

Dear Senators ANDREASON, McKague, Stennett, and
Representatives BLACK, Henderson, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors:
IDAPA 10.01.01 - Rules of Procedure (Docket No. 10-0101-1201);
IDAPA 10.01.04 - Rules of Continuing Professional Development (Docket No. 10-0104-1201).

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 05/07/2012. 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 06/04/2012.

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 334-4845, or email Charmi Arregui at:
carregui@lso.idaho.gov.



Jeff Youtz
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Brooke Murdoch, Principal Legislative Research Analyst

DATE: April 20, 2012

SUBJECT: Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors

IDAPA 10.01.01 - Rules of Procedure (Docket No. 10-0101-1201)

IDAPA 10.01.04 - Rules of Continuing Professional Development (Docket No. 10-0104-1201)

1. IDAPA 10.01.01 - Rules of Procedure (Docket No. 10-0101-1201)

The Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors submits notice of **temporary and proposed** rulemaking at IDAPA 10.01.01, Rules of Procedure. House Bill No. 374, which passed during the 2012 Legislative session, amended Section 54-1212, Idaho Code, by providing that, except for military personnel stationed in Idaho and except for persons employed full-time in Idaho, only residents of Idaho and students enrolled at an Idaho university or college may qualify for assignment to examinations for initial certification or licensure. This rulemaking clarifies the methods of proof acceptable for applicants to establish Idaho employment, Idaho residency and enrollment at an Idaho university or college.

A public meeting concerning this rulemaking is scheduled to be held on Tuesday, May 15, 2012.

This rulemaking is within the authority granted to the Board in Section 54-1208, Idaho Code.

2. IDAPA 10.01.04 - Rules of Continuing Professional Development (Docket No. 10-0104-1201)

The Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors submits notice of **temporary and proposed** rulemaking at IDAPA 10.01.04, Rules of Continuing Professional Development. The Board states that its rulemaking Docket No. 10-0101-1101, reviewed during the 2012 Legislative session, inadvertently exempted permanent nonresidents of the United States from compliance with the Rules of Continuing Professional Development. This rulemaking clarifies that permanent nonresidents of the United States are required to comply with the Rules of Continuing Professional Development, just as residents and temporary nonresidents of the United States are so required.

A public meeting concerning this rulemaking is scheduled to be held on Tuesday, May 15, 2012.

This rulemaking is within the authority granted to the Board in Section 54-1208, Idaho Code.

cc: Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors
David L. Curtis, P.E., Executive Director

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

10.01.01 - RULES OF PROCEDURE

DOCKET NO. 10-0101-1201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

Tuesday, May 15, 2012 - 10:00 a.m. MDST

**1510 E. Watertower St., Suite 110
Meridian, Idaho 83642**

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

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

House Bill No. 374 of the 2012 session of the Idaho Legislature restricts the assignment to examination for initial licensing or certification to Idaho residents with some exceptions, but Idaho residency is not defined. The Temporary Rule is needed to define residency at the time the law goes into effect, July 1, 2012.

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

House Bill No. 374 of the 2012 session of the Idaho Legislature restricts the assignment to examination for initial licensing or certification to Idaho residents with some exceptions, but Idaho residency is not defined. The Temporary Rule is needed to define residency at the time the law goes into effect, July 1, 2012.

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

There is no fee or charge associated with this temporary and proposed rule.

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

There will be no impact on either the General Fund of the State of Idaho or the Dedicated Fund of the Board.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need to have the rule in effect on the effective date of House Bill No. 374 of the 2012 session of the Idaho Legislature.

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

No materials cited are incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact David L. Curtis, P.E. at (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 23, 2012.

DATED this 5th day of April, 2012.

David L. Curtis, P.E.
Executive Director
Board of Licensure of Professional Engineers and Professional Land Surveyors
1510 E. Watertower St., Suite 110
Meridian, Idaho 83642
Phone (208) 373-7210
Fax (208) 373-7213

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY AND PROPOSED RULE
FOR DOCKET NO. 10-0101-1201**

016. APPLICATION FOR LICENSURE OR CERTIFICATION.

01. Forms. Application forms for licensure as a professional engineer, or professional land surveyor, certification as an engineer intern, land surveyor intern or certificates of authorization to practice or offer to practice engineering or land surveying by a business entity may be obtained from the office of the Executive Director of the Board of Professional Engineers and Professional Land Surveyors. (5-8-09)

02. Completion of Application. Applications shall be made on such forms as may be prescribed by the Board. An application which is not fully completed by the applicant need not be considered or acted upon by the Board. The application by a business entity for a certificate of authorization to practice or offer to practice engineering or land surveying must set forth their address, and name and address of the individual, or individuals, duly licensed to practice engineering or land surveying in this state, who will be in responsible charge of engineering or land surveying services offered or rendered by the business entity in this state. (5-8-09)

03. Dates of Submittal and Experience Cutoff Date. Examinations may be given in various formats and different submittal dates apply depending on the examination format. For examinations administered once or twice a year in the Spring and Fall, there is an examination assignment cutoff date that varies depending on the actual date of the examination. For examinations administered once or twice a year in the Spring and Fall, receipt of the applications after October 1 for the Spring exam or after July 1 for the Fall exam, may not provide sufficient time for required credentials to arrive at the Board office and be reviewed by the staff and/or Board prior to the exam assignment cutoff date. If this occurs, the applicant will be assigned to a later examination if all requirements are met. For examinations administered in a computer-based format during testing windows, there is no deadline for submittal of the application and the applicant, if assigned to the exam, will be allowed to test during the current testing window, if open on the date of the letter notifying of assignment, or during the next two (2) available testing windows. Failure to test during these periods will void the assignment. For examinations administered continuously in a computer-based format, there is no deadline for submittal of the application and the applicant, if assigned to the exam, will be allowed to test during a nine (9) month period beginning on the date of the letter notifying of assignment. Failure to test during this period will void the assignment. In order for the Board to be able to verify experience, only experience up to the date of submittal of the application will be considered as valid. Experience anticipated between the date of

the application submittal and the date of the examination or issuance of license or certificate will not be considered. For students, the application filing date for the Fundamentals of Engineering and the Fundamentals of Surveying examination may be extended at the discretion of the Board. (3-29-12)

04. Residency Requirement. Except for military personnel stationed in the state of Idaho on military orders, and except for persons employed full-time in the state of Idaho, only ~~Idaho~~ residents of the state of Idaho and students enrolled at an Idaho university ~~will be assigned or college may qualify for assignment~~ to examinations, ~~unless otherwise approved by the Board for initial certification or licensure.~~ The board will accept as proof of Idaho residency a valid Idaho issued driver's license, a utility bill issued within the last sixty (60) days with an Idaho address in the name of the applicant, a statement from a financial institution issued within the last sixty (60) days to the applicant at an Idaho address, proof of current voter registration in Idaho, or current Idaho vehicle registration in the name of the applicant. The board will accept as proof of full-time employment in the state of Idaho an affidavit from the Idaho employer stating employment status. The Board will accept a valid student identification card as proof of enrollment at an Idaho university or college. (5-8-09)()

05. Confidentiality of References. All information received from references named by the applicant shall be held in confidence by the Board except as provided by Section 9-342, Idaho Code. Neither members of the Board nor relatives of the applicant by blood or marriage shall be named or accepted as references. (5-8-09)

06. Minimum Standards -- References. An applicant may not be admitted to the examination until satisfactory replies have been received from a minimum of five (5) of his references for professional engineers or land surveyors. It shall be the responsibility of each applicant to furnish their references with the forms prescribed by the Board. (3-29-12)

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

10.01.04 - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT

DOCKET NO. 10-0104-1201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

Tuesday, May 15, 2012 - 10:00 a.m. MDST

**1510 E. Watertower St., Suite 110
Meridian, Idaho 83642**

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

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

Docket No. 10-0104-1101 inadvertently exempted permanent non-residents of the United States from compliance with the Rules of Continuing Professional Development. This Rule amendment would eliminate that inadvertent exemption. The Temporary Rule is needed to require permanent non-residents of the United States to comply with the Rules of Continuing Professional Development just as residents and temporary non-residents of the United States must.

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

Docket No. 10-0104-1101 inadvertently exempted permanent non-residents of the United States from compliance with the Rules of Continuing Professional Development. This Rule amendment would eliminate that inadvertent exemption. The Temporary Rule is needed to require permanent non-residents of the United States to comply with the Rules of Continuing Professional Development just as residents and temporary non-residents of the United States must.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee or charge associated with this temporary and proposed rule.

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

There will be no impact on either the General Fund of the State of Idaho or the Dedicated Fund of the Board.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need to have the rule in effect to close an inadvertent loophole.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No materials cited are incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact David L. Curtis, P.E. at (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 23, 2012.

DATED this 5th day of April, 2012.

David L. Curtis, P.E.
Executive Director
Board of Licensure of Professional Engineers and Professional Land Surveyors
1510 E. Watertower St., Suite 110
Meridian, Idaho 83642
Phone (208) 373-7210
Fax (208) 373-7213

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY AND PROPOSED RULE
FOR DOCKET NO. 10-0104-1201**

009. EXEMPTIONS.

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

01. First Renewal Period. New Licensees by way of examination or comity shall be exempt from compliance with these rules during the time between issuance of the license and the due date of their first renewal following the issuance of the license. (5-8-09)

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

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

04. Retired and Receiving No Remuneration. A Licensee who has chosen and qualified for the "Retired" status and who further certifies that they are no longer receiving any remuneration from providing professional engineering or professional land surveying services shall be exempt from the professional development hours required. In the event such a person elects to return to active practice of professional engineering or professional land surveying, professional development hours must be earned before returning to active practice for each biennium or the two (2) calendar year period closest to the renewal biennium exempted not to exceed the requirement for two (2) bienniums or four (4) calendar years. (5-8-09)

05. Expired License. A Licensee who has chosen to allow his license to expire shall be exempt from the professional development hours required. In the event such a person elects to reactivate the license, professional

development hours must be earned and documented before reinstating the license for each biennium or two (2) calendar years exempted not to exceed the requirement for two (2) bienniums or four (4) calendar years. (5-8-09)

06. Renewal Period Following Adoption of These Rules as They are Amended to Include Professional Engineers. All professional engineers shall be exempt from compliance with these rules during the time between the effective date of this subsection and the due date of their first renewal following the effective date of this subsection. (5-8-09)

07. Licensees Residing Outside the United States of America. Licensees employed and residing outside the United States may delay the time required for fulfilling the continuing professional development requirements for a maximum of two (2) biennia or four (4) calendar years until the end of the six (6) month period beginning upon their return to the United States. This subsection shall not apply to permanent non-residents of the United States. (~~3-29-12~~)