No fees or charges are being imposed as a result of 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.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are not considered to be controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Scott McDougall, (208)334-6063.

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

DATED this 27th day of August, 2009.

Mindy Montgomery, Director Industrial Commission 700 South Clearwater Lane PO Box 83720 Boise, ID 83720-0041 Phone: (208) 334-6000 Fax (208) 334-2321

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0208-0902

033. RULE GOVERNING APPROVAL OF ATTORNEY FEES IN WORKERS' COMPENSATION CASES.

- **01. Authority and Definitions**. Pursuant to Sections 72-404, 72-508, 72-707, 72-735 and 72-803, Idaho Code, the Commission promulgates this rule to govern the approval of attorney fees. (7-1-94)
- **a.** "Available funds" means a sum of money to which a charging lien may attach. It shall not include any compensation paid or not disputed to be owed prior to claimant's agreement to retain the attorney. (7-1-94)
- **b.** "Approval by Commission" means the Commission has approved the attorney fees in conjunction with an award of compensation or a lump sum settlement or otherwise in accordance with this rule upon a proper showing by the attorney seeking to have the fees approved. (7-1-94)
- **c.** "Charging lien" means a lien, against a claimant's right to any compensation under the Workers' Compensation laws, which may be asserted by an attorney who is able to demonstrate that: (7-1-94)
 - i. There are compensation benefits available for distribution on equitable principles; (7-1-94)
- ii. The services of the attorney operated primarily or substantially to secure the fund out of which the attorney seeks to be paid; (7-1-94)
- iii. It was agreed that counsel anticipated payment from compensation funds rather than from the client; (7-1-94)
- iv. The claim is limited to costs, fees, or other disbursements incurred in the case through which the fund was raised; and (7-1-94)
- v. There are equitable considerations that necessitate the recognition and application of the charging lien. (7-1-94)
- **d.** "Fee agreement" means a written document evidencing an agreement between a claimant and counsel, in conformity with Rule 1.5, Idaho Rules of Professional Conduct (IRPC). (7-1-94)
- **e.** "Reasonable" means that an attorney's fees are consistent with the fee agreement and are to be satisfied from available funds, subject to the element of reasonableness contained in IRPC 1.5. (7-1-94)
- i. In a case in which no hearing on the merits has been held, twenty-five percent (25%) of available funds shall be presumed reasonable; or (7-1-94)
- ii. In a case in which a hearing has been held and briefs submitted (or waived) under Judicial Rules of Practice and Procedure (JRP), Rules X and XI, thirty percent (30%) of available funds shall be presumed reasonable; or (7-1-94)
- iii. In any case in which compensation is paid for total permanent disability, fifteen percent (15%) of such disability compensation after ten (10) years from date such total permanent disability payments commenced.

 (7-1-94)

02. Statement of Charging Lien.

(7-1-94)

- a. All requests for approval of fees shall be deemed requests for approval of a charging lien. (7-1-94)
- **b.** An attorney representing a claimant in a Workers' Compensation matter shall in any proposed lump sum settlement, or upon request of the Commission, file with the Commission, and serve the claimant with a copy of

	COMMISSION us Provisions	Docket No. 17-0208-0902 Proposed Rulemaking			
the fee agreeme	the fee agreement, and an affidavit or memorandum containing: (7-1-94)				
i.	The date upon which the attorney became involved in the matter;	(7-1-94)			
ii.	Any issues which were undisputed at the time the attorney became is	nvolved; (7-1-94)			
iii. to the attorney	The total dollar value of all compensation paid or admitted as owed s involvement;	by employer immediately prior (7-1-94)			
iv.	Disputed issues that arose subsequent to the date the attorney was hi	red; (7-1-94)			
v.	Counsel's itemization of compensation that constitutes available fun	ds; (7-1-94)			
vi.	Counsel's itemization of costs and calculation of fees; and	(7-1-94)			
	Counsel's itemization of medical bills for which claim was made inpaid by employer/surety at the time of lump sum settlement, along wingiven such bills/claims following approval of the lump sum settlement	th counsel's explanation of the			
vii <u>i</u> . element of the	The statement of the attorney identifying with reasonable detail charging lien.	his or her fulfillment of each (7-1-94)			
c. its staff, the Co	Upon receipt and a determination of compliance with this Rule by the mmission may issue an Order Approving Fees without a hearing.	ne Commission by reference to (7-1-94)			
03.	Procedure if Fees Are Determined Not to Be Reasonable.	(7-1-94)			

- Upon receipt of the affidavit or memorandum, the Commission will designate staff members to determine reasonableness of the fee. The Commission staff will notify counsel in writing of the staff's informal determination, which shall state the reasons for the determination that the requested fee is not reasonable. Omission of any information required by Subsection 033.02 may constitute grounds for an informal determination that the fee requested is not reasonable.
- If counsel disagrees with the Commission staff's informal determination, counsel may file, within fourteen (14) days of the date of the determination, a Request for Hearing for the purpose of presenting evidence and argument on the matter. Upon receipt of the Request for Hearing, the Commission shall schedule a hearing on the matter. A Request for Hearing shall be treated as a motion under Rule III(e), JRP.
- The Commission shall order an employer to release any available funds in excess of those subject to the requested charging lien and may order payment of fees subject to the charging lien which have been determined to be reasonable.
- The proponent of a fee which is greater than the percentage of recovery stated in Subsections 033.01.e.i., 033.01.e.ii., or 033.01.e.iii. shall have the burden of establishing by clear and convincing evidence entitlement to the greater fee. The attorney shall always bear the burden of proving by a preponderance of the evidence his or her assertion of a charging lien and reasonableness of his or her fee. (7-1-94)
- **Disclosure**. Upon retention, the attorney shall provide to claimant a copy of a disclosure statement. No fee may be taken from a claimant by an attorney on a contingency fee basis unless the claimant acknowledges receipt of the disclosure by signing it. Upon request by the Commission, an attorney shall provide a copy of the signed disclosure statement to the Commission. The terms of the disclosure may be contained in the fee agreement, so long as it contains the text of the numbered paragraphs one (1) and two (2) of the disclosure. A copy of the agreement must be given to the client. The disclosure statement shall be in a format substantially similar to the following:

State of Idaho **Industrial Commission**

INDUSTRIAL COMMISSION Miscellaneous Provisions

Docket No. 17-0208-0902 Proposed Rulemaking

Client's name printed or typed Attorney's name and address printed or typed

DISCLOSURE STATEMENT

- 1. In workers' compensation matters, attorney's fees normally do not exceed twenty-five percent (25%) of the benefits your attorney obtains for you in a case in which no hearing on the merits has been completed. In a case in which a hearing on the merits has been completed, attorney's fees normally do not exceed thirty percent (30%) of the benefits your attorney obtains for you.
- 2. Depending upon the circumstances of your case, you and your attorney may agree to a higher or lower percentage which would be subject to Commission approval. Further, if you and your attorney have a dispute regarding attorney fees, either of you may petition the Commission to resolve the dispute.

I certify that I have read and understand this disclosure statement.

Client's Signature Date

Attorney's Signature Date (7-1-94)

05. Effective Dates. Subparagraphs i., ii., and iii. of Subsection 033.01.e. are effective as to fee agreements entered into on and after December 1, 1992. All other provisions shall be effective on and after December 20, 1993.

17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-0903

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(s) 72-508, 72-720, 72-721, 72-722, 72-723, and 72, 803, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be 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 temporary rule containing physician fee updates effective July 1, 2009, as required by 72-803, Idaho Code, will no longer be in effect upon sine die adjournment of the 2010 legislature. This proposed rule will provide the same fee schedule updates as the previous temporary rule, but allows the legislature to approve conversion factors going forward that have been updated in accordance with 72-803, Idaho Code.

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

No fee or charge is being imposed as a result of 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 impact to the general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are not considered to be controversial as they have been in place for almost two years.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Patti Vaughn, (208)334-6084.

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 26th day of August, 2009.

Mindy Montgomery, Director Industrial Commission 700 South Clearwater Lane PO Box 83720 Boise, ID 83720-0041 Phone: (208) 334-6000 Fax (208) 334-2321

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0208-0903

031. ACCEPTABLE CHARGES FOR MEDICAL SERVICES UNDER THE IDAHO WORKERS' COMPENSATION LAW.

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission (hereinafter "the Commission") hereby adopts the following rule for determining acceptable charges for medical services provided under the Idaho Workers' Compensation Law: (3-12-07)

- **01. Definitions**. Words and terms used in this rule are defined in the subsections which follow. (6-1-92)
- **a.** "Acceptable charge" means the lower of the charge for medical services calculated in accordance with this rule or as billed by the provider, or the charge agreed to pursuant to written contract. (3-12-07)
- **b.** "Ambulatory Surgery Center (ASC)" means a facility providing surgical services on an outpatient basis only. (4-2-08)
- **c.** "Hospital" is any acute care facility providing medical or hospital services and which bills using a Medicare universal hospital billing form. (4-2-08)
 - i. Large hospital is any hospital with more than one hundred (100) acute care beds. (4-2-08)
 - ii. Small Hospital is any hospital with one hundred (100) acute care beds or less. (4-2-08)
- **d.** "Provider" means any person, firm, corporation, partnership, association, agency, institution or other legal entity providing any kind of medical service related to the treatment of an industrially injured patient which are compensable under Idaho's Workers' Compensation Law. (3-12-07)
- **f.** "Medical Service" means medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicine, apparatus, appliance, prostheses, and related service, facility, equipment and supply. (3-12-07)
- g. "Reasonable," means a charge does not exceed the Provider's "usual" charge and does not exceed the "customary" charge, as defined below. (3-12-07)
- **h.** "Usual" means the most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. (3-12-07)
- i. "Customary" means a charge which shall have an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. (3-12-07)
 - **O2. Acceptable Charge**. Payors shall pay providers the acceptable charge for medical services. (3-12-07)
- **a.** Adoption of Standard. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the acceptable charge for medical services provided under the Idaho Workers' Compensation Law by providers other than hospitals and ASCs. The standard for determining the acceptable charge for hospitals and ASCs shall be: (4-2-08)
 - i. For large hospitals: Eighty-five percent (85%) of the appropriate inpatient charge. (4-2-08)

- ii. For small hospitals: Ninety percent (90%) of the appropriate inpatient charge. (4-2-08)
- iii. For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of the appropriate charge. (4-2-08)
- iv. Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%).
- v. Paragraph 031.02.e., shall not apply to hospitals or ASCs. The Commission shall determine the appropriate charge for hospital and ASC services that are disputed based on all relevant evidence in accordance with the procedures set out in Subsection 032.10. (4-2-08)
- **b.** Conversion Factors. The following conversion factors shall be applied to the fully-implemented facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:

MEDICAL FEE SCHEDULE				
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR	
Anesthesia	00000 - 09999	Anesthesia	\$ 58.19 <u>60.05</u>	
Surgery - Group One	22000 - 22999 23000 - 24999 25000 - 27299 27300 - 27999 29800 - 29999 61000 - 61999 62000 - 62259 63000 - 63999	Spine Shoulder, Upper Arm, & Elbow Forearm, Wrist, Hand, Pelvis & Hip Leg, Knee, & Ankle Endoscopy & Arthroscopy Skull, Meninges & Brain Repair, Neuroendoscopy & Shunts Spine & Spinal Cord	\$ 140 <u>144.48</u>	
Surgery - Group Two	28000 - 28999 64550 - 64999	Foot & Toes Nerves & Nervous System	\$ 125 <u>129.00</u>	
Surgery - Group Three	13000 - 19999 20650 - 21999	Integumentary System Musculoskeletal System	\$ 110 <u>113.52</u>	
Surgery - Group Four	20000 - 20615 30000 - 39999 40000 - 49999 50000 - 59999 60000 - 60999 62260 - 62999 64000 - 64549 65000 - 69999	Musculoskeletal System Respiratory & Cardiovascular Digestive System Urinary System Endocrine System Spine & Spinal Cord Nerves & Nervous System Eye & Ear	\$ 85 <u>87.72</u>	
Surgery - Group Five	10000 - 12999 29000 - 29799	Integumentary System Casts & Strapping	\$ 67 <u>69.14</u>	
Radiology	70000 - 79999	Radiology	\$ 85 <u>87.72</u>	
Pathology & Laboratory	80000 - 89999	Pathology & Laboratory	To Be Determined	

MEDICAL FEE SCHEDULE				
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR	
Medicine - Group One	90000 - 90799 94000 - 94999 97000 - 97799 97800 - 98999	Immunization, Injections, & Infusions Pulmonary / Pulse Oximetry Physical Medicine & Rehabilitation Acupuncture, Osteopathy, & Chiropractic	\$ 45 46.44	
Medicine - Group Two	90800 - 92999 96040 - 96999 99000 - 99607	Psychiatry & Medicine Assessments & Special Procedures E / M & Miscellaneous Services	\$ 64.50 <u>66.56</u>	
Medicine - Group Three	93000 - 93999 95000 - 96020	Cardiography, Catheterization, & Vascular Studies Allergy / Neuromuscular Procedures	\$ 70 <u>72.24</u>	

(4 2 08)()

- c. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. (4-2-08)
- **d.** Adjustment of Conversion Factors. The conversion factors set out in this rule shall be adjusted each fiscal year (FY), starting with FY 2009, as determined by the director of the Department of Health and Welfare using the methodology set forth in section 56-136, Idaho Code, pursuant to Section 72-803, Idaho Code. (4-2-08)
- e. Services Without CPT Code, RVU or Conversion Factor. The acceptable charge for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 031.02.b., determine the acceptable charge for that service, based on all relevant evidence in accordance with the procedures set out in Subsection 032.10. (4-2-08)
- f. Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will be reimbursed as follows:

 (3-12-07)
 - i. Modifier 50: Additional fifty percent (50%) for bilateral procedure. (3-12-07)
- ii. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (3-12-07)
 - iii. Modifier 80: Twenty-five percent (25%) of coded procedure. (3-12-07)
- iv. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (3-12-07)

17.06.01 - BOILER AND PRESSURE VESSEL SAFETY RULES -- GENERAL DOCKET NO. 17-0601-0901 (CHAPTER REPEAL) **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 72-508, 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 boiler regulatory program is not self-funded, does not have an effective means of enforcement, and the inspections are being conducted by the boiler insurance companies as is required by their policy. By repealing these administrative rules (Chapters 1-5 of IDAPA 17.06), the expenditures would be eliminated, the statute requiring equipment safety (Section 72-720, Idaho Code) would still be in effect so that unsafe conditions could still be addressed and the redundancy of requirements would be eliminated.

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: If adopted, this rule change would eliminate the annual expenditure of a minimum of \$15,000 and eliminate the expenditure of Code Adoption every three years at an additional \$15,000.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes were presented at an open meeting to the interest groups and no negative comments were received.

ASSISTANCE ON TECHNICAL OUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alvin Caine, (208) 332-7153.

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.

Mindy Montgomery, Director Industrial Commission 700 South Clearwater Lane PO Box 83720 Boise, ID 83720-0041

Phone (208) 334-6000 Fax (208) 334-2321

IDAPA 17.06.01 IS BEING REPEALED IN ITS ENTIRETY

17.06.02 - BOILER AND PRESSURE VESSEL SAFETY RULES -- ADMINISTRATION DOCKET NO. 17-0602-0901(CHAPTER REPEAL) 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 72-508, 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 boiler regulatory program is not self-funded, does not have an effective means of enforcement, and the inspections are being conducted by the boiler insurance companies as is required by their policy. By repealing these administrative rules (Chapters 1-5 of IDAPA 17.06), the expenditures would be eliminated, the statute requiring equipment safety (Section 72-720, Idaho Code) would still be in effect so that unsafe conditions could still be addressed and the redundancy of requirements would be eliminated.

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: If adopted, this rule change would eliminate the annual expenditure of a minimum of \$15,000 and eliminate the expenditure of Code Adoption every three years at an additional \$15,000.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes were presented at an open meeting to the interest groups and no negative comments were received.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alvin Caine, (208) 332-7153.

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.

Mindy Montgomery, Director Industrial Commission 700 South Clearwater Lane PO Box 83720 Boise, ID 83720-0041 Phone (208) 334-6000 Fax (208) 334-2321

IDAPA 17.06.02 IS BEING REPEALED IN ITS ENTIRETY

17.06.03 - BOILER AND PRESSURE VESSEL SAFETY RULES - INSPECTIONS **DOCKET NO. 17-0603-0901(CHAPTER REPEAL) 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 72-508, 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 boiler regulatory program is not self-funded, does not have an effective means of enforcement, and the inspections are being conducted by the boiler insurance companies as is required by their policy. By repealing these administrative rules (Chapters 1-5 of IDAPA 17.06), the expenditures would be eliminated, the statute requiring equipment safety (Section 72-720, Idaho Code) would still be in effect so that unsafe conditions could still be addressed and the redundancy of requirements would be eliminated.

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: If adopted, this rule change would eliminate the annual expenditure of a minimum of \$15,000 and eliminate the expenditure of Code Adoption every three years at an additional \$15,000.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the changes were presented at an open meeting to the interest groups and no negative comments were received.

ASSISTANCE ON TECHNICAL OUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alvin Caine, (208) 332-7153.

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.

Mindy Montgomery, Director **Industrial Commission** 700 South Clearwater Lane PO Box 83720 Boise, ID 83720-0041

Phone (208) 334-6000 Fax (208) 334-2321

IDAPA 17.06.03 IS BEING REPEALED IN ITS ENTIRETY

17.06.04 - BOILER AND PRESSURE VESSEL SAFETY RULES - REPAIRS AND ALTERATIONS DOCKET NO. 17-0603-0901(CHAPTER REPEAL) 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 72-508, 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 boiler regulatory program is not self-funded, does not have an effective means of enforcement, and the inspections are being conducted by the boiler insurance companies as is required by their policy. By repealing these administrative rules (Chapters 1-5 of IDAPA 17.06), the expenditures would be eliminated, the statute requiring equipment safety (Section 72-720, Idaho Code) would still be in effect so that unsafe conditions could still be addressed and the redundancy of requirements would be eliminated.

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: If adopted, this rule change would eliminate the annual expenditure of a minimum of \$15,000 and eliminate the expenditure of Code Adoption every three years at an additional \$15,000.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes were presented at an open meeting to the interest groups and no negative comments were received.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alvin Caine, (208) 332-7153.

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.

Mindy Montgomery, Director Industrial Commission 700 South Clearwater Lane PO Box 83720 Boise, ID 83720-0041 Phone (208) 334-6000 Fax (208) 334-2321

IDAPA 17.06.04 IS BEING REPEALED IN ITS ENTIRETY

17.06.05 - BOILER AND PRESSURE VESSEL SAFETY RULES - BOILER ATTENDANTS DOCKET NO. 17-0605-0901(CHAPTER REPEAL) 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 72-508, 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 boiler regulatory program is not self-funded, does not have an effective means of enforcement, and the inspections are being conducted by the boiler insurance companies as is required by their policy. By repealing these administrative rules (Chapters 1-5 of IDAPA 17.06), the expenditures would be eliminated, the statute requiring equipment safety (Section 72-720, Idaho Code) would still be in effect so that unsafe conditions could still be addressed and the redundancy of requirements would be eliminated.

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: If adopted, this rule change would eliminate the annual expenditure of a minimum of \$15,000 and eliminate the expenditure of Code Adoption every three years at an additional \$15,000.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes were presented at an open meeting to the interest groups and no negative comments were received.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alvin Caine, (208) 332-7153.

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.

Mindy Montgomery, Director Industrial Commission 700 South Clearwater Lane PO Box 83720 Boise, ID 83720-0041 Phone (208) 334 6000 Fax (208) 33

Phone (208) 334-6000 Fax (208) 334-2321

IDAPA 17.06.05 IS BEING REPEALED IN ITS ENTIRETY

17.08.01 - IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - GENERAL PROVISIONS

DOCKET NO. 17-0801-0901

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(s) 72-508, 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 changes are necessary to update the Logging Safety Standards to meet OSHA's current requirements regarding logging signs and to make technical corrections.

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

No fee or charge is being imposed by 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 impact to the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes are necessary to meet current OSHA requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alvin Caine, (208) 332-7153.

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 27, 2009.

DATED this 27th day of August, 2009.

Mindy Montgomery, Director Industrial Commission 700 South Clearwater Lane PO Box 83720 Boise, ID 83720-0041 Phone (208) 334-6000

Fax (208) 334-2321

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0801-0901

009. EMPLOYER'S RESPONSIBILITY.

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

- **a.** Every employer shall furnish employment and maintain places of employment which are safe according to the standards as set forth herein. (7-1-97)
- **b.** Every employer shall adopt and use practices, means, methods, operations and processes which are adequate to render such employment and place of employment safe. (7-1-97)
- i. Employers shall place highly visible "LOGGING AHEAD" type warning signs at the entrances of active logging jobs.
 - ii. Every employer shall furnish to crew a Company Emergency Rescue Plan.
- **c.** Every employer should insure that Material Safety Datea Sheets (MSDS) are reasonably accessible for every hazardous material. (7-1-97)(____)
- **d.** Every employer shall do every other thing necessary within the framework of this Rule to protect the life and safety of employees. (7-1-97)
- **e.** No employer shall require any employee to go or be in any place of employment which does not meet the minimum safety requirement of this Rule, except for the purpose of meeting such requirements. (7-1-97)
 - **f.** No employer shall fail or neglect. (7-1-97)
 - i. To make available and use safety devices and safeguards as are indicated. (7-1-97)
- ii. To adopt and use methods and processes adequate to render the employment and place of employment safe. (7-1-97)
- iii. To do every other thing necessary within the framework of this Rule to protect the life and safety of employees. (7-1-97)
- **g.** No employer, owner or lessee of any real property shall construct or cause to be constructed any place of employment which does not meet the minimum safety requirements of this Rule. (7-1-97)
 - **h.** No person, employer, employee, other than an authorized person, shall do any of the following. (7-1-97)
- i. Remove, displace, damage, destroy or carry off any safeguard, first aid material, notice or warning, furnished for use in any employment or place of employment, or interfere in any way with the use thereof by any other person.

 (7-1-97)
- ii. Interfere with the use of any method or process adopted for the protection of any employee, including himself, in such employment or place of employment. (7-1-97)
- iii. No person shall fail or neglect to do everything necessary within the requirements of this Rule to protect the life and safety of employees. (7-1-97)
- iv. The use of intoxicants while on duty is prohibited. Persons reporting for duty while under the influence of or affected by liquor shall not work until completely recovered. (7-1-97)
- i. A definite procedure for checking the welfare of all workers during working hours shall be instituted and all workmen so advised. The employer shall assume responsibility of work assignments so that no worker shall be required to work in a position or location so isolated or hazardous that he is not within visual or

audible signal contact with another person who can render assistance in case of emergency. In any operation where cutting, yarding, loading, or a combination of these duties are carried on there shall be a minimum crew of two (2) persons who shall work as a team, and shall be in visual or audible signal contact with one another. This does not apply to operators or motorized equipment, watchmen, or certain other jobs which, by their nature are singular workmen assignments. There shall be some method of checking the men in at the end of the shift. Each immediate supervisor shall be responsible for his crew being accounted for. This standard also includes operators of moveable equipment.

(7-1-97)

- **j.** Every employer shall keep a record of all cases of injuries his employees receive at their work. This record shall be kept in such manner as to enable representatives of the Commission and/or Department to determine by examining the record, the injury rate of the employee force for the period covered by the report. (7-1-97)
- **k.** Every employer shall investigate or cause to be investigated every accident resulting in a disabling injury that his employees suffer in connection with their employment. He shall promptly take any action thus found to be advisable. Employees shall assist in the investigation by giving any information and facts they have concerning the accident.

 (7-1-97)

02. Management Responsibility.

(7-1-97)

- **a.** Top management must take an active and interested part in the development and guidance of the operation's safety program, including fire safety. (7-1-97)
- **b.** Management must apply a basic workable safety plan on the same priority as it does to any other work facet of the operation where elimination of all injuries is to be achieved in all phases of the operation. It is the duty of top management to assume full and definite responsibility. To attain these safety objectives, management must have the full cooperation of employers, Commission and Department. (7-1-97)
- c. Every employer shall furnish employment which shall be safe for the employees therein and shall furnish such devices and safeguards and shall adopt and use such practices, means, methods, operation and processes as are adequate to render such employment and places of employment safe to protect the life and safety of employees. The employer shall make available necessary personal protective safety equipment. (7-1-97)
- **d.** Regular safety inspection of all rigging, logging, machinery, rolling stock, bridges, and other equipment shall be made as often as the character of the equipment requires. Defective equipment or unsafe conditions found shall be replaced, repaired or remedied. (7-1-97)
- **e.** All places of employment shall be inspected by a qualified person or persons as often as the type of operation or the character of the equipment requires. Defective equipment or unsafe conditions found by these inspections shall be replaced or repaired or remedied promptly. (7-1-97)

010. EMPLOYEE'S RESPONSIBILITY.

01. General Requirements.

(7-1-97)

- **a.** Employees shall not indulge in horseplay, scuffling, practical jokes or any activity which creates or constitutes a hazard while on the employer's property or at any time when being transported from or to work in facilities furnished by the employer. (7-1-97)
- **b.** Employees who are assigned to, or engaged in the operation of any machinery or equipment, shall see that all guards, hoods, safety devices, etc., that are provided by the employer, are in proper place and properly adjusted.

 (7-1-97)
- **O2. Employee Accidents.** Each employee shall make it his individual responsibility to keep himself, his coworkers, and his machine or equipment free from accidents to the best of his ability. (7-1-97)
- **03. Study Requirements.** So that each worker may be better qualified to cooperate with his fellow workmen in preventing accidents, he shall study and observe these and any other safety standards governing his

work. (7-1-97)

- **04. Employee Responsibilities**. The responsibilities of an employee insofar as industrial safety is concerned shall be as follows. (7-1-97)
- **a.** The employee shall report immediately, preferably in writing, to his foreman or safety committee member in his department of the plant, all known unsafe conditions and practices. (7-1-97)
 - **b.** The employee shall ascertain from the foreman where medical help may be obtained if it is needed. (7-1-97)
 - **c.** The employee shall not participate in practical jokes or horseplay. (7-1-97)
- **d.** The employee shall make a prompt report to the foreman, first aid attendant, or person in charge, of every accident regardless of severity. (Such reports are required and are necessary for his protection in order that there may be a record of his injuries.)

 (7-1-97)
- e. The employee shall at all times apply the principles of accident prevention in his daily work and shall use proper safety devices and protective equipment. No employee shall remove, displace, damage, destroy, or carry off any safety device or safeguard furnished and provided for use in any employment or interfere in any way with the use thereof by any other person or interfere with the use of any method or process adopted for the protection of any employee in such employment or fail or neglect to do every other thing reasonably necessary to protect the life and safety of himself and fellow employees, and by observing safe practice rules shall set a good example for his fellow workmen.
- f. The employee shall not report to the job under the influence of intoxicants and shall not use intoxicants while on the job. The employer shall prohibit any employee from working on or being in the vicinity of any job while under the influence of or affected by intoxicants. Employers shall be responsible for the actions of any employee known to be in an intoxicated condition while on the job. (Workers are reminded that intoxication on the job may result in forfeiture of compensation for injury to say nothing of the hazard created to fellow workers.)

(7-1-97)

- g. The employee shall not be permitted to work while under the influence of hallucinatory drugs or chemicals or other drugs covered by the Federal Narcotics Act, unless such drugs or chemicals are prescribed by a licensed Medical Doctor, provided the employee does not create a hazard to himself or his fellow workers. (7-1-97)
- **h.** The employee shall wear, use and properly care for personal protective safety equipment issued to him. These items shall be returned to the employer on termination of employment. (7-1-97)
 - i. Workers exposed to head hazards shall wear approved head protection. (7-1-97)
 - j. Proper eye protection shall be worn while doing work where a known eye hazard exists. (7-1-97)
- **k.** The employee should consider the benefits of accident prevention to himself and to his job. (Safety-consciousness is the ability to anticipate accidents and a desire to prevent them.) (7-1-97)
- **l.** The employee should make an effort to understand his job. (An efficient worker understands the job, and studies everything pertaining to it.) (7-1-97)
- **m.** The employee should anticipate every way in which a person might be injured on the job, and conduct the work to avoid accidents. (7-1-97)
- **n.** The employee should be on the alert constantly for any unsafe condition or practice. (An employee's own knowledge and interest in the work makes the best possible safety inspector.) (7-1-97)
 - o. The employee $\frac{\text{should}}{\text{shall}}$ learn first aid to be applied on the job, in the home, or anywhere else. $\frac{(7-1-97)}{(7-1-97)}$

- **p.** The employee should keep physically fit, and obtain sufficient rest.
- ${f q.}$ The employee should be certain, after receiving instructions, that they are understood completely before starting the work. (7-1-97)
 - **r.** The employee should actively participate in safety programs. (7-1-97)
- s. The employee should study the safety educational material posted on the bulletin boards and distributed by the employer or safety committee. (7-1-97)
- **t.** The employee should advise inexperienced fellow-employees of safe ways to do their work and warn them of dangers to be guarded against. (7-1-97)
 - **u.** It is the employer's responsibility to see that the foregoing provisions are complied with. (7-1-97)

IDAPA 17 - INDUSTRIAL COMMISSION

17.08.02 - IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - HEALTH, SAFETY, AND SANITATION

DOCKET NO. 17-0802-0901

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 72-508, 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 changes are necessary to update the Logging Safety Standards to meet OSHA's current requirements relating to first aid transportation, who is required to complete first aid training, identify the proper contents of first aid kits, clarify safety shoe and life jacket requirements, and to make technical corrections.

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:

There is no impact to the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes are necessary to meet current OSHA requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alvin Caine, (208) 332-7153.

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 27, 2009.

DATED this 27th day of August, 2009.

Mindy Montgomery, Director Industrial Commission 700 South Clearwater Lane PO Box 83720 Boise, ID 83720-0041 Phone (208) 334-6000 Fax (208) 334-2321

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0802-0901

010. FIRST AID.

01. Transportation.

(7-1-97)

- **a.** Suitable means of transportation shall be established and maintained at the site of all operations to be used in the event any employee is seriously injured. (7-1-97)
 - **b.** Transportation shall be of a nature to render reasonable comfort to an injured employee. (7-1-97)
- e. In the event that the only transportation available shall be a crew bus, or similar vehicle, construction shall be such that a loaded stretcher may be freely passed into the vehicle. Arrangements shall also be made for devices to fasten and/or secure the stretcher in a horizontal position after it is loaded into such vehicle.

 (7.1.97)
 - **dc.** Each crew bus, or similar vehicle, shall be equipped with at least one (1) ten-unit first aid kit. (7-1-97)

02. Communication. (7-1-97)

- **a.** Every employer shall arrange suitable telephone or radio communication at the nearest reasonable point, and shall work out a definite plan of action to be taken in the event of serious injury to any employee. (7-1-97)
 - **b.** Instructions covering this plan of action shall be made available to all work crews. (7-1-97)
- **c.** When practical, a poster shall be fastened and maintained either on, or in the cover of each first aid cabinet and at or near all phones, plainly stating the phone numbers of applicable emergency services. The use of the Boise Communication Center is recommended. The number is 1-800-632-8000. (7-1-97)
- <u>d.</u> Every employer shall obtain specific job location (longitude and latitude preferred) and furnish to crew for emergency evacuation.

03. Attendance for Seriously Injured.

(7-1-97)

- **a.** Seriously injured employees shall, at all times, be attended by the most qualified available person to care for the injured employees. (7-1-97)
- **b.** Seriously injured employees shall be carefully handled and removed to a hospital, or given medical attention as soon as possible. (7-1-97)
- **c.** Caution shall be used in removing a helpless, or unconscious, person from the scene of an accident to prevent further injury. (7-1-97)
- **04.** First Aid Training. Persons in charge of workers shall be required to have completed an approved course in first aid and have a current card. All woods workers shall be required to complete an approved course in first-aid and have a current card.

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

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

a. Ten-unit field first aid kits shall be made available when working away from headquarters. The employer shall provide first aid kits at each work site where trees are being felled, at each active landing and in each employee transport vehicle.

(7 1 97)(_____)

b. Each ten-unit first aid kit should contain the following minimum assortment, or approved equivalent (see Table 010.06 A). If there is any question as to the suitability of some of these items in relation to injuries which are common to a specific occupation, the employer should seek the advise of a physician for recommended substitutes or additions. The following list sets forth the minimally acceptable number and type of first-aid supplies for required first-aid kits. The contents of the first-aid kits should be adequate for small work sites, consisting of approximately two (2) to three (3) employees. When larger operations or multiple operations are being conducted at the same location, additional first-aid kits should be provided at the work site or additional quantities of supplies should be included in the first-aid kits:

TABLE 010.06-A - SUGGESTED CONTENTS						
1 unit antiseptic applicators	10 per package		1 unit 2" x 6" yard gauze roller bandage	2 per package		
2 units 1" adhesive compresses	16 per package		1 unit triangular bandage, 40"	1 per package		
1 unit 2" bandage compresses	4 per package		Tweezers or forceps	1 each per pkg		
1 unit 4" bandage compresses	1 per package		Facial Barrier	1 each per pkg		
1 unit 3" x 3" plain gauze pads	4 per package		Latex Gloves	2 pair per pkg		
Emergency first aid instructions in convenient form.						

TABLE 010.06 SUGGESTED CONTENTS				
<u>1.</u>	Gauze pads (at least 4 x 4 inches)		<u>9.</u>	<u>Tweezers</u>
<u>2.</u>	Two (2) large gauze pads (at least 8 x 10 inches)		<u>10.</u>	Adhesive tape
<u>3.</u>	Box adhesive bandages (band-aids)		<u>11.</u>	Latex gloves
<u>4.</u>	One (1) package gauze roller bandage (at least two (2) inches wide)		<u>12.</u>	Resuscitation equipment such as resuscitation bag, airway, or pocket mask
<u>5.</u>	Two (2) triangular bandages		<u>13.</u>	Two (2) elastic wraps
<u>6.</u>	Wound cleaning agent such as sealed moistened towelettes		<u>14.</u>	Splint
<u>7.</u>	Scissors		<u>15.</u>	Directions for requesting emergency assistance
<u>8.</u>	At least one (1) blanket			

(7 1 97)(

- e. This assortment should be duplicated for each additional twenty (20) employees working in the same location by adding ten unit kits, or by larger kits containing approximately a duplicate quantity of supplies required.

 (7-1-97)
- dc. Special kits, or the equivalent, shall be provided and approved, for special hazards peculiar to any given work location. (7-1-97)
 - **ed.** These kits shall be readily available and kept supplied.

- **f.** For work crews of fewer than five (5) employees working away from work headquarters, a smaller assortment which is suitable for the hazards of the work performed may be acceptable. (7-1-97)
- **ge.** First aid kits shall be in metal, or other sanitary containers. Such containers shall be designed and constructed so as to be impervious to conditions of weather, dust, dirt, or other foreign matter. (7-1-97)
- **h.** Contents shall be sterile, and drugs shall be labeled with their common name and the use for which they are intended. First aid kits should be on every machine for prompt first aid attention in the event of any injury.

 (7-1-97)

07. First Aid Room or First Aid Station.

(7-1-97)

- a. The Commission or the Department may require the installation of a First Aid Room or First Aid Station at operations where a study of the various factors involved indicates the need. Factors to be considered are the number of workers employed, location and nature of the work being performed, and availability of established medical facilities. When, in the judgment of the Commission or the Department, such an installation is necessary, the employer, or employers concerned, shall provide adequate quarters and facilities.
 - **b.** First Aid Rooms and First Aid Stations shall be well lighted, ventilated and kept clean and orderly.

 (7-1-97)
- e. First Aid Stations shall be equipped with hot and cold running water, or a means to heat water, and with a cot, blankets and pillows. If both men and women are employed, a means shall be provided to furnish privacy for each sex.

 (7-1-97)

011. SAFETY EQUIPMENT AND PERSONAL PROTECTIVE EQUIPMENT.

01. General Requirements.

(7-1-97)

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

 (7-1-97)
- **b.** Employees are required to utilize all prescribed safety equipment and special protective equipment or apparel, and they shall exercise due care in maintaining it in safe, efficient and sanitary conditions. (7-1-97)
- **c.** Defective safety equipment shall not be used. Where the need for their use is indicated, protective covering, ointments, gloves or other effective protection shall be provided for and used by persons exposed to materials which are irritating to the skin. (7-1-97)

02. Inspection, Maintenance and Sanitizing.

(7-1-97)

- **a.** Each employer shall maintain a regular system of inspection and maintenance of personal protective equipment furnished to workers. (7-1-97)
 - **b.** Air line equipment shall have necessary regulator and shall be inspected before each use. (7-1-97)
 - **c.** Workers shall check their equipment at the beginning of each shift.

(7-1-97)

03. Eve Protection.

(7-1-97)

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

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- **b.** Face shields may be used in lieu of other forms of eye protection where the nature of the operation is such that they will furnish equivalent protection. (7-1-97)
- **c.** Clean water in ample quantities shall be immediately available where materials are handled that are caustic or corrosive to the eyes. (7-1-97)

04. Foot and Leg Protection.

(7-1-97)

a. Employees shall wear footwear suitable for the work conditions.

(7-1-97)

- **b.** Employees shall wear sharp caulk-soled boots or other footwear which will afford maximum protection from slipping. (7-1-97)
- **e.** The use of safety toe shoes is recommended for all workmen subject to foot injuries. Safety shoes, when used, shall meet the American National Standard Institute specifications. (7-1-97)
- **dc.** Special types or designs of shoes, or foot guards, may be required to be worn where conditions exist that make their use necessary for the safety of the workers. (7-1-97)
- **ed.** Leggings or high boots of leather, rubber or other suitable material should be worn by climbers, persons exposed to hot substances, or caustic solutions, etc., or where poisonous snakes may be encountered.

(7-1-97)

fe. Employees whose *normal* duties require them to operate a chain saw, shall wear ballistic nylon or equivalent protection covering each leg from upper thigh to boot top, except when working as a climber or working from a bucket truck.

(7 1 97)()

05. Hand Protection.

(7-1-97)

- **a.** Hand protection suitable for the required usage should be worn wherever the nature of the work requires extra protection for the hands. (7-1-97)
 - **b.** Gloves shall not be worn where their use would create a hazard.

(7-1-97)

06. Head Protection.

(7-1-97)

- **a.** Persons required to work where falling or flying objects, overhead structures exposed electrical conductors, equipment or material create a hazard shall wear approved safety hard hats or caps at all times while exposed to such hazards. (7-1-97)
- **b.** Employees working in locations which present a hair catching or fire hazard shall wear caps or other head covering which completely covers the hair. (7-1-97)

07. Life Jackets, Vests and Life Rings.

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

(7-1-97)

- **a.** Employees shall be provided with, and shall wear, approved buoyant protective equipment at all times while working on or over water, as follows: (7-1-97)
 - **b**<u>i</u>. On floating pontoons, rafts and floating stages.

(7-1-97)

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

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- **4**<u>iii</u>. During the construction, alteration or repair of structures extending over or adjacent to water, except when guardrails, safety nets, or safety belts and life lines are provided and used. (7-1-97)
- **e**<u>iv</u>. Working alone at night where there are potential drowning hazards regardless of other safeguards provided. (7-1-97)
 - $f_{\underline{v}}$. On floating logs, boom sticks or unguarded walkways.

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

NOTE: Consult U.S. Coast Guard requirements for operations in navigable waters.

08. Life Lines -- Safety Belts.

(7-1-97)

(7-1-97)

(7-1-97)

- **a.** Each life line and safety belt shall be of sufficient strength to support, without breaking, a weight of two thousand five hundred (2,500) pounds. (7-1-97)
- **b.** All life lines and safety belts shall be periodically inspected by the supervisor in charge. Employees shall inspect their belts and lines daily. Any defective belts or life lines shall be discarded or repaired before use.

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

09. Work Clothing.

(7-1-97)

- **a.** Clothing shall be worn which is appropriate to work performed and conditions encountered. (7-1-97)
- **b.** Loose sleeves, cuffs or other loose or ragged clothing shall not be worn near moving machinery. (7-1-97)
- **c.** Clothing saturated or impregnated with flammable liquids, corrosive substances, irritants or oxidizing agents shall be removed immediately and not worn again until properly cleaned. (7-1-97)
- **d.** When it is necessary for workers to wear aprons or similar clothing near moving machines or hazardous materials, such clothing shall be so arranged that it can be instantly removed. (7-1-97)
- **e.** Clothing with exposed metal buttons, metal visors or other conductive materials shall not be worn around exposed electrical conductors. (7-1-97)

10. Respiratory Equipment.

- **a.** When filter or cartridge-type respirators are required to be used regularly, each employee shall have one such respirator for his own exclusive use. (7-1-97)
- **b.** Employers and employees shall familiarize themselves with the use, sanitary care and limitations of such respiratory equipment as they may have occasion to use. (7-1-97)
- **c.** Whenever practical, harmful dusts, fumes, mists, vapors and gases shall be suppressed by water, oil or other means which will minimize harmful exposure and permit employees to work without the use of respiratory equipment. (7-1-97)
- **d.** Whenever compressed air from an oil-lubricated compressor is used to supply respiratory equipment, a filter shall be inserted in the supply line to remove any oil, sediment or condensation that it may contain. Such filter shall be maintained in efficient working condition. (7-1-97)

- **e.** When self-contained respiratory equipment is used in hazardous locations, a standby unit shall be maintained for rescue purposes. (7-1-97)
- **11. Hearing Protection**. Where workers are subject to hazardous noise levels, they shall be furnished with and shall wear hearing protection suitable for the level of hazard involved. (7-1-97)
- **12. Additional Information and Requirements**. Additional information and requirements for the use of safety equipment and personal protective equipment may be found in the Idaho General Safety and Health Standards IDAPA 17.10. (7-1-97)

IDAPA 17 - INDUSTRIAL COMMISSION

17.08.03 - IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - EXPLOSIVES AND BLASTING

DOCKET NO. 17-0803-0901

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 72-508, 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 changes are necessary to update the Logging Safety Standards to meet OSHA's current requirements relating to crimping of fused detonator caps.

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: There is no fiscal impact.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes are necessary to meet current OSHA requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alvin Caine, (208) 332-7153.

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 27, 2009.

DATED this 27th day of August, 2009.

Mindy Montgomery, Director Industrial Commission 700 South Clearwater Lane PO Box 83720, Boise, ID 83720-0041 Phone (208) 334-6000 Fax (208) 334-2321

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0803-0901

010. EXPLOSIVES AND BLASTING.

01. General Requirements.

- **a.** The transportation, handling and storage of explosives including blasting agents, shall be performed only by or under the supervision of a person or persons of proven experience and ability in blasting operations and of dependable character. (7-1-97)
- **b.** All operations with explosives shall be conducted in accordance with the requirements of applicable Local, State and Federal Laws. (7-1-97)
- **c.** Manufacturer's recommendations in the handling and use of the explosives or powders should be followed. (7-1-97)
 - **d.** Explosives or blasting powders shall not be stored together with detonators. (7-1-97)
 - **e.** Handling and use of explosives shall be restricted to as few employees as practical. (7-1-97)
 - **f.** All drill holes shall be of greater diameter than the diameter of cartridges of explosives used. (7-1-97)
- **g.** All holes which have been "Sprung" shall not be loaded until sufficient time has been allowed for the hole to cool. (7-1-97)
 - **h.** All hand tamping shall be done with wooden tamper. (7-1-97)
 - i. Primers shall have caps firmly seated in cartridges. (7-1-97)
 - j. Where fused detonators (caps) are used, standard crimpers shall be provided and used.

NOTE: Crimping with the teeth is expressly prohibited.

(7-1-97)()

k. Primers shall not be forced into prepared blasting holes.

- (7-1-97)
- Fuse selection for each shot or series of shots shall be of ample length to allow adequate escape time. (7-1-97)
- ${f m.}$ No blasting or preparation for blasting shall be done during the approach or progress of an electrical storm. (7-1-97)
- **n.** Before firing shots, clear personnel from area, post a guard at all access routes and the warning "FIRE-IN-THE-HOLE" shall be given. (7-1-97)
 - **o.** Approved methods of electrical firing shall be used with electric detonators. (7-1-97)
- **p.** The number of charges to be fired shall be counted to be certain that no misfires are left before work in the area is resumed. (7-1-97)
- **q.** Misfires shall be handled only by an experienced and competent powder man in accordance with procedure recognized by the Institute of Makers of Explosives, U.S. Bureau of Mines or other recognized agencies. (7-1-97)
- **r.** Workers handling explosives shall not carry loose caps or primers in their pockets or smoke while in the vicinity of explosives, powder, or caps. (7-1-97)
- **s.** Explosives, primers, or caps shall not be carried on any vehicle when transporting employees other than those using the explosives. (7-1-97)
- **t.** All detonators, detonating fuses, and explosives left over at the end of the day shall be promptly returned to their proper magazines. (7-1-97)

IDAPA 17 - INDUSTRIAL COMMISSION

17.08.16 - IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - RECOMMENDED SAFETY PROGRAM

DOCKET NO. 17-0816-0901

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 72-508, 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 changes are necessary to update the Logging Safety Standards to meet OSHA's current requirements relating to first aid training, and to clarify reporting of injuries and fatalities, management responsibilities, record keeping and establishment of a safety committee.

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

No fee or charge is being imposed by 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 impact to the general fund as a result of 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.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the changes are not considered controversial and are necessary to meet current OSHA requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alvin Caine, (208) 332-7153.

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.

Mindy Montgomery, Director Industrial Commission 700 South Clearwater Lane PO Box 83720 Boise, ID 83720-0041 Phone (208) 334-6000 Fax (208) 334-2321

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0816-0901

004. -- 0087. (RESERVED).

0098. DEFINITIONS.

For definitions refer to IDAPA 17.08.01, "Idaho Minimum Safety Standards and Practices for Logging -- General Provisions." Section 007. (7-1-97)

009. ABBREVIATIONS.

For abbreviations, refer to IDAPA 17.08.01, "Idaho Minimum Safety Standards and Practices for Logging -- General Provisions."

(BREAK IN CONTINUITY OF SECTIONS)

011. FIRE AND SAFETY POLICY.

- **01. Elements.** The basic elements or management responsibility for fire and safety policy are enumerated in this section. (7-1-97)
- **O2. Management Leadership**. The declaration of the safety policy should be made clear to all levels of supervision, purchasing, engineering, industrial and construction; and to all employees that top management has approved the operation's safety program. (7-1-97)
- **03. Planning.** The program should be based on the following: accounting record of safety cost, accident recording system, accident investigation recommendations, operation inspection recommended corrections, employee suggestions, and job analysis to determine the work hazards. The hazard appraisal can be summarized as follows: mechanical and physical hazards; environmental hazards; and work procedure and practices. (7-1-97)

04. Management Discharge of Duty.

(7-1-97)

- **a.** If management is to discharge its duty in proper directing of the fire and safety program, it must organized a definite planned program of continuous supervision and leadership by all facets of the management organization. The very fact that safety must be woven into all operations and activities will not require extra managerial time beyond the ordinary to operate a business successfully, i.e., if the entire management team will assume their safety responsibility. (7-1-97)
- **b.** The first problem of management is to determine the operation hazards. Once these are ascertained and appraised, suitable corrective action can be initiated. If the working unit is operating, the following specific activities should be carried out to find the hazards. These are: job inspection; job analysis; accident investigation (near accident, non-disabling injuries) to determine necessary remedial action to prevent reoccurrence of the accident.

 (7-1-97)
- **05. Hazard Appraisal**. The partial list of terms covered by appraisals are summarized briefly as follows: mechanical and physical hazards; adequacy of mechanical guarding of machines and equipment; preventing the use of inferior manufactured and unsafe supplies, equipment, chain, cables, sheaves, tires, power saws, tractor canopy guards, approved head protection, fire extinguishers, solvents, mill saws, etc.; and physical exhaustion such as excessive work hours by truck drivers and mill maintenance employees. (7-1-97)

06. Environmental Hazards Inherent to the Operation.

(7-1-97)

a. Personal protection devices (approved head protection, ear plugs, knee pads, proper eye protection,

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respirato	ors, etc.)		(7-1-97)
	b.	Storage and use of flammable liquids and gases (gasoline, diesel, acetone, acetylene, acids,	, etc.) (7-1-97)
loading,	c. mill sign	All employees should be familiar with proper work signals (falling, blasting, high lead nals, operation fire signal, etc.)	signals, (7-1-97)
etc.).	d.	Noise and fatigue hazards that are inherent to the industry (planers, cutoff saws, jack hazards)	ammers, (7-1-97)
	07.	Work Procedures and Practices.	(7-1-97)
	a.	Hazards directly related to work practices should be carefully observed and evaluated.	(7-1-97)
safety in persona respect	ndoctrina I protectiv	A few of the important work practices which should be investigated are: use, care and main able power tools; degree of supervision given the worker; the extent of job training provision and training of new or transferred employees; the proper use of fire extinguishers; the devices (approved head protection, shoes, etc); and the repair and maintenance of equipments, mechanical handling equipment, log loaders, yarding equipment, tractors, fork lifts, of etc;	ded; the e use of ent with
	08.	Reporting of Injuries.	(7-1-97)
complia	nce with	The employer shall instruct all employees to report all job injuries before the shift ender time injuries occur. Checks specifications for new machines, processes and equipment existing safety standards, laws and safety requirements, and shall have such equipment it is placed in used.	nent for
Commis	<u>b.</u> ssion with	The employer is responsible for reporting all industrial lost time injuries to the Inin forty-eight (48) hours.	<u>ıdustrial</u> ()
<u>Industri</u>	09. al Comm	Fatalities. All work fatalities should be immediately reported to the County Sheriff or Cordission, and OSHA.	oner, the
	<u>10.</u>	Management of Personnel.	()
organiza	<u>a.</u> ation. Eve	The recruiting and placing of a new worker on the job is a major responsibility of the manery effort should be made to match the qualifications of the worker with the demands of the	
the emp	<u>b.</u> loyer's re	The furnishing of first aid services, treatment of injuries, and inspection of working cond sponsibility.	itions is
	<u>11.</u>	Assignment of Responsibilities.	<u>()</u>
employe	a. ees have d	Supervisors, purchasing agents, engineering personnel, safety directors, personnel direct certain responsibilities in the fire and safety objectives in every operation.	ors, and
smaller The safe consulta and line	operation ety admir ant capaci production	Management must accept the normal obligation for preventing accidents. In many operation ate the actual administration of the safety program to a person who can devote full time to assign a safety administration may be a collateral duty carried on in conjunction with some other instrator or safety man should function in a staff capacity. Because the safety director operative, ultimate responsibility for accident prevention rests with the workers' supervisor, the on organization. There is no doubt that the foreman is the key person in every safety program separate and apart from production. If the job is done right, it is done safely.	it. In the r duties. ates in a foreman

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productio	<u>c.</u> on sched	Safety is an integral and important part of production, just as is quaules.	ulity and quantity, or meeting
		All these duties are foreman or project superintendent duties, and the reganization. This obligation cannot be delegated. As the person in character the safety of his people. This fact must be made clear and should be	ge of production, the foreman
	<u>12.</u>	Safety Director (Part-Time or Full-Time):	()
<u>hazards.</u>	<u>a.</u>	Makes periodic inspections of the operations and suggests corre	ctive measures to eliminate
accidents	<u>b.</u> in the f	Should assist in investigation of all types of accidents to determine thuture.	ne cause, so as to prevent like
their wor	<u>c.</u> kers.	Aids foremen in developing safe work procedures and practices an	d assists foremen in training
made. Re	accide	Keeps accident records and makes periodic reports to the proper of d records; report of accidents; accident investigation report; performant cost report; safety committee reports; report on degree of correct s.	ce report (injury frequency &
and any of truck ope		Conducts or initiates safety training courses including first aid and fire urse inherent to the job (truck driver courses, power saw courses, we c.).	
1	<u>f.</u>	Establishes safety committee.	<u>()</u>
1	<u>g.</u>	Sees that recommendations are promptly and properly implemented.	()
	<u>h.</u> andards,	Checks specifications for new machines, processes and equipment laws and safety requirements, and shall have such equipment fully in	for compliance with existing aspected before it is placed in ()
i	<u>bi</u> .	He shall assist the safety committee in developing agendas for their m	neetings. (7-1-97)()
foreman the most	careful a	Foreman Responsibilities . No theorem is more thoroughly proven a sy man in attaining proper work habits in any operation. It is the obligate attention to the selection, education, and training of foremen and train larger and safe work methods to attain the best production in the safest was	gation of management to give him in the proper way to train
	1 0 4.	First Aid Training.	(7 1 97)
take a ful		It shall be the responsibility of management to arrange to have <i>as me</i> in first aid training. It is a must that supervisory personnel shall take and First Aid card.	any <u>all</u> employees as possible in approved First Aid Course, (7-1-97)()
	b. lard Bur	It is suggested that log truck drivers take the required Red Cross, ten (eau of Mines Aid course, or an approved First Aid Course and hold cu	
	1 <u>45</u> .	Accident Record and Reporting System.	(7-1-97)
will defin		The establishment, in the office of the employer, of an accident recorde into nationally uniform reporting, record, and statistical requirement of Recording and Measuring Work Injury Experiences (Z 16.1).	d and reporting system which ents United States American (7-1-97)

- **b.** Injury frequency rates shall be calculated annually on a calendar basis commencing the first of January each year. These rates shall be kept on file in the office of the employer for at least four years after the date of entry thereof, and shall be made available to the Industrial Commission and/or Division of Building Safety, upon request.

 (7-1-97)
- **c.** The injury frequency rate shall be the number of lost time injuries to all employees per one million (1,000,000) man hours of exposure. The frequency rate is computed by multiplying the number of lost time injuries by one million (the standard of measurement) and dividing the product by the total number of man hours worked during the period. The formula is expressed as follows: Frequency equals the number of lost time injuries times one million (1,000,000) total man hours of exposure. (7-1-97)
- **d.** A lost time injury shall be the term applied to any injury, arising out of, and in the course of employment which makes it impossible for the injured person to return to an established regular job at the beginning of the next regular shift following the shift during which the injury occurred, or some future shift. (7-1-97)
- **e.** Man hours of exposure shall be the total number of man hours actually worked by all personnel in the industrial unit during the period for which the rate is being computed. (7-1-97)
- f. Translating the number of injuries in a plant or organization, into frequency rates serves as a standard measure which enables anyone to compare the industrial injury record of the plant with that of other industrial organizations or with national and state frequency rates for the same industry. The standards that shall be used are the United States American Standard Method of Recording and Measuring Work Injury Experiences (Z 16.1). (7-1-97)

126. Training and Education. (7-1-9

- **a.** Establishment of effective job training methods and safety education. (7-1-97)
- **b.** First Aid courses, proper work signals and job hazard warnings. (7-1-97)
- **c.** Pamphlets, bulletin boards, safety meetings, posters, etc. (7-1-97)
- **d.** The employer shall establish an adequate job training and safety education program. The relationship of safety to job quality and modern quantity production methods should be clearly understood. Good work production is governed by careful planning and accurate control of all phases of the operation. Accidents are the result of inadequate planning of faulty operation. (7-1-97)
- **e.** Safety must be made an essential and integral part of every operation and integrated into the activity if the most successful quantity production is to be attained. The soundness of this statement has been proven many times by comparing the accident cost with the day by day curve of production. (7-1-97)
- **f.** It is the responsibility of management to train employees in all phases of the work he is assigned. The worker training should begin at the time of employment with a careful presentation of the general safety information he must have to work on and in logging and lumbering or wood working operations. When the worker is placed on the job the worker must be given detailed training on proper work methods for accomplishment of the job. The correct way is the safe way. Telling is not training. (7-1-97)
- **g.** People learn to do things primarily through doing. The employee's job training should be given by the five (5) step job training method: (7-1-97)

Tell the employee:	(7-1-	

- ii. Show the employee; (7-1-97)
- ii. Have the employee do it; (7-1-97)

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iv. Correct until the employee does it right; (7-1-97)

v. Supervise to see that the employee keeps doing it right.

(7-1-97)

h. Education and promotion are a supplemental means of reducing injuries. This device employs any number of methods to accomplish results. A good program may use but will not overemphasize emotional appeal to the workers using such devices as scholarships, stamps, posters, safety meetings, contests, and awards. It's management's responsibility to integrate education and training program and balance its effectiveness to employee training. Unsafe acts or unsafe work practices are the result of failure to train workers in safe work procedures. In establishing or operating a safe and quality work program, an appraisal of unsafe work procedures and poor quality of work is called for, and job training methods initiated to correct these practices. (7-1-97)

137. Employer, Employee, and Labor Representative Cooperation.

(7-1-97)

- **a.** The workers have a responsibility to obey the units safety rules, smoking rules, report unsafe conditions, to serve on the different safety committees, perform their work in a safe way, and to help fellow workers by showing them how to do their job safely. (7-1-97)
- **b.** Many safety programs fail because the worker has not been made to feel that it is their program; that they can contribute as well as benefit from the program. It failed because it lacks employee participation and interest. The fact that employees are given the opportunity to participate and to contribute to the program not only opens a reservoir of valuable information on practical experience in accident prevention, it also gives the employee a feeling of being a part of the organization. (7-1-97)
- **c.** The committee on safety should be made up of personnel selected from management and workers. Management members are supervisors and worker members may be selected by the union or by the employees.

(7-1-97)

d. The labor unions should help develop a safe behavior among the workers. (7-1-97)

148. Maintenance of Safe Working Conditions.

(7-1-97)

- **a.** The employer shall provide a safe and healthy work area to work, including purchasing of safe equipment and tools and provide proper maintenance of such equipment. (7-1-97)
- **b.** Since a safe and healthful place to work is the very foundation of the safety program, the mechanical, physical, and environmental conditions will be given first consideration. (7-1-97)
- **c.** For almost every accident there are two (2) contributing causes an unsafe condition and an unsafe act. A safe and healthful place to work will diminish or eliminate the first cause, the unsafe condition; but unless the unsafe act is corrected; accidents will continue to occur. Unsafe acts may stem from a number of factors, such as improper selection of the worker for the job, lack of job training, physical or mental limitations or inadequate supervision. When a safety program is first established or a new project with a new crew is started, this may necessitate a thorough periodic survey of the entire operation to determine hazards. (7-1-97)

159. Remedial Measures of Corrective Action.

- **a.** The employees shall support and correct the findings of job analysis, inspections, accident investigations, employee suggestions, etc. (7-1-97)
- **b.** The assumption of responsibility for fire and accident prevention by management carries with it the continuing responsibility to assess the progress being made on the program, and where progress is unsatisfactory to take what steps are necessary to bring about improvement. Inspection alone is primarily a means of finding and eliminating fire and physical hazards, particularly in connection with enforcement. All educational and promotional activities should be integrated with inspection activities, and should be based on the specific needs of the establishment or operation. Inspection and educational and promotional programs are sometimes looked upon as entirely unrelated activities rather than a single integrated program. (7-1-97)

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c. None of the foregoing activities are of value unless followed by effective corrective action. The responsible executive of top management must establish specific procedures to effect proper and complete corrective action in each area for problems that occur. In well managed establishments the areas of responsibility are clearly defined. The activities are well coordinated, supervision is good, employees safety behavior is excellent, and policies are well defined to permit smooth organization. This is not difficult; the corrective measures are applied as part of the day by day operating procedure. (7-1-97)