

Dear Senators PATRICK, Guthrie, Ward-Engelking, and
Representatives BARBIERI, Clow, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Idaho Board of Professional Engineers and Professional Land Surveyors:
IDAPA 10.01.01 - Rules of Procedure - Proposed Rule (Docket No. 10-0101-1801);
IDAPA 10.01.02 - Rules of Professional Responsibility - Proposed Rule (Docket No. 10-0102-1801).

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 08/22/2018. 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 09/20/2018.

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 334-4834, or send a written request to the address on the memorandum attached below.



Eric Milstead
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: Legislative Research Analyst - Matt Drake

DATE: August 02, 2018

SUBJECT: Idaho Board of Professional Engineers and Professional Land Surveyors

IDAPA 10.01.01 - Rules of Procedure - Proposed Rule (Docket No. 10-0101-1801)

IDAPA 10.01.02 - Rules of Professional Responsibility - Proposed Rule (Docket No. 10-0102-1801)

1. IDAPA 10.01.01 - Rules of Procedure

Summary and Stated Reasons for the Rule

The Board of Professional Engineers and Professional Land Surveyors submits notice of proposed rule-making. The proposed rule implements Senate Bill 1252 of 2018, which became effective July 1, 2018. Under the proposed rule, applicants may take examinations required for professional licensure before meeting the four (4) year minimum experience requirement for licensure. Thus, the proposed rule allows the examination and experience requirements to be pursued independently. Once required examinations are passed, and the qualifying education and experience are met, applications for licensure may be submitted to the board. In addition, the proposed rule removes a requirement for additional education and waiting periods after multiple professional examination failures. Instead, applicants may re-take the examinations within the examination periods allowed. This change affects applicants for both initial and comity licensure. The proposed rule also clarifies the board's use of National Council of Examiners for Engineering and Surveying (NCEES) exams and associated examination policies and procedures. In addition, the proposed rule exempts an exceptional individual with twelve (12) or more years of appropriate engineering service and certain engineers with doctorate degrees from completion of an examination regarding the fundamentals of engineering. Finally, the proposed rule allows business entities offering engineering and land surveying services in Idaho a new option to "discontinue" their Certificate of Authorization (COA) when no longer offering services in Idaho. This proposed change is intended to prevent the accumulation of late fees and payment of renewal fees. Reinstatement of a discontinued COA will require a new COA application and new application fee.

Negotiated Rulemaking / Fiscal Impact

The board notes that negotiated rulemaking was conducted. The board states that there is no anticipated impact to the general fund. The board anticipates a minor (less than \$10,000) reduction in dedicated funds. Allowing discontinued COA status may have a minor impact on revenue because renewal and late fees may be reduced.

Statutory Authority

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

The rulemaking appears to be authorized pursuant to section 54-1208, Idaho Code.

2. IDAPA 10.01.02 - Rules of Professional Responsibility

Summary and Stated Reasons for the Rule

The Board of Professional Engineers and Professional Land Surveyors submits notice of proposed rule-making related to the rules of professional responsibility. The proposed rule requires a licensee and certificate holder to: (1) to notify other licensees of a material discrepancy prior to setting monuments that represent a material discrepancy with a prior survey; and (2) to notify in writing all affected adjoining land owners and the board prior to setting a new monument that represents a material discrepancy with a prior survey, potentially clouding title of private land.

Negotiated Rulemaking / Fiscal Impact

The board notes that negotiated rulemaking was conducted. The board states that there is no anticipated impact to the general fund or the dedicated fund.

Statutory Authority

The rulemaking appears to be authorized pursuant to section 54-1208, Idaho Code.

cc: Idaho Board of Professional Engineers and Professional Land Surveyors

Keith Simila, P.E.

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

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

10.01.01 – RULES OF PROCEDURE

DOCKET NO. 10-0101-1801

NOTICE OF RULEMAKING – PROPOSED RULE

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

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

**PUBLIC HEARING ON PROPOSED RULE
Wednesday, August 22, 2018 – 10:00 a.m.**

**Board Office
1510 E. Watertower Street
Meridian, ID 83642**

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

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

The amendments will implement the provisions of Senate Bill 1252 that relate to repealing examination failure requirements, allowing for early testing for professional examinations, and adding a new category for discontinued certificates of authorization.

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

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

There is no fiscal impact to the general fund. There is minor (less than \$10,000) reduction in dedicated funds. No fiscal impact is expected because of Senate Bill 1252 as the timing of when a person takes an examination will not unduly influence when they are eligible for licensure as a 4-year experience time period governs when they will be eligible for licensure, not the examination. The discontinuance of a certificate may have a minor impact on revenue estimated as renewal or late fees will not accumulate when this option is selected.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, **Volume No. 18-6, page number 41**.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Keith Simila at (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 28th day of June, 2018.

Keith Simila, P.E., Executive Director
1510 Watertower Street
Meridian, Idaho 83642

Telephone: (208) 373-7210
Fax: (208) 373-7213
Email: keith.simila@ipels.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 10-0101-1801
(Only Those Sections With Amendments Are Shown.)

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. All forms, references, transcripts and other written materials shall be in English pursuant to Section 72-121, Idaho Code. An application that 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 its 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. (4-11-15)

03. Dates of Submittal of Applications and Experience Examination Cutoff Date. Submittal of applications for licensure or intern certification must occur after passing the required national examinations. Examinations may be given in various formats and different submittal registration 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.~~ (3-25-16)()

a. For national examinations administered in a computer-based or paper format ~~during testing windows, there is no once or twice per year the registration requirements, including the deadline and testing windows, are established by the National Council of Examiners for Engineering and Surveying (NCEES) 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.~~ (3-25-16)()

b. For national 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~~ registering with NCEES. The registration requirements, including the testing windows, are established by NCEES. (3-25-16)()

c. In order for the Board to be able to verify experience, only experience up to the date of submittal of the application for licensure 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.~~ (3-25-16)()

d. Applications for certification as engineering or surveying interns are submitted after passing the Fundamentals of Engineering or the Fundamentals of Surveying examination and providing evidence of graduation with educational credentials required by Subsection 017.023 of this chapter. (3-25-16)()

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 residents of the state of Idaho and students enrolled at an Idaho university or college may qualify for assignment to professional examinations for initial licensure or certification as an intern. 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. (3-25-16)

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 74-113, 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 references with the forms prescribed by the Board. (3-29-12)

07. Minimum Boundary Survey Experience. The board shall require a minimum of two (2) years boundary survey experience as a condition of professional land surveyor licensure. (3-25-16)

017. EXAMINATIONS AND EDUCATION.

01. Special or Oral Examination. Examinations for licensure as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern will be held on dates and at times and places to be determined by the Board. Special oral or written examinations may be given by the Board as necessary. (3-29-10)

02. Use of NCEES Examinations. National examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) may be used by the Board. Applicants registering for a national professional examination must have first passed the fundamentals examination unless exempted per Subsection 017.11 of this chapter. ()

023. Eligibility for Examinations Licensure, Educational Requirements. The application for licensure as a professional engineer or professional land surveyor together with a passing score on the written ethics questionnaire or Idaho specific land surveying examination, shall be considered in the determination of the applicant's eligibility. Each applicant must meet the minimum requirements as set forth in Section 54-1212, Idaho Code, before being ~~assigned to any professional examination~~ licensed. Prescriptive education requirements are as follows: (3-25-16)()

a. In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs that are accredited by the Engineering Accreditation Commission (EAC) of ABET, Inc., or the bachelor of science programs accredited by the Canadian Engineering Accrediting Board, or those bachelor of science engineering programs that are accredited by official organizations recognized by the U.K. Engineering Council. Non-EAC/ABET accredited engineering programs, related science programs, and engineering technology programs will be considered by the Board on their specific merits, but are not considered equal to engineering programs accredited by EAC/ABET. The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee. (3-28-18)()

b. An applicant who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for certification as an Engineer Intern or as required by Section 54-1212(1)(b), Idaho Code, for assignment to the examination for licensure as a professional engineer: (3-25-16)

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in differential and integral calculus are required. Additional courses may include differential equations, linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include at least two (2) courses. These courses must be in general chemistry, general calculus-

based physics, or general biological sciences; the two (2) courses may not be in the same area. Additional basic sciences courses may include earth sciences (geology, ecology), advanced biology, advanced chemistry, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. (3-25-16)

ii. Sixteen (16) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics (micro and macro), professional ethics, social responsibility. Examples of other general education courses deemed acceptable include management (such as organizational behavior), accounting, written and oral communications, business, and law. No more than six (6) credit hours may come from courses in management, accounting, business, or law. Courses in engineering economics, engineering management, systems engineering/ analysis, production, and industrial engineering/management will not be counted. Language courses in the applicant's native language are not acceptable for credit; no more than six (6) credit hours of foreign language courses are acceptable for credit. Native language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. (3-25-16)

iii. Forty-eight (48) college credit hours of engineering science and/or engineering design courses. Courses in engineering science shall be taught within the college / faculty of engineering having their roots in mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses may be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. (3-25-16)

iv. The Board may require detailed course descriptions for seminar, directed study, special problem and similar courses to ensure that the above requirements are met. (3-25-16)

c. In regard to educational requirements, the Board will consider as unconditionally approved only those surveying programs that are accredited either by the Engineering Accreditation Commission (EAC), the Applied and Natural Science Accreditation Commission (ANSAC) or the Engineering Technology Accreditation Commission (ETAC) of ABET, Inc. An applicant who has completed a four (4) year bachelor degree program in a related program must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(4)(b), Idaho Code, for certification as a Land Surveyor Intern or as required by Section 54-1212(2)(b), Idaho Code, for ~~assignment to the examination for~~ licensure as a professional land surveyor: (3-29-17)()

i. Eighteen (18) college semester credit hours of mathematics and basic sciences. A minimum of twelve (12) credits in mathematics must be beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus. A minimum of six (6) credits must be in basic sciences. These courses must cover one or more of the following topics: general chemistry, advanced chemistry, life sciences (biology), earth sciences (geology, ecology), general physics, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements; (3-29-17)

ii. Sixteen (16) college semester credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, and social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this

area. Courses that instill cultural values are acceptable, while routine exercises of personal craft are not; (3-29-17)

iii. Thirty (30) college semester credit hours of surveying science and surveying practice. Courses shall be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system and global positioning systems. Graduate-level surveying courses can be included to fulfill curricular requirements in this area. (3-29-17)

d. The Board may require an independent evaluation of the engineering education of an applicant who has a non-EAC/ABET accredited engineering degree or a non-engineering degree. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant to ensure that the applicant has completed the coursework requirements of Subsection 017.02.b. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (4-11-15)

~~03. **Excused Non-Attendance at Exam.** In the event that an applicant cannot attend an examination, he shall immediately notify the Board to that effect and shall state the reason for non-attendance. Normally, no more than one (1) valid excuse and reassignment shall be granted to an applicant. If an applicant fails to appear for two (2) administrations of an examination their application may be terminated and they may be required to submit a new application and pay a new application fee in order to be reconsidered. (3-30-01)~~

04. Two Examinations for Engineering Licensure. The complete examining procedure for licensure as a professional engineer normally consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer intern certification, and the second is the Principles and Practice of Engineering for professional engineer licensure. The examination shall be a duration as determined by the Board. Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering program. A certificate as an Engineer Intern will be issued only to those student applicants who earn a passing grade on the examination and who receive a degree. Having passed the Fundamentals of Engineering examination, applicants will be required to take the Principles and Practice of Engineering examination at a later date when qualified by the Board. (3-28-18)

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

06. Principles and Practice of Engineering -- Disciplines. The Principles and Practice of Engineering examination will cover the practice of engineering to test the applicant's fitness to assume responsibility for engineering works affecting the public health, safety and welfare. Separate examinations will be given to test the applicant's fitness in any discipline for which there is an examination which, in the opinion of the Board, meets the requirements of duration and difficulty necessary to adequately test the applicant's fitness to practice in that particular discipline. The Board may use examinations prepared by the National Council of Examiners for Engineering and Surveying (NCEES) or it may prepare or commission the preparation of, or utilize other state examinations in disciplines other than those for which examinations may be available from NCEES. (3-25-16)

07. Three Examinations for Land Surveying Licensure. The complete examining procedure for licensure as a professional land surveyor consists of three (3) separate written examinations. The first is the Fundamentals of Surveying examination for land surveyor intern certification, and the second is the Principles and Practice of Surveying, and the third is the Idaho specific professional land surveying examination. All examinations are required for professional land surveyor licensure. The examination shall be a duration as determined by the Board. Having passed the Fundamentals of Surveying examination, applicants will be required to take the Principles and Practice of Surveying examination at a later date when qualified by the Board. The examination shall cover the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of Surveying examination may consist of separate modules, each of which must be passed. Having passed the Principles and Practice of Surveying examination, applicants will be required to pass the Idaho

specific professional land surveying examination, which tests for knowledge of the laws and rules of Idaho, and the legal and technical aspects of land surveying in Idaho. (3-28-18)

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

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

10. Grading. ~~Each~~ Unless otherwise provided in 54-1219, or 54-1223 Idaho Code, each land surveyor intern, engineer intern, professional land surveyor and professional engineer applicant must ~~normally~~ attain a sealed passing score of seventy (70) or above on the entire examination or modules as determined by the Board, before being awarded certification or licensure. ~~Examinees on the Principles and Practice of Land Surveying examination must normally attain a sealed score of seventy (70) or above on each module of the examination~~ Passing scores on national examinations are established by the National Council of Examiners for Engineering and Surveying. A passing score on the Idaho specific ethics questionnaire is eighty (80), a passing score on the law and rules module of the Idaho specific land surveying examination is ninety (90), and a passing score on the public land surveying module of the Idaho specific land surveying examination is seventy-five (75). (3-29-10)()

11. Use of NCEES Examinations. ~~Examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) for professional engineer, engineer intern, professional land surveyors, and land surveyor intern may be used by the Board. The examination for the Idaho specific professional land surveyor shall be the examination as determined by the Board.~~ Exemption – Examination on the Fundamentals of Engineering. The Board may exempt an exceptional individual who has twelve (12) or more years of appropriate engineering experience from the requirement for satisfactory completion of an examination on the fundamentals of engineering as specified in 54-1223(2), Idaho Code. The Board will exempt an individual who has an earned bachelor’s degree and an earned doctoral degree from an approved engineering program from the requirement for satisfactory completion of an examination on the fundamentals of engineering as specified in 54-1223(3), Idaho Code. (3-25-16)()

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

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

018. REEXAMINATIONS.

The reexamination policy for each failed national examination will be established by NCEES. Reexamination for failed Idaho specific examinations will be allowed until a passing score is attained, but the Board may, in addition, require oral or other examinations. ()

01. Allowing Reexamination Upon First Failure. ~~An applicant failing a professional examination on the first attempt, and having requested reexamination as permitted by law, shall be reassigned to the examination for which a failing grade was received.~~ (3-25-16)

02. Allowing Reexamination Upon Two or More Failures. ~~An applicant who has failed a professional examination twice or more may be assigned by the Board to reexamination upon written request and evidence of having met the requirements set forth in Section 54-1214, Idaho Code.~~ (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

020. DISCONTINUED, RETIRED, AND EXPIRED LICENSES AND CERTIFICATES.

01. Reinstatement – Disciplinary. Licensees who choose to convert their license to retired status as part of a disciplinary action, or in lieu of discipline, or in lieu of compliance with continuing professional development requirements, may be reinstated upon written request. The board will consider the reinstatement request at a hearing or may waive the hearing for minor violations. (3-25-16)

02. Reinstatement – Nondisciplinary. Licensees who chose to convert their license to retired status not as part of a disciplinary action or who want to reinstate an expired license may request reinstatement in writing. Reinstatement may require a hearing by the board. (3-25-16)

03. Continuing Professional Development. Licensees requesting reinstatement must demonstrate compliance with the continuing professional development requirements described in IDAPA 10.01.04, “Rules of Continuing Professional Development,” as a condition of reinstatement. (3-25-16)

04. Practice Not Permitted. Discontinued, Retired, or expired status does not permit a licensee or certificate holder to engage in the practice of professional engineering or professional land surveying. (3-25-16)()

05. Designation. Licensees who chose retired status shall represent themselves with the title of Professional Engineer Retired or Professional Land Surveyor Retired or similar designation. (3-25-16)

06. Fee for Renewal. The fee for renewing a retired license shall be as established by the Board. (3-25-16)

07. Fee for Reinstatement of Retired License. The fee for reinstatement of a retired license to active practice shall be as required for renewals in Section 54-1216, Idaho Code. (3-25-16)

08. Fee for Reinstatement of Expired License. The fee for reinstatement of an expired license or certificate to active practice shall be as required for delayed renewals in Section 54-1216, Idaho Code. (3-25-16)

09. Eligibility. Unless otherwise approved by the Board, only unexpired licensees are eligible to convert to retired status. (3-25-16)

10. Discontinued Certificate of Authorization. Business entities no longer providing engineering or land surveying services in Idaho may request their certificates be discontinued. Reinstatement of a discontinued certificate may be requested by submitting a new application with the Board. ()

11. Fee for Reinstatement of Discontinued Certificate of Authorization. The fee for reinstatement of a discontinued certificate will be as required for applications in Section 54-1213, Idaho Code. ()

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

10.01.02 – RULES OF PROFESSIONAL RESPONSIBILITY

DOCKET NO. 10-0102-1801

NOTICE OF RULEMAKING – PROPOSED RULE

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

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

**PUBLIC HEARING ON PROPOSED RULE
Wednesday, August 22, 2018 – 10:00 a.m.**

**Board Office
1510 E. Watertower Street
Meridian, ID 83642**

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

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

The amendments will implement a requirement for professional land surveyors to notify affected adjacent landowners and the Board prior to setting a monument that represents a material discrepancy with another monument for the same property corner and potentially clouding the title of private land.

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

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

There is no fiscal impact to the general fund or the dedicated fund because the rule establishes obligations of licensed professional land surveyors to appropriately regard the public in their actions. The amendment does not increase the cost of the Board.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, **Volume number 18-6, page 42.**

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Keith Simila at (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 28th day of June, 2018.

Keith Simila, P.E., Executive Director
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 10-0102-1801
(Only Those Sections With Amendments Are Shown.)

005. RESPONSIBILITY TO THE PUBLIC.

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

02. Standard of Care. Each Licensee and Certificate Holder shall exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. (3-29-10)

03. Professional Judgment. If any Licensee's or Certificate Holder's professional judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the Licensee or Certificate Holder shall inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation. (5-8-09)

04. Obligation to Communicate Discovery of Discrepancy. Except as provided in the Idaho Rules of Civil Procedure 26(b)(4)(B), if a Licensee or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Licensee or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer shall make a reasonable effort to inform the Licensee or Certificate Holder whose work is believed to contain the discrepancy, error or omission. Such communication shall reference specific codes, standards or physical laws which are believed to be violated and identification of documents which are believed to contain the discrepancies. The Licensee or Certificate Holder whose work is believed to contain the discrepancy shall respond within twenty (20) calendar days to any question about his work raised by another Licensee or Certificate Holder. In the event a response is not received within twenty (20) days, the discoverer shall notify the Licensee or Certificate Holder in writing, who shall have another twenty (20) days to respond. Failure to respond (with supportable evidence) on the part of the Licensee or Certificate Holder whose work is believed to contain the discrepancy shall be considered a violation of these rules and may subject the Licensee or Certificate Holder to disciplinary action by the Board. The discoverer ~~may~~ **must** notify the Board in the event a response that does not answer the concerns of the discoverer is not obtained within the second twenty (20) days. A Licensee or Certificate Holder shall be exempt from this requirement if their client is an attorney and they are being treated as an expert witness. In this case, the Idaho Rules of Civil Procedure shall apply. (~~3-29-12~~)()

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

06. Obligation to Affected Landowners. Land surveyors have a duty to set monuments at the corners of their client's property boundaries in compliance with 54-1227, Idaho Code. Per Subsection 005.04 above, land surveyors also have a duty to notify other licensees of a material discrepancy prior to setting monuments that represent a material discrepancy with a prior survey. If a monument is to be set at a location that represents a material discrepancy with an existing monument at any corner of record, land surveyors must also notify in writing all affected adjoining land owners and the Board prior to setting the new monument. ()