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Legislative Services Office

Idaho State Legislature

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MEMORANDUM

TO: Senators PATRICK, Martin, Schmidt and,
Representatives BARBIERI, Clow, Smith

FROM: Ryan Bush - Senior Legislative Research Analyst

DATE: June 10, 2015; August 25, 2015

SUBJECT: Temporary Rule

IDAPA 10.01.01 - Rules of Procedure - Temporary Rule - Docket No. 10-0101-1502

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Ryan Bush at the Legislative Services Office at (208) 334-4834. Thank you.

Attachment: Temporary Rule

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

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Information Technology

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

10.01.01 - RULES OF PROCEDURE

DOCKET NO. 10-0101-1502

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2015.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 54-1208, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

The rule change clarifies procedures such as retired and expired license reinstatement requirements and updates the reexamination requirements for those failing a professional engineering or professional land surveying examination to be in alignment with the law.

The rule change modified the examination requirements for students or graduates taking the Fundamentals of Engineering or Fundamentals of Surveying Examinations by allowing students to take the examinations without first applying to the board. They will be automatically assigned to the examinations beginning July 1, 2015.

The rule change will display the board's requirement that land surveyors applying for licensure must have a minimum of two (2) years of boundary land surveying experience.

Fees are clarified or removed. No new fees are added.

Obsolete language is removed or updated and minor grammar errors are corrected.

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

The rule change will align the rules of procedure with new laws enacted by the 2015 Legislature.

The law change modified the examination requirements for students or graduates taking the Fundamentals of Engineering or Fundamentals of Surveying Examinations. The rule change allows students to take the examinations without first applying to the board beginning July 1, 2015.

The law change updated the definition of land surveying to include land surveying practices beyond boundary surveying. The rule change will display the board's requirement that land surveyors applying for licensure must have a minimum of two (2) years of boundary land surveying experience. This requirement applies July 1, 2015 when the new law is effective.

FEE SUMMARY: There is no fee increase as part of this rule change. There are some fees that are removed and clarified by the rule change.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Keith Simila, (208) 373-7210.

DATED this 13th Day of May, 2015.

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and Professional Land Surveyors
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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 10-0101-1502
(Only those Sections being amended are shown.)

011. FEES.

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

a. Licensure as a professional engineer or professional land surveyor by examination. (5-8-09)

b. ~~Certification as an engineer intern or land surveyor intern by examination~~ Reinstatement of a retired or expired license. ~~(5-8-09)~~(7-1-15)T

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

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

~~**e.** Renewals for professional engineers, retired professional engineers, professional land surveyors, retired professional land surveyors, engineer interns, land surveyor interns and business entities.~~ ~~(5-8-09)~~(7-1-15)T

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

02. Late or Denied Renewals. Failure on the part of any licensee or business entity to renew a license or certificate of authorization prior to its expiration shall not deprive such persons or business entity of the right of renewal, but the fees to be paid for renewal after its expiration shall be increased as prescribed in Section 54-1216, Idaho Code. (3-29-10)

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

~~**043. Schedule of Fees.** The schedule of fees as determined by the Board shall be furnished to applicants with application forms.~~ (7-1-93)

012. REISSUANCE OF CERTIFICATES.

A new certificate of licensure or authorization, to replace any certificate lost, destroyed or mutilated, may be issued upon written ~~certification of the loss~~ request and payment of fee of ten dollars (\$10). ~~(5-8-09)~~(7-1-15)T

013. PUBLICATIONS.

01. Annual Report. An annual report shall be submitted to the governor, the contents of which shall comply with the provisions of Section 54-1210, Idaho Code. (7-1-93)

02. Roster. A roster of professional engineers, professional land surveyors, engineer interns, land surveyor interns, and engineering and land surveying business entities in good standing and licensees and certificate holders in the retired status as provided in these rules shall be maintained in an electronic format available to the public. Those licensees who choose to place their licenses in retired status shall be listed as retired in the roster. ~~(5-8-09)~~(7-1-15)T

~~**03. Retired Status.** Those licensees who are retiring from practice may be listed in the retired section of the Roster. The biennial fee for being thus listed shall be established by the Board. Such listing does not permit a licensee to engage in the practice of engineering or land surveying. The fee for reinstatement to active practice shall~~

~~be as required for delayed renewals in Section 54-1216, Idaho Code.~~ **News Bulletins and Online Information.** News bulletins shall be published at least two (2) times each year. The news bulletins and other news postings may be made available online to all licensees and certificate holders for the purpose of sharing information on board activities and actions. ~~(3-29-12)~~(7-1-15)T

(BREAK IN CONTINUITY OF SECTIONS)

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 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.~~ (7-1-15)T

a. 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. (7-1-15)T

b. 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. (7-1-15)T

c. 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~~ (7-1-15)T

d. Applications for certification as engineering or surveying interns are submitted after passing the Fundamentals of Engineering and or the Fundamentals of Surveying examination may be extended at the discretion of the Board and providing evidence of graduation with educational credentials required by Subsection 017.02 of this chapter. ~~(3-29-12)~~(7-1-15)T

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 ~~certification or~~ 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. ~~(4-4-13)~~(7-1-15)T

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

07. Minimum Boundary Survey Experience. The board may require a minimum of two (2) years boundary survey experience and a condition of professional land surveyor licensure. (7-1-15)T

017. EXAMINATIONS.

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. Eligibility for Examinations, Educational Requirements. The application for licensure as a professional engineer ~~or~~ professional land surveyor ~~or certification as an engineer intern or land surveyor intern,~~ together with ~~the~~ 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. ~~(3-29-10)~~(7-1-15)T

a. In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs that are accredited either by the Engineering Accreditation Commission (EAC) of ABET, Inc., or ~~graduates of those~~ engineering programs that are accredited by official organizations signatory to the "Washington Accord." 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. ~~(4-11-15)~~(7-1-15)T

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 ~~assignment to the examination for~~ certification as an Engineer Intern or as required by Section 54-1212(1)(b), Idaho Code, for assignment to the examination for licensure as a professional engineer: ~~(3-29-12)~~(7-1-15)T

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 calculus and differential equations are required. Additional courses may include linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include courses in chemistry and calculus-based general physics with a minimum of a two (2) semester (or equivalent) sequence in one or the other. Additional basic sciences courses may include life sciences (biology), earth sciences (geology, ecology), and advanced chemistry or 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. (3-29-12)

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, professional ethics, 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 which instill cultural values are acceptable, while routine exercises of personal craft are not. (3-29-12)

iii. Forty-eight (48) college credit hours of engineering science and engineering design. Courses 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 can be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. (3-29-12)

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

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

c. Beginning July 1, 2010, an applicant who has completed a four (4) year bachelor degree program in a related science must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(4)(b), Idaho Code, for ~~assignment to the examination for~~ certification as a Land Surveyor Intern or as required by Section 54-1212(2)(b), Idaho Code, for assignment to the examination for licensure as a professional land surveyor: ~~(5-8-09)~~(7-1-15)T

- i. Three (3) credits in Surveying Law and Boundary Descriptions; (3-30-07)
- ii. Three (3) credits in Route Surveying; (3-30-07)
- iii. Three (3) credits in Public Land Surveying; (3-30-07)
- iv. Three (3) credits in Surveying Software Applications; (3-30-07)
- v. Three (3) credits in Research and Evidence in Surveying; (3-30-07)
- vi. Three (3) credits in Surveying Adjustments and Coordinate Systems; (3-30-07)
- vii. Three (3) credits in Subdivision Planning and Platting; (3-30-07)
- viii. Three (3) credits in Geodesy; and (3-30-07)
- ix. Three (3) credits in Survey Office Practice and Business Law in Surveying. (3-30-07)

d. 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 experience. (3-29-10)

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 examinations in disciplines other than those for which examinations may be available from NCEES. (4-22-94)

07. Two Examinations for Land Surveying Licensure. The complete examining procedure for licensure as a professional land surveyor consists of two (2) separate written examinations. The first is the Fundamentals of Surveying examination for land surveyor intern certification, and the second is the Principles and Practice of Surveying for professional land surveyor licensure. 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 experience. The examination shall cover the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of Surveying examination may consist of separate modules, each of which must be passed. (3-29-10)

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 land surveyor intern, engineer intern and professional engineer applicant must normally attain a scaled 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 scaled score of seventy (70) or above on each module of the examination. (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 ~~field of structural engineering~~ Idaho specific professional land surveyor shall be the examination as determined by the Board. ~~(3-29-10)~~(7-1-15)T

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.

01. Allowing Reexamination Upon First Failure. An applicant failing ~~any portion of an a~~ professional examination on the first attempt, and having ~~applied for requested~~ requested reexamination as permitted by law, ~~may at the discretion of the Board, be required to take only the portion of~~ will be reassigned to the examination for which a failing grade was received. ~~(3-29-10)~~(7-1-15)T

02. Application Allowing for Reexamination Upon Two or More Failures. An applicant who has failed ~~any a professional~~ two (2) or more times may be assigned by the Board to reexamination upon written request and ~~payment of fees~~ evidence of having met the requirements set forth in Section 54-1214, Idaho Code. ~~(3-29-10)~~(7-1-15)T

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

(BREAK IN CONTINUITY OF SECTIONS)

020. ~~(RESERVED)~~ RETIRED AND EXPIRED LICENSES.

01. Reinstatement - Disciplinary. Licensees who choose to convert their licenses 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. (7-1-15)T

02. Reinstatement - Nondisciplinary. Licensees who chose to convert their licenses 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. (7-1-15)T

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. (7-1-15)T

04. Practice Not Permitted. Retired or expired status does not permit a licensee or certificate holder to engage in the practice of professional engineering or professional land surveying. (7-1-15)T

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. (7-1-15)T

06. Fee for Renewal. The fee for renewing a retired license shall be as established by the Board.

(7-1-15)T

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. (7-1-15)T

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. (7-1-15)T